

U.S. Fish and Wildlife Service

City of Sacramento

Sutter County



Natomas Basin Habitat Conservation Plan Final Environmental Impact Report/ Environmental Impact Statement

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Public Notices

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

**Draft Environmental Impact Report/Environmental Impact Statement and Habitat
Conservation Plan for the Natomas Basin, Sacramento County, California**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability.

SUMMARY: The City of Sacramento, Sutter County, and the Natomas Basin Conservancy (the “applicants”) have applied to the Fish and Wildlife Service (Service) for 50-year incidental take permits for 22 covered species pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The applications address the potential for “take” of covered species associated with various activities within the Natomas Basin, a 53,537-acre area in the Sacramento region. These activities (the “covered activities”) include 17,500 acres of planned land development, and development and management of mitigation lands. A conservation program to minimize and mitigate for the covered activities would be implemented as described in the Natomas Basin

Habitat Conservation Plan (Plan), which would be jointly implemented by the applicants.

The permit applications, available for public review, include the Plan which describes the proposed program and mitigation, and an accompanying Implementing Agreement (legal contract).

The Service also announces the availability of a Draft Environmental Impact Report/Environmental Impact Statement (Draft EIR/EIS) that addresses the environmental effects associated with issuing the permits and implementing the Plan.

The analysis provided in the Draft EIR/EIS is intended to accomplish the following: inform the public of the proposed action and alternatives; address public comments received during the scoping period; disclose the direct, indirect, and cumulative environmental effects of the proposed action and each of the alternatives; and indicate any irreversible commitment of resources that would result from implementation of the proposed action.

DATES: Written comments should be received on or before October 16, 2002.

Public meetings are scheduled as follows:

1. September 23, 2002, First Session: 4:00 p.m. to 6:00 p.m.; Second Session: 7:00 p.m. to 9:00 p.m., Sacramento, California;
2. September 25, 2002, First Session: 4:00 p.m. to 6:00 p.m.; Second Session: 7:00 p.m.

to 9:00 p.m., Yuba City, California.

ADDRESSES: Comments should be addressed to the Field Supervisor, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, California 95825. Written comments may be sent by facsimile to (916) 414-6711.

The public meetings will be held at the following locations:

1. Sacramento—1231 I Street, First Floor;
2. Yuba City—Whitaker Hall, 44 Second Street.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Campbell, Chief, Conservation Planning Division, at the Sacramento Fish and Wildlife Office (see **ADDRESSES**); telephone: (916) 414-6600.

SUPPLEMENTARY INFORMATION

Availability of Documents

Individuals wishing copies of the applications, Draft EIR/EIS, Plan, and Implementing Agreement should immediately contact the Service by telephone at (916) 414-6600 or by

letter to the Sacramento Fish and Wildlife Office [see ADDRESSES]. Copies of the Draft EIR/EIS, Plan, and Implementing Agreement also are available for public inspection, during regular business hours, at the Sacramento Fish and Wildlife Office; the City of Sacramento Planning and Building Department, 1231 I Street, Room 300, Sacramento, California; State Library, 914 Capitol Mall, Sacramento, California; Central Library, 828 I Street, Sacramento, California; South Natomas Library, 2901 Truxel Road, Sacramento, California; and Sutter County Library, 750 Forbes Avenue, Yuba City, California.

Comments

Written comments will be received at the public meetings. Written comments also may be received after the public meetings, until the close of the comment period [see DATES]. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

Background Information

Section 9 of the Act and Federal regulation prohibit the "take" of animal species listed as endangered or threatened. Take is defined under the Act as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 USC 1538). However, under limited circumstances, the Service may

issue permits to authorize “incidental take” of listed animal species. “Incidental take” is defined by the Act as take that is incidental to, and not the purpose of, carrying out of an otherwise lawful activity. Regulations governing permits for threatened species and endangered species, respectively, are at 50 CFR 17.32 and 50 CFR 17.22.

The applicants are seeking permits for take of the following federally listed species: the threatened giant garter snake (Thamnophis gigas), threatened valley elderberry longhorn beetle (Desmocerus californicus dimorphus), threatened vernal pool fairy shrimp (Branchinecta lynchi), endangered vernal pool tadpole shrimp (Lepidurus packardii), threatened Colusa grass (Neostapfia colusana), endangered Sacramento Orcutt grass (Orcuttia viscida), and threatened slender Orcutt grass (Orcuttia tenuis). The proposed permits would also authorize future incidental take of the currently unlisted Swainson's hawk (Buteo swainsoni), Aleutian Canada goose (Branta canadensis leucopareia), bank swallow (Riparia riparia), tricolored blackbird (Agelaius tricolor), northwestern pond turtle (Clemmys marmorata marmorata), white-faced ibis (Plegadis chihi), loggerhead shrike (Lanius ludovicianus), burrowing owl (Athene cunicularia), California tiger salamander (Ambystoma californiense), western spadefoot toad (Scaphiopus hammondi), midvalley fairy shrimp (Branchinecta mesovallensis), Boggs Lake hedge-hyssop (Gratiola heterosepala), legenere (Legenere limosa), delta tule pea (Lathyrus jepsonii ssp. jepsonii) and Sanford's arrowhead (Sagittaria sanfordii), should any of these species become listed under the Act during the life of the permit. Collectively, the 22 listed and unlisted species are referred to as the “covered species” in the Plan.

The applicants propose to minimize and mitigate the effects to covered species associated with the covered activities by participating in the Plan. The purpose of this basin-wide conservation program is to promote biological conservation in conjunction with economic and urban development within the Natomas Basin. Through the payment of development fees, one-half acre of mitigation land would be established for every acre of land developed within the various permit areas (a total of 8,750 acres of mitigation land to be acquired based on 17,500 acres of urban development). The mitigation land would be acquired and managed by the Natomas Basin Conservancy. In addition to the requirement to pay mitigation fees, the Plan also includes take avoidance and minimization measures.

The Draft EIR/EIS considers four alternatives in addition to the Proposed Action and the No Action Alternative. Under the No Action Alternative, no section 10(a)(1)(B) permits would be issued for take of listed species associated with the covered activities; the applicants would address the potential for take of listed species on a case-by-case basis. The Increased Mitigation Ratio Alternative would double the extent of required mitigation land relative to the Plan. The Habitat-Based Mitigation Alternative would prescribe mitigation based on the value of habitat to be disturbed, rather than on a general ratio applied to all lands to be disturbed. The Reserve Zone Alternative would prioritize specific areas within the Natomas Basin for acquisition, in contrast to the general acquisition strategy described in the Plan. The Reduced Potential for Incidental Take Alternative would result in reduced urban development covered by the permits, and

would therefore reduce the potential for incidental take associated with urban development.

In August 2001, (66 FR 43267), two water agencies, Reclamation District No. 1000 (RD 1000), and Natomas Central Mutual Water Company (Natomas Mutual), decided to join the City of Sacramento and Sutter County as applicants for permits and participated in drafting the Plan. At this time, RD 1000 and Natomas Mutual have chosen not to submit an application for an incidental take permit. They may decide to apply at a later time and commit to the terms of the Plan, and through issuance of a permit by the Service, join as full permittees at a future date. It should be noted that because of RD 1000 and Natomas Mutual's previous participation as potential applicants, and the possibility that they may decide to apply for a permit at some future date, the description of and analysis of the two water agencies as permittees has remained in both the Plan and the EIR/EIS. Should the water agencies apply for a permit in the future, then additional notification and documentation may be needed pursuant to the National Environmental Policy Act.

The Service invites the public to comment on the Plan and Draft EIR/EIS during a 60-day public comment period. This notice is provided pursuant to section 10(a) of the Endangered Species Act and Service regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6). The Service will evaluate the application, associated documents, and comments submitted thereon to prepare a Final EIR/EIS. A decision on the permit applications will be made no sooner than 30 days after

the publication of the Final EIR/EIS.

Date: _____

Deputy Manager, California/Nevada Operations Office

Sacramento, California



A Joint Public Notice of
**City of Sacramento
and
Sutter County**



DATE: August 16, 2002

TO: Responsible Agencies and Interested Persons

FROM: City of Sacramento and Sutter County

ACTION: NOTICE OF AVAILABILITY - DRAFT ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT FOR THE NATOMAS BASIN HABITAT CONSERVATION PLAN

SUMMARY:

The City of Sacramento and Sutter County are lead agencies under CEQA for this project. The City of Sacramento (City), Sutter County (County) and The Natomas Basin Conservancy (TNBC) (the "applicants") have applied to the United States Fish and Wildlife Service (USFWS) for a 50-year incidental take permit for 22 covered species (both federal and state) pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The City and County intend to submit an application to the California Department of Fish and Game for an incidental take permit (ITP) under Section 2081 of the California Fish and Game Code in accordance with CESA.

The applications address the potential for "incidental take" of covered species associated with various activities within the Natomas Basin, a 53,537-acre area in the Sacramento region. These activities (the "covered activities") include 17,500 acres of planned land development, and development and management of mitigation lands. A conservation program to minimize and mitigate for the covered activities would be implemented as described in the Natomas Basin Habitat Conservation Plan (Plan), which would be jointly implemented by the applicants.

The permit application (available for public review) includes the Plan that describes the proposed program and mitigation, and an accompanying Implementation Agreement (legal contract).

NOTICE OF AVAILABILITY OF A DRAFT EIR/EIS:

The City of Sacramento (City) and Sutter County (County) announce the availability of a Draft Environmental Impact Report/Environmental Impact Statement (Draft EIR/EIS) that addresses the environmental effects associated with issuing the permits and implementing the Plan. The United State Fish and Wildlife Service (The USFWS) is the lead agency for NEPA and the City and County are the lead agencies under CEQA.. The City and County are noticing the release of the Draft EIR/EIS per CEQA Guidelines Section 15087. The Draft EIR/EIS is being sent to the State Clearinghouse (OPR) for review by interested state agencies, including responsible and trustee agencies under CEQA. In addition, the release of the Draft EIR/EIS is being noticed in local newspapers of general circulation and the Notice of Availability is being mailed to interested persons, groups and responsible agencies.

The analysis provided in the Draft EIR/EIS is intended to accomplish the following: inform the public of the proposed action and alternatives; identify the environmentally superior alternative; address public comments received during the scoping period; disclose the direct, indirect, and cumulative environmental effects of the proposed action and each of the alternatives; identify significant impacts resulting from the proposed action; identify feasible mitigation measures to reduce significant impacts; identify significant unavoidable impacts and indicate any irreversible commitment of resources that would result from implementation of the proposed action.

The proposed permit would authorize incidental take of seven federally listed species, six state listed species and the potential future incidental take of 9 currently unlisted species for a total of 22 covered species, including one species that is a candidate for listing, if any of them become listed under the Act during the lifetime of the permits.

The Draft EIR/EIS identifies significant impacts to geology and soils, traffic, air quality, noise, biological resources, water, cultural resources and land use. Implementation of the proposed project would result in the loss of important farmlands which is considered a significant unavoidable impact. All other impacts would be mitigated to a less than significant level. The Draft EIR/EIS is being circulated for a 60 day public review period from Friday, August 16, 2002 through Monday, October 16, 2002.

DATES:

Written comments on the Draft EIR should be received **NO LATER THAN 5:00 PM, October 16, 2002.** Comments should be addressed to the Field Supervisor, United State Fish and Wildlife Service, 2800 Cottage Way, W-2605, Sacramento, California, 95825. Written comments may be sent facsimile to (916) 414-6711.

Public meetings are scheduled as follows:

- Sacramento at 1231 I Street, First Floor on September 23, 2002, Afternoon Session: 4:00 p.m. to 6:00 p.m.; Evening Session: 7:00 PM to 9:00 PM, Sacramento, CA, 95814;
- Yuba City at Whitaker Hall, 44 Second Street, on September 25, 2002, Afternoon Session: 4:00 p.m. to 6:00 PM and Evening Session: 7:00 PM to 9:00 PM, Yuba City, CA, 95991

For additional meeting information, contact Ms. Vicki Campbell, Chief, Conservation Planning Division at (916) 414-6600

FOR FURTHER INFORMATION CONTACT:

Ms. Vicki Campbell, Chief, Conservation Planning Division, United States Fish and Wildlife Office, W-2605, 2800 Cottage Way, Sacramento, California; telephone: (916) 414-6600.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing copies of the applications, Draft EIR/EIS, Plan, and Implementation Agreement should immediately contact the USFWS by telephone at (916) 414-6600 or by letter to the Sacramento Fish and Wildlife Office. Copies of the Draft EIR/EIS, Plan and Implementation agreement are also available for public inspection, during regular business hours at the Sacramento Fish and Wildlife Office; State Library, 914 Capitol Mall, Sacramento, CA; City of Sacramento libraries located at: 828 I Street, Sacramento, CA; 1620 W. El Camino Avenue, Sacramento, CA; California State University Sacramento Library; and Sutter County Library, 750 Forbes Avenue, Yuba City, CA.

The Plan and the Draft EIR/EIS are also available for review on the City of Sacramento's website at www.cityofsacramento.org

Background Information

Section 9 of the Act and Federal regulation prohibit the "take" of animal species listed as endangered or threatened. Take is defined under the Act as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 USC 1538). Under limited circumstances, however, the USFWS may issue permits to authorize "incidental take" of listed animal species. "Incidental take" is defined by the Act as

take that is incidental to, and not the purpose of, carrying out of an otherwise lawful activity. Regulations governing permits for threatened species and endangered species, respectively, are at 50 CFR 17.32 and 50 CFR 17.22.

The California Endangered Species Act (CESA) prohibits "take" of species designated as threatened and endangered, as well as species designated as candidates for listing under CESA. (Fish and Game Code, Section 2080, 2085) "Take", for the purposes of CESA, means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. (Id., Section 86) Killing that is incidental to an otherwise lawful activity and not the primary purpose of the activity also constitutes take under CESA. (Department of Fish and Game v. Anderson-Cottonwood Irrigation District (1992) 8 Cal.App.4th 1554.) In limited circumstances, the Department may authorize take of species protected under CESA where such take is incidental to an otherwise lawful activity. Standards governing the issuance of an ITP under CESA are set forth in Section 2081, subdivisions (b) and (c) of the California Fish and Game Code, and in Section 783.4 of Title 14 of the California Code of Regulations.

The applicants are seeking permits for incidental take of the following federally listed species and state listed species: the threatened giant garter snake (Thamnophis gigas), threatened valley elderberry longhorn beetle (Desmocerus californicus dimorphus), threatened vernal pool fairy shrimp (Branchinecta lynchi), endangered vernal pool tadpole shrimp (Lepidurus packardii), threatened Colusa grass (Neostapfia colusana), endangered Sacramento Orcutt grass (Orcuttia viscida), threatened slender Orcutt grass (Orcuttia tenuis), and the threatened Swainson's hawk (Buteo swainsoni), threatened bank swallow (Riparia riparia), and the endangered Boggs Lake hedge-hyssop (Gratiola heterosepala). The following species are also covered should any of these species become listed under the Act during the life of the permit: Aleutian Canada goose (Branta canadensis leucopareia), tricolored blackbird (Agelaius tricolor), northwestern pond turtle (Clemmys marmorata marmorata), white-faced ibis (Plegadis chihi), loggerhead shrike (Lanius ludovicianus), burrowing owl (Athene cunicularia), California tiger salamander (Ambystoma californiense), western spadefoot toad (Scaphiopus hammondi), midvalley fairy shrimp (Branchinecta mesovallensis), legenere (Legenere limosa), delta tule pea (Lathyrus jepsonii ssp. jepsonii) and Sanford's arrowhead (Sagittaria sanfordii). Collectively, the 22 listed and unlisted species are referred to as the "covered species" in the Plan.

The applicants propose to minimize and mitigate the effects to covered species associated with the covered activities by participating in the Plan. The purpose of this comprehensive conservation program is to promote biological conservation in conjunction with economic and urban development within the Natomas Basin. Through the payment of mitigation fees, one-half acre of mitigation land would be established for every acre of land developed. The proposed NBHCP and Incidental Take Permit (ITP) for the City of Sacramento would authorize development of 8,050 acres of urban uses. In turn, the proposed NBHCP requires the City of Sacramento to collect mitigation fees to support the acquisition and management of 4,025 acres of mitigation lands. Similarly, the proposed NBHCP and related ITP will authorize Sutter County to develop up to 7,467 acres of urban development and in turn, mitigation fees will be collected to support the acquisition and management of 3,733.5 acres of mitigation lands. Combined with the previously approved Metro Air Park HCP and ITP which authorized 1,983 acres of urban development, a total of 17,500 acres of development is proposed in the Natomas Basin at this time. A total of 8,750 acres of mitigation lands or reserve lands would be created. The mitigation land would be acquired and managed by the Natomas Basin Conservancy. In addition to the requirement to pay mitigation fees, the Plan also includes incidental take avoidance and minimization measures.

The Draft EIR/EIS considers four alternatives in addition to the Proposed Action and the No Action Alternative. Under the No Action Alternative, no section 10(a)(1)(B) or 2081 permits would be issued for incidental take of listed species associated with the covered activities; the applicants would address the potential for incidental take of listed species on a case-by-case basis.

- The Increased Mitigation Ratio Alternative would double the extent of required mitigation land relative to the Plan.
- The Habitat-Based Mitigation Alternative would prescribe mitigation based on the value of habitat to be disturbed, rather than on a general ratio applied to all lands to be disturbed.
- The Reserve Zone Alternative would prioritize specific areas within the Natomas Basin for acquisition, in contrast to the general acquisition strategy described in the Plan.
- The Reduced Potential for Incidental Take Alternative would result in reduced urban development covered by the permits, and would therefore reduce the potential for incidental take associated with urban development.

As a result of the analysis conducted for the Proposed Action and the alternatives, all significant impacts (except one) can be reduced to a level below significance with implementation of the conservation strategy as presented in the Plan and with additional mitigation measures outlined in the EIR/EIS. Impacts to farmland cannot be mitigated to a level below significance, and mitigation measures are proposed to reduce the magnitude of impacts to this resource.

In August 2001, (66 FR 43267), two water agencies, Reclamation District No. 1000 (RD 1000), and Natomas Central Mutual Water Company (Natomas Mutual), decided to join the City of Sacramento and Sutter County as applicants for permits and participated in drafting the Plan. At this time, RD 1000 and Natomas Mutual have chosen not to submit an application for an incidental take permit. They may decide to apply at a later time and commit to the terms of the Plan, and through issuance of a permit by the USFWS, join as full permittees at a future date. It should be noted that because of RD 1000's and Natomas Mutual's previous participation as potential applicants, and the possibility that they may decide to apply for a permit at some future date, the description of and analysis of the two water agencies as permittees have remained in both the Plan and the EIR/EIS. If the water agencies apply for a permit in the future, then additional notification and environmental documentation may be needed.

SUMMARY:

The USFWS, the City and the County invite the public to comment on the Plan and Draft EIR/EIS during a 60-day public comment period. This notice is provided pursuant to section 10(a) of the Endangered Species Act and The Service regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6) and the California Environmental Quality Act (CEQA) Guidelines Section 15087 and 15105. The USFWS, the City, and the County will evaluate the application, associated documents, and comments submitted thereon to prepare a Final EIR/EIS. A decision on the permit applications will be made no sooner than 30 days after the publication of the Final EIR/EIS.



**CITY OF SACRAMENTO
CALIFORNIA**

**PLANNING AND
BUILDING DEPARTMENT**

**1231 I STREET
ROOM 300
SACRAMENTO, CA
95814-2998**

**PH 916-264-5381
FAX 916-264-5328**

DATE: December 18, 2000

TO: Interested Persons

FROM: Grace Hovey, Environmental Project Manager

**SUBJECT: NOTICE OF PREPARATION(NOP) TO PREPARE A DRAFT ENVIRONMENTAL
IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT (EIR/EIS) FOR THE
NATOMAS BASIN HABITAT CONSERVATION PLAN (NATOMAS HCP)**

PUBLIC REVIEW PERIOD: DECEMBER 18, 2000 through JANUARY 16, 2001

Introduction

In 1997, the Natomas Basin HCP was approved by the City of Sacramento, the USFWS and CDFG. An Environmental Assessment (EA) was prepared by the USFWS for the NEPA requirement and a Negative Declaration was prepared by the City of Sacramento for the CEQA requirement. The USFWS and CDFG issued an ITP to the City of Sacramento. The HCP and ITP were subsequently challenged and on August 15, 2000 the federal court ruled that an EIS was required for the project. Based on this ruling, the City of Sacramento and Sutter County, are jointly managing the preparation on an EIR/EIS on behalf of the USFWS

An EIR/EIS is being prepared for the Natomas Basin HCP in compliance with CEQA and NEPA requirements. The United States Fish and Wildlife Service (USFWS) is the lead agency for the preparation of an EIS and the City of Sacramento and Sutter County are co-lead agencies for the preparation of an Environmental Impact Report (EIR) for the above referenced project located in the Natomas Basin as identified in Figure 3 from the Natomas HCP document and the City of Sacramento. The Natomas Basin HCP is being revised to address the issues identified in the lawsuit and the federal Judge's ruling.

The EIR/EIS will evaluate the potential environmental impacts of the Natomas Basin HCP. The Natomas Basin HCP is a conservation plan supporting application for a federal permit under Section 10(a)(1)(B) of the Endangered Species Act (ESA) and a state permit under Section 2081 of the California Fish and Game Code, i.e., an Incidental Take Permit (ITP). The purpose of the Natomas Basin HCP is to promote biological conservation along with economic development and continuation of agriculture within the Natomas Basin while allowing urban development to proceed according to local land use plans. The jurisdictions seeking approval of the

Natomas Basin HCP and an ITP are the City of Sacramento and Sutter County

CEQA Section 15082 states that, once a decision is made to prepare an EIR, the lead agency, the City of Sacramento and Sutter County are co-leads, must prepare a Notice of Preparation (NOP) to inform all responsible agencies that an EIR will be prepared. The NOP must also be sent to each governmental agency expected to be involved in approving or funding elements of the project. The purpose of the NOP is to provide sufficient information describing the project and the potential environmental effects to enable the agencies to make a meaningful response regarding the scope and content of the information which should be included in the EIR.

Corresponding with the NOP, a Notice of Intent (NOI) is being issued by USFWS for publication in the Federal Register in compliance with Section 1501.7 of the National Environmental Quality Act (NEPA). As provided for under Section 15170 of CEQA, "a lead agency may work with a federal agency to prepare a joint environmental document". The joint EIR/EIS is such a document for the Natomas Basin HCP. The NOI and NOP will be released for a 30-day public review on 12/15/00.

The NOI and NOP provide parallel opportunities for early public input and comment. Responses may be to one Notice or the other, but need not be to both. All comments to the NOP and NOI shall be incorporated into the EIR/EIS as a whole.

Project Area

The Natomas Basin HCP area is 53,341 acres bounded on the west by the Sacramento River, on the north by the Natomas Cross Canal, on the east by the Natomas East Main Drain Canal (NEMDC), and on the south by the Garden Highway. The Natomas Basin contains incorporated and unincorporated areas within the jurisdictions of the City of Sacramento, Sacramento County, and Sutter County. Please see Figure 2 from the Natomas HCP document.

Project Description

Project Purpose

The Natomas Basin HCP is a conservation plan supporting application for a federal permit under Section 10(a)(1)(B) of the Endangered Species Act (ESA) and a state permit under Section 2081 of the California Fish and Game Code, i.e., an Incidental Take Permit (ITP). The purpose of the Natomas Basin HCP is to promote biological conservation along with economic development and continuation of agriculture within the Natomas Basin while allowing urban development to proceed according to local land use plans. The City of Sacramento and Sutter County are seeking approval of the Natomas Basin HCP and an ITP from USFWS and CDFG.

Project Elements

The proposed project consists of the following elements:

- **Revised Natomas Basin HCP:** The adopted 1997 Natomas Basin HCP will be revised to address the issues in the federal court ruling of August 15, 2000 and to include specific plan elements for City of Sacramento and Sutter County.
- **Implementation Agreement:** Each participating jurisdiction will enter into an Implementation Agreement for the HCP with USFWS and the CDFG.
- **Application for Incidental Take Permit (ITP):** The participating jurisdictions shall submit an application for an ITP to USFWS and CDFG.

The project is expected to be completed by July, 2001

Approvals and/or Entitlements Required

The USFWS would take the following actions:

- Approve the Natomas Basin Habitat Conservation Plan;
- Issue an Incidental Take Permit (ITP);
- Approve Implementation Agreements with each of the participating jurisdictions.
- Adopt the EIR/EIS.

The City of Sacramento and Sutter County would take the following actions:

- Approve the Natomas Basin Habitat Conservation Plan;
- Approve the Implementation Agreement with the USFWS;
- Adopt the EIR/EIS.

Environmental Effects

The USFWS determined that an EIR/EIS should be prepared. Topical areas to be included in the EIR/EIS are identified below in addition to issues identified in the federal court ruling that must be addressed in the HCP and the EIR/EIS analysis.

- The record does not support the USFWS's finding that the Plan will minimize and mitigate the impacts of take to the maximum extent practicable with respect to the mitigation fee, mitigation land ratio, and rice farming best management practices. (Applies to Plan and ITP)
- The record does not support the "No Jeopardy" findings contained in the Biological Opinion as it applies to the ITP for the following reasons:

Funding for mitigation may not be adequate if only the City's lands are developed under the Plan;

There needs to be an analysis of the quality of City's lands as habitat for covered species;

Need a discussion of the effect on GGS if the Plan's goals of large, connected blocks of reserve lands cannot be met by the City;

The 9,000 acre midcourse review may occur too late to effect any change based on projected City development if the City is the only permittee;

Need to discuss whether the monitoring and adaptive management provisions of the Plan could be effective if the City is the sole permittee.

- The record does not support the USFWS's finding that the City will ensure adequate funding for the Plan as it applies to the ITP because the Plan does not permit retroactive fee increases resulting in funding shortfalls if other jurisdictions do not participate

Many of the issues identified in the ruling relate to the potential impacts associated with a sole ITP permittee. Therefore, issues associated with the City of Sacramento and Sutter County must also be addressed.

Topical Areas to be Considered in the EIR/EIS:

Land Use - The EIR/EIS will evaluate the project's link to future urbanization of the Natomas Basin. This discussion is specific to jurisdiction.

Conversion of Agricultural Lands - The EIR/EIS will evaluate the impact of the project on conversion of agricultural lands. The loss of agricultural land, the type of soil, its classification and its importance to the region as well as its permanent conversion to urban uses and marsh.

Air Quality - The EIR/EIS will address the project's impact on regional air pollutants and their precursors as well as localized Carbon Monoxide impacts utilizing the appropriate air quality modeling tools. The analysis will address both indirect (long-term) and construction level (short-term) impacts.

Soils - Geology and soils will be addressed in the EIR/EIS at a programmatic level. Implementation of the HCP will require the disruption, compaction and overcovering of soil to create changes in topography and relief feature to create habitat. Site-specific soil-related impacts need to be addressed in site-specific management plans for each property acquired by the Natomas Basin Conservancy (NBC).

Water Quality/Water/Supply/Drainage/Flooding - The EIR/EIS will address at a programmatic level issues regarding drainage, flooding, water supply and water quality (Clean Water Act). Site specific water-related impacts will need to be addressed in site-specific management plans for each property acquired by the NBC.

Biological Resources - The HCP is designed to minimize and mitigate direct, indirect and cumulative impacts to all covered species resulting from development in the Natomas Basin. The EIR/EIS will analyze the impacts to species as a result of urban development in the Basin. The EIR/EIS will provide a more detailed and specific analysis for each covered species in accordance with new regulations and policies on HCPs as well as the Judge's opinion (e.g., "No Surprises" and the Five-Point Policy). The federal court ruling identified other biological issues to be covered in the EIR/EIS.

Cultural/Historical Resources - The EIR/EIS will identify and evaluate any potentially historic and/or archaeological impacts. The EIR/EIS will also identify and evaluate the impact of the project on the Reclamation District 1000 Historic Rural Landscape District. Consultations with the State Historic Preservation Officer and/or State Reclamation Board will be necessary should negotiations take place regarding mitigation strategies on identified potentially significant impacts. These strategies and/or mitigation measures will be discussed in the EIR/EIS.

Socio/Economic - The EIR/EIS will evaluate the amount of the mitigation fee, the uncertainty regarding increasing mitigation costs, interference with existing agriculture, and the loss of tax revenue that may occur as lands are removed from agricultural production for the purpose of creating mitigation habitat. Existing documents contain most of the necessary information to respond to these issues.

Cumulative and Growth Inducing - In accordance with CEQA and NEPA requirements, an analysis of the cumulative impacts will be undertaken and discussed in the EIR/EIS. In compliance with CEQA requirements, the EIR/EIS will address the potential for growth inducing impacts of the project focusing on whether there will be a removal of any impediments to growth associated with project.

Alternatives

The EIR/EIS will examine a range of feasible alternatives to the proposed project. Feasible alternatives will be defined by the USFWS based on the EIR/EIS analysis, public scoping meetings and workshops, and public comments received on the NOP and NOI. Alternatives that may be considered in the EIR/EIS include, but are

- No Action/No HCP
- No Action/Individual Permit to Each Jurisdiction
- No Action/Individual Permit - Project Specific
- Variation of Habitat Mix
- Different Mitigation Ratio
- Variation in General Plan Build-Out by Jurisdiction

Public Workshops

Several public workshops are anticipated during the NOP and NOI 30-day public comment period. The dates, times and locations of the workshops are provided below. The workshops will be noticed in the Sutter County Appeal Democrat and the Sacramento Bee newspapers.

Workshop Schedule

Sutter County Workshop:

Wednesday, January 3, 2001, 2-5 p.m.
 Hot Tractor Manufacturing
 Large Conference Room
 7310 Pacific Avenue
 Pleasant Grove, CA
 (916)991-8200

City of Sacramento Workshop:

Thursday, January 4, 2001,
 2-5 p.m. and 6-8 p.m.
 City of Sacramento
 1231 I Street, First Floor, Room 102
 Sacramento, CA
 (916) 264-5381

Submitting Comments

To ensure that the full range of project issues of interest to responsible government agencies and the public are addressed, comments and suggestions are invited from all interested parties. **Written comments or questions concerning the EIR/EIS for the project should be directed to either of the following addresses by 5:00 p.m. on Friday, January 16, 2001:**

City of Sacramento
 ATTN: Grace Hovey
 1231 I Street, Room 300
 Sacramento, CA 95814
 (916) 264-7601
 (916) 264-7185 fax
ghovey@cityofsacramento.org

Sutter County /PMC
 ATTN: Jeff Pemstein
 1160 Civic Center Drive
 Yuba City, CA 95993
 (916) 361-8384
 (916) 361-1574 fax
jpemstein@pacificmunicipal.com

OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443-7978.

Substance Abuse Prevention and Treatment Block Grant Regulations—45 CFR part 96 (OMB No. 0930-0163; Extension, no change)—This interim

final rule provides guidance to States regarding the Substance Abuse Prevention and Treatment Block Grant legislation. The rule implements the reporting and recordkeeping requirements of 42 U.S.C. 300x21-35 and 51-64 by specifying the content of the States' annual report on and application for block grant funds. The

reporting burden hours are counted towards the total burden for the Substance Abuse Prevention and Treatment Block Grant Application Format (OMB No. 0930-0080) for which separate approval is obtained. The total annual reporting and recordkeeping burden estimate is shown below:

45 CFR Citation	Number of respondents	Responses/ respondent	Hours/ response	Total hour burden
Reporting Burden				
Annual Report:				
96.122(d) ¹	60	1	0	0
96.122(f); 96.126(f)	60	1	152	9,120
96.134(d)	60	1	16	960
State Plan:				
96.122(g)	60	1	162	9,720
96.124(c)(1)	60	1	40	2,400
96.127(b)	60	1	8	480
96.131(f)	60	1	8	480
96.133(a)	60	1	80	4,800
Waivers:²				
96.122(d)	26	1	1	26
96.124(d)	0	1	40	0
96.132(d)	0	1	16	0
96.134(b)	3	1	40	120
96.135(d)	0	1	8	8
Total Reporting Burden³	60	1	28,106
Recordkeeping Burden				
96.129(a)(13)	60	1	16	960

¹ There was a one-time burden associated with change of the due date for the annual report effective with the FY 2001 application.
² The number of respondents per year for the waiver requests is based on actual experience over the past several years.
³ All reporting burden is associated with the annual report, State plan, and waivers is approved under OMB control number 0930-0080. Only the information collection language in the regulation and the recordkeeping burden are approved under OMB control number 0930-0163.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Stuart Shapiro, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: December 11, 2000.
 Richard Kopanda,
 Executive Officer, SAMHSA.
 [FR Doc. 00-32104 Filed 12-15-00; 8:45 am]
 BILLING CODE 4162-20-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare an Environmental Impact Statement for Issuance of Permits, to Incidentally Take Threatened and Endangered Species, to the City of Sacramento and Sutter County in Association with a revised Natomas Basin Habitat Conservation Plan, Sacramento and Sutter Counties, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: The Fish and Wildlife Service (Service), is considering approval of a revised Natomas Basin Habitat Conservation Plan (Plan) and re-issuance of an Endangered Species Act Incidental Take Permit (Permit), under section 10(a)(1)(B) of the Endangered Species Act, to the City of Sacramento (City) and issuing a Permit to Sutter County. These municipalities have the majority of land use authority in the Natomas Basin. The permit would authorize incidental take of listed

species and unlisted species that may be listed in the future. Incidental take of listed species could occur as a result of urban development, certain on-going rice farming activities, and management of habitat reserves.

Pursuant to the National Environmental Policy Act, the Service intends to prepare an Environmental Impact Statement addressing the proposed action of approving the Plan and issuing Permits. The Plan covers the entire 53,341-acre Natomas Basin, including portions of the City and Sacramento and Sutter Counties that occur within the basin. The Environmental Impact Statement will also serve as an Environmental Impact Report under the California Environmental Quality Act. The Plan addresses the incidental take of the federally listed threatened giant garter snake (*Thamnophis gigas*), Aleutian Canada goose (*Branta canadensis leucopareia*), valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), the endangered vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardii*), conservancy fairy shrimp

(*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), Colusa grass (*Neostapfia colusana*), Sacramento Orcutt grass (*Orcuttia viscida*), slender Orcutt grass (*Orcuttia tenuis*), and 16 currently unlisted species and their habitats resulting from development, certain agricultural activities, and species and habitat management actions in the Natomas Basin. The Plan includes a process for covering third party development and agricultural activities within the two jurisdictions that are carried out in conformance with the Plan.

This notice describes the proposed action and possible alternatives, invites public participation in the scoping process for preparation of the joint Environmental Impact Statement/Environmental Impact Report, solicits written comments, and identifies the Service official to whom questions and comments concerning the proposed action should be directed.

DATES: Written comments are encouraged and should be received on or before January 16, 2001.

Public Meeting: The Service, City, and Sutter County will hold public scoping meetings on January 3, 2001, 2:00 p.m. to 5:00 p.m., Holt Tractor Manufacturing, large conference room, 7310 Pacific Avenue, Pleasant Grove, California; and, January 4, 2001, 2:00 p.m. to 5:00 p.m. and 6:00 p.m. to 8:00 p.m., City of Sacramento, 1231 I Street, First Floor, Room 102, Sacramento, California. Verbal and written comments will be accepted at the meetings. For additional meeting information, contact Vicki Campbell, Division Chief, Conservation Planning at (916) 414-6600.

ADDRESSES: Information, written comments, or questions related to the preparation of the Environmental Impact Statement/Environmental Impact Report and the National Environmental Policy Act process should be submitted to Vicki Campbell, Division Chief, Conservation Planning, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, California 95825; FAX (916) 414-6713. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Lori Rinek or Kelly Hornaday, Fish and Wildlife Biologists, Sacramento Fish and Wildlife Office at (916) 414-6600. Persons wishing to obtain background materials should contact Grace Hovey,

City of Sacramento, 1231 I Street, Suite 300, Sacramento, California 95814 at (916) 264-7601, or Jeff Pemstein, Sutter County, 10461 Old Placerville Road, Suite 110, Sacramento, California 95827 at (916) 361-8384, extension 203.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Act and Federal regulation prohibit the "take" of animal species listed as endangered or threatened. Take is defined under the Act as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 U.S.C. 1538). However, under limited circumstances, the Service may issue permits to authorize "incidental take" of listed animal species. "Incidental take" is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing permits for threatened species and endangered species, respectively, are at 50 CFR 17.32 and 50 CFR 17.22.

Prior to adoption of the Plan and the Service's issuance of the Permit to the City in December 1997, an Environmental Assessment was prepared by the Service in accordance with the National Environmental Policy Act and a Negative Declaration was prepared by the City pursuant to the California Environmental Quality Act. A Federal court ruling on August 15, 2000, held that the Service's decisions to issue the Permit to the City and its decision not to prepare an Environmental Impact Statement for the project were arbitrary and capricious. The City and Sutter County are preparing a revised Plan for the Natomas Basin that will address the court's concerns and support the issuance of Permits to both the City and Sutter County. The goals of the Plan, as revised, are to conserve listed and unlisted species and their habitat in the basin while accommodating compatible development and certain on-going agricultural activities.

The Plan study area comprises the entire 53,341-acre Natomas Basin within both Sacramento and Sutter Counties, California. Agriculture is the dominant land use in the Natomas Basin. The predominant crops are rice, corn, sugar beets, grain, tomatoes, and pasture land. Natural and uncultivated vegetation types are interspersed throughout the agricultural areas of the Natomas Basin. Natural areas are found primarily along irrigation canals, drainage ditches, pasture lands, and uncultivated fields. Narrow strips of emergent vegetation and/or wooded riparian areas are

associated with borders of the irrigation canals and drainage ditches.

Portions of the Natomas Basin that are within the jurisdiction of the City were included in the original December 1997 Plan and Permit. The City is seeking re-issuance of its Permit for urban development activities and certain on-going rice farming activities, and Sutter County is seeking issuance of a Permit for urban development and rice farming in its portion of the Natomas Basin. In addition, a separate Permit application is under review by the Service for the Metro Air Park Property Owners Association. The Metro Air Park application proposes participation in the Basin-wide conservation program. The Metro Air Park Permit would cover the urbanization of approximately 2,000 acres of land within the Natomas Basin portion of unincorporated Sacramento County. The total acreage within the basin for which take resulting from urban development activities is being sought under the revised Natomas Basin Plan and the Metro Air Park Plan is 17,500 acres.

Under the Plan, the effects of urbanization and other activities are expected to be minimized and mitigated through the City and Sutter County's participation in a Basin-wide conservation program, which will be described in the revised Plan. The focus of this Basin-wide conservation program is the preservation and enhancement of ecological communities that support species associated with wetland and upland habitats. Through the payment of development fees, one-half acre of mitigation land is expected to be established for every acre of land developed within the Basin. The mitigation land will be acquired by the Natomas Basin Conservancy, a non-profit conservation organization established in 1998 to implement the original Plan. Mitigation fee amounts, and the mitigation and minimization strategies will be subject to the adjustment required under the Plan, as revised. The Plan also contains take avoidance and minimization measures that include the requirements for developers and landowners to conduct pre-construction surveys and to carry out minimization measures prior to site development.

The City, County, and Service have selected CH2M Hill to prepare the joint Draft Environmental Impact Statement/Environmental Impact Report. The Environmental Impact Statement will be prepared in compliance with the National Environmental Policy Act and the Environmental Impact Report will be prepared in compliance with the California Environmental Quality Act.

Although CH2M Hill will prepare the Draft Environmental Impact Statement/ Environmental Impact Report, the Service will be responsible for the scope and content of the Environmental Impact Statement, and the City and County will be responsible for the scope and content of the Environmental Impact Report.

The Environmental Impact Statement/ Environmental Impact Report will consider the proposed action (issuance of section 10(a)(1)(B) Endangered Species Act permits to the City and Sutter County), and a reasonable range of alternatives as summarized below. Plan components related to the court's ruling that will be addressed, include the following:

1. The Plan's mitigation fee structure, mitigation land ratio, and rice farming best management practices;

2. The viability of the Plan if fewer than all of the three jurisdictions with land in the basin participate in the Plan with respect to mitigation fees, the quality and location of habitat that would be lost and preserved under the Plan, and the impacts to the covered species and their habitats;

3. Analysis of the species and the quality, quantity and location of habitat within each jurisdiction;

4. Analysis of the effect on giant garter snakes if the Plan's goals of large, connected blocks of reserve lands cannot be met, and the design of a process to be built into the plan to assure its habitat goals are achieved;

5. Analysis of the midcourse review procedure incorporated into the plan to respond to new information and address implementation issues if the City (or Sutter County) is the only permittee; and

6. Analysis of the effectiveness of the monitoring and adaptive management provisions of the Plan if the City (or Sutter County) is the sole permittee.

Potential alternatives may include a decreased development alternative, an increased mitigation ratio alternative, and a No Action alternative. Under the No Action alternative, the Service would not issue section 10(a)(1)(B) permits to the City and Sutter County in the Natomas Basin.

Environmental review of the revised Plan will be conducted in accordance with the requirements of the 1969 National Environmental Policy Act, as amended (42 U.S.C. 4321 *et seq.*), National Policy Act regulations (40 CFR parts 1500-1508), other applicable regulations, and Service procedures for compliance with those regulations. This notice is being furnished in accordance with section 1501.7 of the National Environmental Policy Act to obtain

suggestions and information from other agencies and the public on the scope of issues to be addressed in the Environmental Impact Statement/ Environmental Impact Report.

Comments and participation in the scoping process are hereby solicited. The 1997 Plan, upon which the revised Plan is based, was subject to extensive public review. However, because of likely changes in the Plan, including addition of the benefits of the "No Surprises" regulation (63 FR 8859) and the Services' "Five-Point Policy" (65 FR 35242), additional public review and input is being sought.

The primary purpose of the scoping process is to identify, rather than to debate, significant issues related to the proposed action. Interested persons are encouraged to provide comments on the scope of issues and alternatives to be addressed in the Draft Environmental Impact Statement/Environmental Impact Report.

Dated: December 11, 2000.

Elizabeth H. Stevens,
Deputy Manager, Region 1, California/Nevada
Operations Office, Sacramento, California.
[FR Doc. 00-32095 Filed 12-15-00; 8:45 am]
BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO-220-1050-PF-01-24 1A]

Extension of Approved Information Collection, OMB Number 1004-0182

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of an existing approval to collect certain information from Alaska Natives interested in conducting reindeer grazing activities on BLM administered lands. This information allows BLM to begin the assessment of the compatibility of reindeer grazing on public lands with multiple-use objectives (43 CFR 4300).

DATES: You must submit your comments to BLM at the appropriate address below on or before February 16, 2001. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: Comment may be mailed to: Regulatory Affairs Group (630), Bureau of Land Management, 1849 C Street NW, Room 401LS, Washington, DC 20240.

Comments may be sent via Internet to: WOCComment@blm.gov. Please include "ATTN: 1004-0182" your name and return address in your Internet message.

Comments may be hand-delivered to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW, Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Larry Field, BLM Northern Field Office, on (907) 474-2343 (Commercial or FTS). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8330, 24 hours a day, seven days a week, to contact Mr. Field.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires BLM to provide 60-day notice in the Federal Register concerning a collection of information contained in regulations found in 43 CFR 2812 to solicit comments on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval from the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The Act of September 1, 1937 (50 Stat. 900; 25 U.S.C. 500 *et seq.*) authorizes the Secretary of the Interior to manage the reindeer industry in Alaska to maintain a self-sustaining industry for Natives of Alaska. The Act also authorizes the Secretary to issue permits to those Natives for grazing reindeer on public lands. The implementing regulations at 43 CFR 4300 authorize Alaska Natives to apply to BLM for permits to graze reindeer and to construct improvements on the land.

The Grazing Lease or Permit Application (Form 4210-1) and the Reindeer Grazing Permit (Form 4132-2)



CITY OF SACRAMENTO
CALIFORNIA

PLANNING AND
BUILDING DEPARTMENT

1231 I STREET
ROOM 300
SACRAMENTO, CA
95814-2998

PH 916-264-5381
FAX 916-264-5328

DATE: August 17, 2001

TO: Interested Persons

FROM: Grace Hovey, Environmental Project Manager

SUBJECT: **REVISED NOTICE OF PREPARATION(NOP) TO PREPARE A DRAFT ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT (EIR/EIS) FOR THE NATOMAS BASIN HABITAT CONSERVATION PLAN (NATOMAS BASIN HCP)**

SCH#: 1997062064

PUBLIC REVIEW PERIOD: August 17, 2001 through September 17, 2001

Introduction

The NOP for this proposed action is being revised to include Reclamation District No. 1000 (RD 1000) as a co-lead agency under CEQA, representing itself and Natomas Central Mutual Water Company (NCMWC), to prepare the EIR/EIS for the revised Natomas Basin HCP and to request issuance of permits by the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (DFG). Revisions to the proposed action as a result of including RD 1000 as a co-lead agency and NCMWC as an applicant are described below.

Summary of Project Revisions

On December 18, 2000, the City of Sacramento and Sutter County issued an NOP to prepare an EIR/EIS for the USFWS to consider the revised Natomas Basin HCP and issuance of Incidental Take Permits (ITPs) under Section 10(a)(1)(B) of the Endangered Species Act, and for DFG to consider issuing permits under Section 2081 of the California Fish and Game Code. At that time, the USFWS was considering amending the ITP for the City of Sacramento and issuing an ITP to Sutter County. RD 1000 and NCMWC have now joined the City of Sacramento and Sutter County as applicants for ITPs. RD 1000 plans to participate as a co-lead agency with the City of Sacramento and Sutter County and would encompass the operations and maintenance activities of both itself and NCMWC. In addition, Sacramento County may also apply for an ITP.

The ITPs would authorize incidental take of listed species and unlisted species that may be listed in the future. The original scope for the EIR/EIS was to consider incidental take occurring as a result of urban development within the City of Sacramento and Sutter County, certain farming activities, and management of habitat reserves. Take resulting from Sacramento County's activities is anticipated to be similar in scope to that resulting from City of Sacramento and Sutter

County activities described above. With the proposed addition of the RD 1000 and NCMWC ITPs, the EIR/EIS will also consider incidental take associated with RD 1000's and NCMWC's operation and maintenance of water delivery and drainage canals and ditches, as well as the previously identified urban development, farming activities, and management of habitat reserves.

Corresponding with the revised NOP, a revised Notice of Intent (NOI) is being issued by USFWS for publication in the Federal Register in compliance with Section 1501.7 of the National Environmental Quality Act (NEPA). As provided for under Section 15170 of CEQA, "a lead agency may work with a federal agency to prepare a joint environmental document." The joint EIR/EIS is such a document for the Natomas Basin HCP. The prior NOI and NOP were circulated from December 18, 2000 through January 16, 2001, and the lead agencies conducted three public scoping meetings in the vicinity during the NOP/NOI comment period. This notice reopens the scoping process because the project description has been changed to include the participation of RD 1000 and NCMWC, and written comments are being solicited for the EIR/EIS regarding the inclusion of RD 1000 and NCMWC.

The NOI and NOP provide parallel opportunities for early public input and comment. Responses may be to one Notice or the other, but need not be to both. Comments previously submitted during the initial scoping period will be addressed in the EIR/EIS, as appropriate.

Submitting Comments

To ensure that the full range of project issues of interest to responsible government agencies and the public are addressed, comments and suggestions are invited from all interested parties. **Written comments** concerning the EIR/EIS for the project should be directed to the following address by **5:00 p.m. on September 17, 2001**. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

Vicki Campbell
Division Chief, Conservation Planning
U.S. Fish and Wildlife Service
Sacramento Fish and Wildlife Service Office
2800 Cottage Way, W-2605
Sacramento, CA 95825

FAX#: (916) 414-6713

Additional Information

Additional information can be obtained from the City of Sacramento [Grace Hovey, (916) 264-7601], Sutter County [Jeff Pemstein, (916) 361-8384], RD 1000 [Jim Clifton, (916) 922-9173], NCMWC [Peter Hughes (916) 419-5936], and the USFWS [Lori Rinek or Kelly Hornaday, (916) 414-6600].

comment letters were received on the Draft Environmental Impact Statement. A response to each comment received in these letters has been included in the Final Environmental Impact Statement.

The Final Environmental Impact Statement considers four alternatives, including the Proposed Action and the No-Action/No Take Alternative. Under the No-Action/No Take Alternative, no section 10(a)(1)(B) permit would be issued for take of listed species during urban development and other activities in the Plan area. Landowners within the Plan area would continue to apply for individual incidental take permits on a case-by-case basis, resulting in piecemeal planning that would establish smaller and more isolated patches of mitigation land. This could result in cumulatively significant adverse impacts to those species which would benefit from larger tracts of interconnected habitats.

The Increased Mitigation Ratio Alternative examines the environmental effects of applying a higher mitigation ratio than is required under the Natomas Basin Habitat Conservation Plan and the proposed Plan for addressing impacts to the giant garter snake and the Swainson's hawk. This alternative would require a site-specific analysis of habitat values in order to determine specific mitigation obligations.

The Reduced Development Alternative would result in reduced development of the Metro Air Park site. The 18-hole golf course situated on approximately 279 acres would be reduced to a 140-acre 9-hole golf course. This would reallocate 140 acres on-site for the creation of habitat as a mitigation area for covered species. Because an on-site mitigation area would eventually be surrounded by urban development it should be anticipated that adverse urban "edge effects" will occur.

The analysis provided in the Final Environmental Impact Statement is intended to accomplish the following: inform the public of the proposed action and alternatives; address public comments received on the Draft Environmental Impact Statement; disclose the direct, indirect, and cumulative environmental effects of the proposed action and each of the alternatives; and indicate any irreversible commitment of resources that would result from implementation of the proposed action.

Dated: August 3, 2001.

John Engbring,

Acting Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 01-20068 Filed 8-16-01; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Revised Notice of Intent to Prepare an Environmental Impact Statement for Issuance of Permits, to Incidentally Take Threatened and Endangered Species, to the City of Sacramento, Sutter County, Reclamation District No. 1000, and Natomas Central Mutual Water Company in Association With a Revised Natomas Basin Habitat Conservation Plan, Sacramento and Sutter Counties, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Revised notice of intent.

SUMMARY: On December 18, 2000, the Fish and Wildlife Service (Service) issued a Notice of Intent (NOI) regarding an Environmental Impact Statement for a revised Natomas Basin Habitat Conservation Plan (Plan) and Incidental Take Permits (Permits) under section 10(a)(1)(B) of the Endangered Species Act. At that time, the Service was considering amending the Permit for the City of Sacramento and issuing a Permit to Sutter County. Reclamation District No. 1000 (RD 1000) and Natomas Central Mutual Water Company (Natomas Mutual) have now joined the City of Sacramento and Sutter County as applicants for Permits. RD 1000 plans to participate as a co-lead agency with the City of Sacramento and Sutter County. In addition, Sacramento County may also apply for a Permit.

The Permits would authorize incidental take of listed species and unlisted species that may be listed in the future. The original scope of the Environmental Impact Statement, as described in the December 18, 2000 NOI, was to consider incidental take occurring as a result of urban development within the City of Sacramento and Sutter County, certain farming activities, and management of habitat reserves. Take resulting from Sacramento County is anticipated to be similar in scope to the City of Sacramento and Sutter County. With the proposed addition of the RD 1000 and Natomas Mutual Permits, the Environmental Impact Statement will also consider incidental take associated with RD 1000's and Natomas Mutual's operation and maintenance of water delivery and drainage canals and ditches, as well as the previously identified urban development, farming activities, and management of habitat reserves.

Pursuant to the National Environmental Policy Act, the Service

intends to prepare an Environmental Impact Statement addressing the proposed action of amending the Plan and issuing Permits. This Environmental Impact Statement will be prepared jointly with an Environmental Impact Report pursuant to the California Environmental Quality Act. Pursuant to the prior NOI, the Service conducted public scoping from December 18, 2000 to January 16, 2001, including three meetings in the project vicinity. This notice reopens the scoping process and solicits written comments because the project description has changed to include the participation of RD 1000 and Natomas Mutual. Comments previously submitted during the initial scoping period will be addressed in the Environmental Impact Report/Environmental Impact Statement.

DATES: Written comments are encouraged and should be received on or before September 17, 2001.

ADDRESSES: Information, written comments, or questions related to the inclusion of RD 1000 and Natomas Mutual into the Plan and Environmental Impact Report/Environmental Impact Statement should be submitted to Vicki Campbell, Division Chief, Conservation Planning, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, California 95825; FAX (916) 414-6713. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Lori Rinek or Kelly Hornaday, Fish and Wildlife Biologists, Sacramento Fish and Wildlife Office at (916) 414-6600. Additional information can also be obtained from the City of Sacramento [Grace Hovey, (916) 264-7601], Sutter County [Jeff Pemstein, (916) 361-8384], RD 1000 [Jim Clifton, (916) 922-9173], and Natomas Mutual [Peter Hughes, (916) 419-5936].

Dated: August 10, 2001.

Daniel Walsworth,

Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 01-20696 Filed 8-16-01; 8:45 am]

BILLING CODE 4310-55-P

APPENDIX B

**Fish and Wildlife Service Species List
and CNDDB Summary Lists**



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W2605
Sacramento, California 95825-1846

IN REPLY REFER TO:
I-1-01-SP-2902

August 30, 2001

Mr. Matt Franck
Environmental Planner
CH2M HILL/Sacramento
2485 Natomas Park Drive, Suite 600
Sacramento, California 95833-2937

Subject: Species List for Natomas Basin HCP, Sacramento and Sutter Counties,
California.

Dear Mr. Franck:

We are sending the enclosed list in response to your August 9, 2001, request for information about endangered and threatened species (Enclosure A). The list covers the following U.S. Geological Survey 7½ minute quads of Rio Linda, Sacramento East, Taylor Monument, Grays Bend, Sacramento West, Pleasant Grove, and Verona.

Please read *Important Information About Your Species List* (enclosed). It explains how we made the list and describes your responsibilities under the Endangered Species Act. Please contact Harry Mossman, Biological Technician, at (916) 414-6674, if you have any questions about the attached list or your responsibilities under the Endangered Species Act. For the fastest response to species list requests, address them to the attention of Mr. Mossman at this address. You may fax requests to him at 414-6712 or 6713.

Sincerely,

Jan C. Knight
Chief, Endangered Species Division

Enclosures

ENCLOSURE A

Endangered and Threatened Species that May Occur in
or be Affected by Projects in the Selected Quads Listed Below
01-SP-2902 Natomas Basin HCP, CH2M Hill

August 9, 2001

QUAD : 512B RIO LINDA

Listed Species

Birds

bald eagle, *Haliaeetus leucocephalus* (T)

Reptiles

giant garter snake, *Thamnophis gigas* (T)

Amphibians

California red-legged frog, *Rana aurora draytonii* (T)

Fish

delta smelt, *Hypomesus transpacificus* (T)

Central Valley steelhead, *Oncorhynchus mykiss* (T)

winter-run chinook salmon, *Oncorhynchus tshawytscha* (E)

Central Valley spring-run chinook salmon, *Oncorhynchus tshawytscha* (T)

Sacramento splittail, *Pogonichthys macrolepidotus* (T)

Invertebrates

vernal pool fairy shrimp, *Branchinecta lynchi* (T)

valley elderberry longhorn beetle, *Desmocerus californicus dimorphus* (T)

vernal pool tadpole shrimp, *Lepidurus packardii* (E)

Proposed Species

Birds

mountain plover, *Charadrius montanus* (PT)

Candidate Species

Amphibians

California tiger salamander, *Ambystoma californiense* (C)

Fish

Central Valley fall/late fall-run chinook salmon, *Oncorhynchus tshawytscha* (C)

Species of Concern

Mammals

Pacific western big-eared bat, *Corynorhinus (=Plecotus) townsendii townsendii* (SC)

small-footed myotis bat, *Myotis ciliolabrum* (SC)

- long-eared myotis bat, *Myotis evotis* (SC)
- fringed myotis bat, *Myotis thysanodes* (SC)
- long-legged myotis bat, *Myotis volans* (SC)
- Yuma myotis bat, *Myotis yumanensis* (SC)
- San Joaquin pocket mouse, *Perognathus inornatus* (SC)

Birds

- tricolored blackbird, *Agelaius tricolor* (SC)
- western burrowing owl, *Athene cunicularia hypugaea* (SC)
- Aleutian Canada goose, *Branta canadensis leucopareia* (D)
- ferruginous hawk, *Buteo regalis* (SC)
- white-tailed (=black shouldered) kite, *Elanus leucurus* (SC)
- little willow flycatcher, *Empidonax traillii brewsteri* (CA)
- American peregrine falcon, *Falco peregrinus anatum* (D)
- white-faced ibis, *Plegadis chihi* (SC)
- bank swallow, *Riparia riparia* (CA)
- rufous hummingbird, *Selasphorus rufus* (SC)

Reptiles

- northwestern pond turtle, *Clemmys marmorata marmorata* (SC)
- California horned lizard, *Phrynosoma coronatum frontale* (SC)

Amphibians

- western spadefoot toad, *Scaphiopus hammondi* (SC)

Fish

- green sturgeon, *Acipenser medirostris* (SC)
- river lamprey, *Lampetra ayresi* (SC)
- Pacific lamprey, *Lampetra tridentata* (SC)
- longfin smelt, *Spirinchus thaleichthys* (SC)

Invertebrates

- California linderiella fairy shrimp, *Linderiella occidentalis* (SC)

Plants

- Boggs Lake hedge-hyssop, *Gratiola heterosepala* (CA) *
- legenere, *Legenere limosa* (SC)

QUAD : 512C SACRAMENTO EAST

Listed Species**Birds**

bald eagle, *Haliaeetus leucocephalus* (T)

Reptiles

giant garter snake, *Thamnophis gigas* (T)

Amphibians

California red-legged frog, *Rana aurora draytonii* (T)

Fish

Critical habitat, delta smelt, *Hypomesus transpacificus* (T)

delta smelt, *Hypomesus transpacificus* (T)

Central Valley steelhead, *Oncorhynchus mykiss* (T)

winter-run chinook salmon, *Oncorhynchus tshawytscha* (E)

Central Valley spring-run chinook salmon, *Oncorhynchus tshawytscha* (T)

Sacramento splittail, *Pogonichthys macrolepidotus* (T)

Invertebrates

vernal pool fairy shrimp, *Branchinecta lynchi* (T)

Critical habitat, valley elderberry longhorn beetle, *Desmocerus californicus dimorphus* (T)

valley elderberry longhorn beetle, *Desmocerus californicus dimorphus* (T)

vernal pool tadpole shrimp, *Lepidurus packardii* (E)

Proposed Species**Birds**

mountain plover, *Charadrius montanus* (PT)

Candidate Species**Amphibians**

California tiger salamander, *Ambystoma californiense* (C)

Fish

Central Valley fall/late fall-run chinook salmon, *Oncorhynchus tshawytscha* (C)

Species of Concern**Mammals**

Pacific western big-eared bat, *Corynorhinus (=Plecotus) townsendii townsendii* (SC)

small-footed myotis bat, *Myotis ciliolabrum* (SC)

long-eared myotis bat, *Myotis evotis* (SC)

- fringed myotis bat, *Myotis thysanodes* (SC)
- long-legged myotis bat, *Myotis volans* (SC)
- Yuma myotis bat, *Myotis yumanensis* (SC)
- San Joaquin pocket mouse, *Perognathus inornatus* (SC)

Birds

- tricolored blackbird, *Agelaius tricolor* (SC)
- western burrowing owl, *Athene cunicularia hypugaea* (SC)
- Aleutian Canada goose, *Branta canadensis leucopareia* (D)
- ferruginous hawk, *Buteo regalis* (SC)
- white-tailed (=black shouldered) kite, *Elanus leucurus* (SC)
- little willow flycatcher, *Empidonax traillii brewsteri* (CA)
- American peregrine falcon, *Falco peregrinus anatum* (D)
- white-faced ibis, *Plegadis chihi* (SC)
- bank swallow, *Riparia riparia* (CA)
- rufous hummingbird, *Selasphorus rufus* (SC)

Reptiles

- northwestern pond turtle, *Clemmys marmorata marmorata* (SC)
- California horned lizard, *Phrynosoma coronatum frontale* (SC)

Amphibians

- western spadefoot toad, *Scaphiopus hammondi* (SC)

Fish

- green sturgeon, *Acipenser medirostris* (SC)
- river lamprey, *Lampetra ayresi* (SC)
- Pacific lamprey, *Lampetra tridentata* (SC)
- longfin smelt, *Spirinchus thaleichthys* (SC)

Invertebrates

- Antioch Dunes anthicid beetle, *Anthicus antiochensis* (SC)
- Sacramento anthicid beetle, *Anthicus sacramento* (SC)
- California linderiella fairy shrimp, *Linderiella occidentalis* (SC)

Plants

- valley sagittaria, *Sagittaria sanfordii* (SC)

QUAD : 513A TAYLOR MONUMENT

Listed Species

Birds

bald eagle, *Haliaeetus leucocephalus* (T)

Reptiles

giant garter snake, *Thamnophis gigas* (T)

Amphibians

California red-legged frog, *Rana aurora draytonii* (T)

Fish

delta smelt, *Hypomesus transpacificus* (T)

Central Valley steelhead, *Oncorhynchus mykiss* (T)

Critical habitat, winter-run chinook salmon, *Oncorhynchus tshawytscha* (E)

winter-run chinook salmon, *Oncorhynchus tshawytscha* (E)

Central Valley spring-run chinook salmon, *Oncorhynchus tshawytscha* (T)

Critical Habitat, Central Valley spring-run chinook, *Oncorhynchus tshawytscha* (T)

Sacramento splittail, *Pogonichthys macrolepidotus* (T)

Invertebrates

vernal pool fairy shrimp, *Branchinecta lynchi* (T)

valley elderberry longhorn beetle, *Desmocerus californicus dimorphus* (T)

vernal pool tadpole shrimp, *Lepidurus packardii* (E)

Proposed Species

Birds

mountain plover, *Charadrius montanus* (PT)

Candidate Species

Amphibians

California tiger salamander, *Ambystoma californiense* (C)

Fish

Central Valley fall/late fall-run chinook salmon, *Oncorhynchus tshawytscha* (C)

Critical habitat, Central Valley fall/late fall-run chinook, *Oncorhynchus tshawytscha* (C)

Species of Concern

Mammals

Pacific western big-eared bat, *Corynorhinus (=Plecotus) townsendii townsendii* (SC)

small-footed myotis bat, *Myotis ciliolabrum* (SC)

long-eared myotis bat, *Myotis evotis* (SC)
 fringed myotis bat, *Myotis thysanodes* (SC)
 long-legged myotis bat, *Myotis volans* (SC)
 Yuma myotis bat, *Myotis yumanensis* (SC)
 San Joaquin pocket mouse, *Perognathus inornatus* (SC)

Birds

tricolored blackbird, *Agelaius tricolor* (SC)
 western burrowing owl, *Athene cunicularia hypugaea* (SC)
 Aleutian Canada goose, *Branta canadensis leucopareia* (D)
 Swainson's hawk, *Buteo Swainsoni* (CA)
 ferruginous hawk, *Buteo regalis* (SC)
 Western yellow-billed cuckoo, *Coccyzus americanus occidentalis* (CA)
 white-tailed (=black shouldered) kite, *Elanus leucurus* (SC)
 little willow flycatcher, *Empidonax traillii brewsteri* (CA)
 American peregrine falcon, *Falco peregrinus anatum* (D)
 greater sandhill crane, *Grus canadensis tabida* (CA)
 white-faced ibis, *Plegadis chihi* (SC)
 bank swallow, *Riparia riparia* (CA)
 rufous hummingbird, *Selasphorus rufus* (SC)

Reptiles

northwestern pond turtle, *Clemmys marmorata marmorata* (SC)

Amphibians

western spadefoot toad, *Scaphiopus hammondi* (SC)

Fish

green sturgeon, *Acipenser medirostris* (SC)
 river lamprey, *Lampetra ayresi* (SC)
 Pacific lamprey, *Lampetra tridentata* (SC)
 longfin smelt, *Spirinchus thaleichthys* (SC)

Invertebrates

Antioch Dunes anthicid beetle, *Anthicus antiochensis* (SC)
 Sacramento anthicid beetle, *Anthicus sacramento* (SC)
 California linderiella fairy shrimp, *Linderiella occidentalis* (SC)

QUAD : 513B GRAYS BEND

Listed Species

Birds

bald eagle, *Haliaeetus leucocephalus* (T)

Reptiles

giant garter snake, *Thamnophis gigas* (T)

Amphibians

California red-legged frog, *Rana aurora draytonii* (T)

Fish

delta smelt, *Hypomesus transpacificus* (T)

Central Valley steelhead, *Oncorhynchus mykiss* (T)

Critical habitat, winter-run chinook salmon, *Oncorhynchus tshawytscha* (E)

winter-run chinook salmon, *Oncorhynchus tshawytscha* (E)

Central Valley spring-run chinook salmon, *Oncorhynchus tshawytscha* (T)

Critical Habitat, Central Valley spring-run chinook, *Oncorhynchus tshawytscha* (T)

Sacramento splittail, *Pogonichthys macrolepidotus* (T)

Invertebrates

vernal pool fairy shrimp, *Branchinecta lynchi* (T)

valley elderberry longhorn beetle, *Desmocerus californicus dimorphus* (T)

vernal pool tadpole shrimp, *Lepidurus packardii* (E)

Plants

palmate-bracted bird's-beak, *Cordylanthus palmatus* (E)

Proposed Species

Birds

mountain plover, *Charadrius montanus* (PT)

Candidate Species

Amphibians

California tiger salamander, *Ambystoma californiense* (C)

Fish

Central Valley fall/late fall-run chinook salmon, *Oncorhynchus tshawytscha* (C)

Critical habitat, Central Valley fall/late fall-run chinook, *Oncorhynchus tshawytscha* (C)

Species of Concern

Mammals

- Pacific western big-eared bat, *Corynorhinus (=Plecotus) townsendii townsendii* (SC)
- small-footed myotis bat, *Myotis ciliolabrum* (SC)
- long-eared myotis bat, *Myotis evotis* (SC)
- fringed myotis bat, *Myotis thysanodes* (SC)
- long-legged myotis bat, *Myotis volans* (SC)
- Yuma myotis bat, *Myotis yumanensis* (SC)
- San Joaquin pocket mouse, *Perognathus inornatus* (SC)

Birds

- tricolored blackbird, *Agelaius tricolor* (SC)
- western burrowing owl, *Athene cunicularia hypugaea* (SC)
- Aleutian Canada goose, *Branta canadensis leucopareia* (D)
- Swainson's hawk, *Buteo Swainsoni* (CA)
- ferruginous hawk, *Buteo regalis* (SC)
- Western yellow-billed cuckoo, *Coccyzus americanus occidentalis* (CA)
- white-tailed (=black shouldered) kite, *Elanus leucurus* (SC)
- little willow flycatcher, *Empidonax traillii brewsteri* (CA)
- American peregrine falcon, *Falco peregrinus anatum* (D)
- greater sandhill crane, *Grus canadensis tabida* (CA)
- white-faced ibis, *Plegadis chihi* (SC)
- bank swallow, *Riparia riparia* (CA)
- rufous hummingbird, *Selasphorus rufus* (SC)

Reptiles

- northwestern pond turtle, *Clemmys marmorata marmorata* (SC)

Amphibians

- western spadefoot toad, *Scaphiopus hammondi* (SC)

Fish

- green sturgeon, *Acipenser medirostris* (SC)
- river lamprey, *Lampetra ayresi* (SC)
- Pacific lamprey, *Lampetra tridentata* (SC)
- longfin smelt, *Spirinchus thaleichthys* (SC)

Invertebrates

Antioch Dunes anthicid beetle, *Anthicus antiochensis* (SC)

Sacramento anthicid beetle, *Anthicus sacramento* (SC)

California linderiella fairy shrimp, *Linderiella occidentalis* (SC)

Plants

alkali milk-vetch, *Astragalus tener* var. *tener* (SC)

brittlescale, *Atriplex depressa* (SC)

valley spearscale, *Atriplex joaquiniana* (SC) *

QUAD : 513D SACRAMENTO WEST

Listed Species

Birds

bald eagle, *Haliaeetus leucocephalus* (T)

Reptiles

giant garter snake, *Thamnophis gigas* (T)

Amphibians

California red-legged frog, *Rana aurora draytonii* (T)

Fish

Critical habitat, delta smelt, *Hypomesus transpacificus* (T)

delta smelt, *Hypomesus transpacificus* (T)

Central Valley steelhead, *Oncorhynchus mykiss* (T)

Critical habitat, winter-run chinook salmon, *Oncorhynchus tshawytscha* (E)

winter-run chinook salmon, *Oncorhynchus tshawytscha* (E)

Central Valley spring-run chinook salmon, *Oncorhynchus tshawytscha* (T)

Critical Habitat, Central Valley spring-run chinook, *Oncorhynchus tshawytscha* (T)

Sacramento splittail, *Pogonichthys macrolepidotus* (T)

Invertebrates

vernal pool fairy shrimp, *Branchinecta lynchi* (T)

valley elderberry longhorn beetle, *Desmocerus californicus dimorphus* (T)

vernal pool tadpole shrimp, *Lepidurus packardii* (E)

Proposed Species

Birds

mountain plover, *Charadrius montanus* (PT)

Candidate Species**Amphibians**

California tiger salamander, *Ambystoma californiense* (C)

Fish

Central Valley fall/late fall-run chinook salmon, *Oncorhynchus tshawytscha* (C)

Critical habitat, Central Valley fall/late fall-run chinook, *Oncorhynchus tshawytscha* (C)

Species of Concern**Mammals**

Pacific western big-eared bat, *Corynorhinus (=Plecotus) townsendii townsendii* (SC)

small-footed myotis bat, *Myotis ciliolabrum* (SC)

long-eared myotis bat, *Myotis evotis* (SC)

fringed myotis bat, *Myotis thysanodes* (SC)

long-legged myotis bat, *Myotis volans* (SC)

Yuma myotis bat, *Myotis yumanensis* (SC)

San Joaquin pocket mouse, *Perognathus inornatus* (SC)

Birds

tricolored blackbird, *Agelaius tricolor* (SC)

western burrowing owl, *Athene cunicularia hypugaea* (SC)

Aleutian Canada goose, *Branta canadensis leucopareia* (D)

Swainson's hawk, *Buteo Swainsoni* (CA)

ferruginous hawk, *Buteo regalis* (SC)

white-tailed (=black shouldered) kite, *Elanus leucurus* (SC)

little willow flycatcher, *Empidonax traillii brewsteri* (CA)

American peregrine falcon, *Falco peregrinus anatum* (D)

greater sandhill crane, *Grus canadensis tabida* (CA)

white-faced ibis, *Plegadis chihi* (SC)

bank swallow, *Riparia riparia* (CA)

rufous hummingbird, *Selasphorus rufus* (SC)

Reptiles

northwestern pond turtle, *Clemmys marmorata marmorata* (SC)

California horned lizard, *Phrynosoma coronatum frontale* (SC)

Amphibians

western spadefoot toad, *Scaphiopus hammondii* (SC)

Fish

green sturgeon, *Acipenser medirostris* (SC)

river lamprey, *Lampetra ayresi* (SC)

Pacific lamprey, *Lampetra tridentata* (SC)

longfin smelt, *Spirinchus thaleichthys* (SC)

Invertebrates

Antioch Dunes anthicid beetle, *Anthicus antiochensis* (SC)

Sacramento anthicid beetle, *Anthicus sacramento* (SC)

California linderiella fairy shrimp, *Linderiella occidentalis* (SC)

QUAD : 528C PLEASANT GROVE

Listed Species

Birds

bald eagle, *Haliaeetus leucocephalus* (T)

Reptiles

giant garter snake, *Thamnophis gigas* (T)

Amphibians

California red-legged frog, *Rana aurora draytonii* (T)

Fish

delta smelt, *Hypomesus transpacificus* (T)

Central Valley steelhead, *Oncorhynchus mykiss* (T)

Sacramento splittail, *Pogonichthys macrolepidotus* (T)

Invertebrates

vernal pool fairy shrimp, *Branchinecta lynchi* (T)

valley elderberry longhorn beetle, *Desmocerus californicus dimorphus* (T)

vernal pool tadpole shrimp, *Lepidurus packardii* (E)

Proposed Species

Birds

mountain plover, *Charadrius montanus* (PT)

Candidate Species

Amphibians

California tiger salamander, *Ambystoma californiense* (C)

Species of Concern**Mammals**

- Pacific western big-eared bat, *Corynorhinus (=Plecotus) townsendii townsendii* (SC)
- greater western mastiff-bat, *Eumops perotis californicus* (SC)
- small-footed myotis bat, *Myotis ciliolabrum* (SC)
- long-eared myotis bat, *Myotis evotis* (SC)
- fringed myotis bat, *Myotis thysanodes* (SC)
- long-legged myotis bat, *Myotis volans* (SC)
- Yuma myotis bat, *Myotis yumanensis* (SC)
- San Joaquin pocket mouse, *Perognathus inornatus* (SC)

Birds

- tricolored blackbird, *Agelaius tricolor* (SC)
- western burrowing owl, *Athene cunicularia hypugaea* (SC)
- Aleutian Canada goose, *Branta canadensis leucopareia* (D)
- ferruginous hawk, *Buteo regalis* (SC)
- Western yellow-billed cuckoo, *Coccyzus americanus occidentalis* (CA)
- white-tailed (=black shouldered) kite, *Elanus leucurus* (SC)
- little willow flycatcher, *Empidonax traillii brewsteri* (CA)
- American peregrine falcon, *Falco peregrinus anatum* (D)
- greater sandhill crane, *Grus canadensis tabida* (CA)
- white-faced ibis, *Plegadis chihi* (SC)
- bank swallow, *Riparia riparia* (CA)
- rufous hummingbird, *Selasphorus rufus* (SC)

Reptiles

- northwestern pond turtle, *Clemmys marmorata marmorata* (SC)
- California horned lizard, *Phrynosoma coronatum frontale* (SC)

Amphibians

- western spadefoot toad, *Scaphiopus hammondi* (SC)

Fish

- green sturgeon, *Acipenser medirostris* (SC)
- longfin smelt, *Spirinchus thaleichthys* (SC)

Invertebrates

- California linderiella fairy shrimp, *Linderiella occidentalis* (SC)

QUAD : 529D VERONA

Listed Species**Birds**

bald eagle, *Haliaeetus leucocephalus* (T)

Reptiles

giant garter snake, *Thamnophis gigas* (T)

Amphibians

California red-legged frog, *Rana aurora draytonii* (T)

Fish

delta smelt, *Hypomesus transpacificus* (T)

Central Valley steelhead, *Oncorhynchus mykiss* (T)

Critical habitat, winter-run chinook salmon, *Oncorhynchus tshawytscha* (E)

winter-run chinook salmon, *Oncorhynchus tshawytscha* (E)

Central Valley spring-run chinook salmon, *Oncorhynchus tshawytscha* (T)

Critical Habitat, Central Valley spring-run chinook, *Oncorhynchus tshawytscha* (T)

Sacramento splittail, *Pogonichthys macrolepidotus* (T)

Invertebrates

vernal pool fairy shrimp, *Branchinecta lynchi* (T)

valley elderberry longhorn beetle, *Desmocerus californicus dimorphus* (T)

vernal pool tadpole shrimp, *Lepidurus packardii* (E)

Proposed Species**Birds**

mountain plover, *Charadrius montanus* (PT)

Candidate Species**Amphibians**

California tiger salamander, *Ambystoma californiense* (C)

Fish

Central Valley fall/late fall-run chinook salmon, *Oncorhynchus tshawytscha* (C)

Critical habitat, Central Valley fall/late fall-run chinook, *Oncorhynchus tshawytscha* (C)

Species of Concern**Mammals**

Pacific western big-eared bat, *Corynorhinus (=Plecotus) townsendii townsendii* (SC)

small-footed myotis bat, *Myotis ciliolabrum* (SC)

- long-eared myotis bat, *Myotis evotis* (SC)
- fringed myotis bat, *Myotis thysanodes* (SC)
- long-legged myotis bat, *Myotis volans* (SC)
- Yuma myotis bat, *Myotis yumanensis* (SC)
- San Joaquin pocket mouse, *Perognathus inornatus* (SC)

Birds

- tricolored blackbird, *Agelaius tricolor* (SC)
- western burrowing owl, *Athene cunicularia hypugaea* (SC)
- Aleutian Canada goose, *Branta canadensis leucopareia* (D)
- Swainson's hawk, *Buteo Swainsoni* (CA)
- ferruginous hawk, *Buteo regalis* (SC)
- Western yellow-billed cuckoo, *Coccyzus americanus occidentalis* (CA)
- white-tailed (=black shouldered) kite, *Elanus leucurus* (SC)
- little willow flycatcher, *Empidonax trailii brewsteri* (CA)
- American peregrine falcon, *Falco peregrinus anatum* (D)
- white-faced ibis, *Plegadis chihi* (SC)
- bank swallow, *Riparia riparia* (CA)
- rufous hummingbird, *Selasphorus rufus* (SC)

Reptiles

- northwestern pond turtle, *Clemmys marmorata marmorata* (SC)

Amphibians

- western spadefoot toad, *Scaphiopus hammondi* (SC)

Fish

- green sturgeon, *Acipenser medirostris* (SC)
- Pacific lamprey, *Lampetra tridentata* (SC)
- longfin smelt, *Spirinchus thaleichthys* (SC)

Invertebrates

- Antioch Dunes anthicid beetle, *Anthicus antiochensis* (SC)
- Sacramento anthicid beetle, *Anthicus sacramento* (SC)
- California linderiella fairy shrimp, *Linderiella occidentalis* (SC)

KEY:

(E) <i>Endangered</i>	Listed (in the Federal Register) as being in danger of extinction.
(T) <i>Threatened</i>	Listed as likely to become endangered within the foreseeable future.
(P) <i>Proposed</i>	Officially proposed (in the Federal Register) for listing as endangered or threatened.
(PX) <i>Proposed Critical Habitat</i>	Proposed as an area essential to the conservation of the species.
(C) <i>Candidate</i>	Candidate to become a <i>proposed</i> species.
(SC) <i>Species of Concern</i>	May be endangered or threatened. Not enough biological information has been gathered to support listing at this time.
(MB) <i>Migratory Bird</i>	Migratory bird
(D) <i>Delisted</i>	Delisted. Status to be monitored for 5 years.
(CA) <i>State-Listed</i>	Listed as threatened or endangered by the State of California.
(*) <i>Extirpated</i>	Possibly extirpated from this quad.
(**) <i>Extinct</i>	Possibly extinct.
<i>Critical Habitat</i>	Area essential to the conservation of a species.

Endangered and Threatened Species that May Occur in or be Affected by
Projects in the Area of the Following California Counties

Reference File No. 01-SP-2902 Natomas Basin HCP, CH2M Hill

August 9, 2001

SACRAMENTO COUNTY

Listed Species

Mammals

riparian (San Joaquin Valley) woodrat, *Neotoma fuscipes riparia* (E) *

Birds

bald eagle, *Haliaeetus leucocephalus* (T)

Reptiles

giant garter snake, *Thamnophis gigas* (T)

Amphibians

California red-legged frog, *Rana aurora draytonii* (T)

Fish

Critical habitat, winter-run chinook salmon, *Oncorhynchus tshawytscha* (E)

winter-run chinook salmon, *Oncorhynchus tshawytscha* (E)

Critical habitat, delta smelt, *Hypomesus transpacificus* (T)

delta smelt, *Hypomesus transpacificus* (T)

Central Valley steelhead, *Oncorhynchus mykiss* (T)

Central Valley spring-run chinook salmon, *Oncorhynchus tshawytscha* (T)

Critical Habitat, Central Valley spring-run chinook, *Oncorhynchus tshawytscha* (T)

Sacramento splittail, *Pogonichthys macrolepidotus* (T)

Invertebrates

Conservancy fairy shrimp, *Branchinecta conservatio* (E)

vernal pool tadpole shrimp, *Lepidurus packardii* (E)

vernal pool fairy shrimp, *Branchinecta lynchi* (T)

Critical habitat, valley elderberry longhorn beetle, *Desmocerus californicus dimorphus* (T)

valley elderberry longhorn beetle, *Desmocerus californicus dimorphus* (T)

delta green ground beetle, *Elaphrus viridis* (T)

Plants

Antioch Dunes evening-primrose, *Oenothera deltooides* ssp. *howellii* (E)

Sacramento Orcutt grass, *Orcuttia viscida* (E)

slender Orcutt grass, *Orcuttia tenuis* (T)

Proposed Species

Birds

mountain plover, *Charadrius montanus* (PT)

Candidate Species**Amphibians**

California tiger salamander, *Ambystoma californiense* (C)

Fish

Central Valley fall/mate fall-run chinook salmon, *Oncorhynchus tshawytscha* (C)

Critical habitat, Central Valley fall/mate fall-run chinook, *Oncorhynchus tshawytscha* (C)

Species of Concern**Mammals**

pale Townsend's big-eared bat, *Corynorhinus (=Plecotus) townsendii pallescens* (SC)

Pacific western big-eared bat, *Corynorhinus (=Plecotus) townsendii townsendii* (SC)

greater western mastiff-bat, *Eumops perotis californicus* (SC)

small-footed myotis bat, *Myotis ciliolabrum* (SC)

long-eared myotis bat, *Myotis evotis* (SC)

fringed myotis bat, *Myotis thysanodes* (SC)

long-legged myotis bat, *Myotis volans* (SC)

Yuma myotis bat, *Myotis yumanensis* (SC)

San Francisco dusky-footed woodrat, *Neotoma fuscipes annectens* (SC)

San Joaquin pocket mouse, *Perognathus inornatus* (SC)

Birds

Swainson's hawk, *Buteo Swainsoni* (CA)

Western yellow-billed cuckoo, *Coccyzus americanus occidentalis* (CA)

little willow flycatcher, *Empidonax traillii brewsteri* (CA)

greater sandhill crane, *Grus canadensis tabida* (CA)

black rail, *Laterallus jamaicensis coturniculus* (CA)

bank swallow, *Riparia riparia* (CA)

Aleutian Canada goose, *Branta canadensis leucopareia* (D)

American peregrine falcon, *Falco peregrinus anatum* (D)

Snowy Egret, *Egretta thula* (MB)

tricolored blackbird, *Agelaius tricolor* (SC)

grasshopper sparrow, *Ammodramus savannarum* (SC)

short-eared owl, *Asio flammeus* (SC)

western burrowing owl, *Athene cunicularia hypugaea* (SC)

American bittern, *Botaurus lentiginosus* (SC)

ferruginous hawk, *Buteo regalis* (SC)

black tern, *Chlidonias niger* (SC)

lark sparrow, *Chondestes grammacus* (SC)

hermit warbler, *Dendroica occidentalis* (SC)
white-tailed (=black shouldered) kite, *Elanus leucurus* (SC)
Pacific-slope flycatcher, *Empidonax difficilis* (SC)
loggerhead shrike, *Lanius ludovicianus* (SC)
Lewis' woodpecker, *Melanerpes lewis* (SC)
long-billed curlew, *Numenius americanus* (SC)
white-faced ibis, *Plegadis chihi* (SC)
rufous hummingbird, *Selasphorus rufus* (SC)
red-breasted sapsucker, *Sphyrapicus ruber* (SC)
Brewer's sparrow, *Spizella breweri* (SC)

Reptiles

silvery legless lizard, *Anniella pulchra pulchra* (SC)
northwestern pond turtle, *Clemmys marmorata marmorata* (SC)
southwestern pond turtle, *Clemmys marmorata pallida* (SC)
California horned lizard, *Phrynosoma coronatum frontale* (SC)

Amphibians

foothill yellow-legged frog, *Rana boylei* (SC)
western spadefoot toad, *Scaphiopus hammondi* (SC)

Fish

green sturgeon, *Acipenser medirostris* (SC)
river lamprey, *Lampetra ayresi* (SC)
Kern brook lamprey, *Lampetra hubbsi* (SC)
Pacific lamprey, *Lampetra tridentata* (SC)
longfin smelt, *Spirinchus thaleichthys* (SC)

Invertebrates

Antioch Dunes anthicid beetle, *Anthicus antiochensis* (SC)
Sacramento anthicid beetle, *Anthicus sacramento* (SC)
Midvalley fairy shrimp, *Branchinecta mesovallensis* (SC)
San Joaquin dune beetle, *Coelus gracilis* (SC)
curved-foot hygrotus diving beetle, *Hygrotus curvipes* (SC)
California linderiella fairy shrimp, *Linderiella occidentalis* (SC)

Plants

Boggs Lake hedge-hyssop, *Gratiola heterosepala* (CA)
Suisun Marsh aster, *Aster lentus* (SC)
valley spearscale, *Atriplex joaquiniana* (SC)
Tuolumne coyote-thistle, *Eryngium pinnatisectum* (SC)
Ahart's rush, *Juncus leiospermus var. ahartii* (SC)

delta tule-pea, *Lathyrus jepsonii* var. *jepsonii* (SC)
legenere, *Legenere limosa* (SC)
Mason's lilaeopsis, *Lilaeopsis masonii* (SC)
pincushion navarretia, *Naverretia myersii* spp. *myersii* (SC)
valley sagittaria, *Sagittaria sanfordii* (SC)
Northern California black walnut, *Juglans californica* var. *hindsii* (SC) *

SUTTER COUNTY

Listed Species

Birds

bald eagle, *Haliaeetus leucocephalus* (T)

Reptiles

giant garter snake, *Thamnophis gigas* (T)

Amphibians

California red-legged frog, *Rana aurora draytonii* (T)

Fish

Critical habitat, winter-run chinook salmon, *Oncorhynchus tshawytscha* (E)

winter-run chinook salmon, *Oncorhynchus tshawytscha* (E)

Central Valley steelhead, *Oncorhynchus mykiss* (T)

Central Valley spring-run chinook salmon, *Oncorhynchus tshawytscha* (T)

Critical Habitat, Central Valley spring-run chinook, *Oncorhynchus tshawytscha* (T)

Sacramento splittail, *Pogonichthys macrolepidotus* (T)

delta smelt, *Hypomesus transpacificus* (T) *

Invertebrates

Conservancy fairy shrimp, *Branchinecta conservatio* (E)

vernal pool tadpole shrimp, *Lepidurus packardii* (E)

vernal pool fairy shrimp, *Branchinecta lynchi* (T)

valley elderberry longhorn beetle, *Desmocerus californicus dimorphus* (T)

Plants

Hartweg's golden sunburst, *Pseudobahia bahiifolia* (E) *

Proposed Species

Birds

mountain plover, *Charadrius montanus* (PT)

Candidate Species

Amphibians

California tiger salamander, *Ambystoma californiense* (C)

Fish

Central Valley fall/late fall-run chinook salmon, *Oncorhynchus tshawytscha* (C)

Critical habitat, Central Valley fall/late fall-run chinook, *Oncorhynchus tshawytscha* (C)

Species of Concern

Mammals

pale Townsend's big-eared bat, *Corynorhinus (=Plecotus) townsendii pallescens* (SC)

Pacific western big-eared bat, *Corynorhinus (=Plecotus) townsendii townsendii* (SC)

Marysville Heermann's kangaroo rat, *Dipodomys californicus eximius* (SC)

greater western mastiff-bat, *Eumops perotis californicus* (SC)

small-footed myotis bat, *Myotis ciliolabrum* (SC)

long-eared myotis bat, *Myotis evotis* (SC)

fringed myotis bat, *Myotis thysanodes* (SC)

long-legged myotis bat, *Myotis volans* (SC)

Yuma myotis bat, *Myotis yumanensis* (SC)

San Joaquin pocket mouse, *Perognathus inornatus* (SC)

Birds

Swainson's hawk, *Buteo Swainsoni* (CA)

Western yellow-billed cuckoo, *Coccyzus americanus occidentalis* (CA)

little willow flycatcher, *Empidonax traillii brewsteri* (CA)

greater sandhill crane, *Grus canadensis tabida* (CA)

bank swallow, *Riparia riparia* (CA)

Aleutian Canada goose, *Branta canadensis leucopareia* (D)

American peregrine falcon, *Falco peregrinus anatum* (D)

Snowy Egret, *Egretta thula* (MB)

grasshopper sparrow, *Ammodramus savannarum* (SC)

short-eared owl, *Asio flammeus* (SC)

western burrowing owl, *Athene cunicularia hypugaea* (SC)

American bittern, *Botaurus lentiginosus* (SC)

ferruginous hawk, *Buteo regalis* (SC)

black tern, *Chlidonias niger* (SC)

lark sparrow, *Chondestes grammacus* (SC)

black swift, *Cypseloides niger* (SC)

hermit warbler, *Dendroica occidentalis* (SC)

white-tailed (=black shouldered) kite, *Elanus leucurus* (SC)

least bittern, western, *Ixobrychus exilis hesperis* (SC)

loggerhead shrike, *Lanius ludovicianus* (SC)

Lewis' woodpecker, *Melanerpes lewis* (SC)

long-billed curlew, *Numenius americanus* (SC)

white-faced ibis, *Plegadis chihi* (SC)

rufous hummingbird, *Selasphorus rufus* (SC)

Reptiles

northwestern pond turtle, *Clemmys marmorata marmorata* (SC)

San Joaquin coachwhip (=whipsnake), *Masticophis flagellum ruddocki* (SC)

Amphibians

foothill yellow-legged frog, *Rana boylei* (SC)

western spadefoot toad, *Scaphiopus hammondi* (SC)

Fish

green sturgeon, *Acipenser medirostris* (SC)

river lamprey, *Lampetra ayresi* (SC)

Pacific lamprey, *Lampetra tridentata* (SC)

longfin smelt, *Spirinchus thaleichthys* (SC)

Invertebrates

Antioch Dunes anthicid beetle, *Anthicus antiochensis* (SC)

Sacramento anthicid beetle, *Anthicus sacramento* (SC)

Sacramento Valley tiger beetle, *Cicindela hirticollis abrupta* (SC)

California linderiella fairy shrimp, *Linderiella occidentalis* (SC)

Plants

Ferris's milk-vetch, *Astragalus tener var. ferrisiae* (SC) *

veiny monardella, *Monardella douglasii ssp. venosa* (SC) *

KEY:

- | | |
|---|--|
| (E) <i>Endangered</i> | Listed (in the Federal Register) as being in danger of extinction. |
| (T) <i>Threatened</i> | Listed as likely to become endangered within the foreseeable future. |
| (P) <i>Proposed</i> | Officially proposed (in the Federal Register) for listing as endangered or threatened. |
| (PX) <i>Proposed
Critical Habitat</i> | Proposed as an area essential to the conservation of the species. |
| (C) <i>Candidate</i> | Candidate to become a <i>proposed</i> species. |
| (SC) <i>Species of
Concern</i> | Other species of concern to the Service. |
| (D) <i>Delisted</i> | Delisted. Status to be monitored for 5 years. |
| (CA) <i>State-Listed</i> | Listed as threatened or endangered by the State of California. |
| * <i>Extirpated</i> | Possibly extirpated from the area. |
| ** <i>Extinct</i> | Possibly extinct |
| <i>Critical Habitat</i> | Area essential to the conservation of a species. |

California Department of Fish and Game
Natural Diversity Data Base

List of Elements and Status by Scientific Name
Verona Quad

Scientific/Common Name	Federal/ State Status	Global/ State Rank	CNPS/ R-E-D	CDFG Status
AGELAIUS TRICOLOR TRICOLORED BLACKBIRD	None/ None	G3/ S3		SC
ATHENE CUNICULARIA BURROWING OWL	None/ None	G4/ S2		SC
BRANCHINECTA LYNCHI VERNAL POOL FAIRY SHRIMP	Threatened/ None	G2G3/ S2S3		
BUTEO SWAINSONI SWAINSON'S HAWK	None/ Threatened	G4/ S2		
LEPIDURUS PACKARDI VERNAL POOL TADPOLE SHRIMP	Endangered/ None	G2G3/ S2S3		
NYCTICORAX NYCTICORAX BLACK-CROWNED NIGHT HERON	None/ None	G5/ S3		
POGONICHTHYS MACROLEPIDOTUS SACRAMENTO SPLITTAIL	Threatened/ None	G2/ S2		SC
RIPARIA RIPARIA BANK SWALLOW	None/ Threatened	G5/ S2S3		
THAMNOPHIS GIGAS GIANT GARTER SNAKE	Threatened/ Threatened	G2G3/ S2S3		

California Department of Fish and Game
Natural Diversity Data Base

List of Elements and Status by Scientific Name
Pleasant Grove Quad

Scientific/Common Name	Federal/ State Status	Global/ State Rank	CNPS/ R-E-D	CDFG Status
ATHENE CUNICULARIA BURROWING OWL	None/ None	G4/ S2		SC
BRANCHINECTA LYNCHI VERNAL POOL FAIRY SHRIMP	Threatened/ None	G2G3/ S2S3		
DOWNINGIA PUSILLA DWARF DOWNINGIA	None/ None	G3/ S3.1	2/ 1-2-1	
LEPIDURUS PACKARDI VERNAL POOL TADPOLE SHRIMP	Endangered/ None	G2G3/ S2S3		
LINDERIELLA OCCIDENTALIS CALIFORNIA LINDERIELLA	None/ None	G2G3/ S2S3		
SCAPHIOPUS HAMMONDII WESTERN SPADEFOOT	None/ None	G3?/ S3?		SC

California Department of Fish and Game
Natural Diversity Data Base

List of Elements and Status by Scientific Name
Grays Bend Quad

Scientific/Common Name	Federal/ State Status	Global/ State Rank	CNPS/ R-E-D	CDFG Status
AGELAIUS TRICOLOR TRICOLORED BLACKBIRD	None/ None	G3/ S3		SC
ASTRAGALUS TENER VAR TENER ALKALI MILK-VETCH	None/ None	G1T1/ S1.1	1B/ 3-2-3	
ATRIPLEX DEPRESSA BRITTLESCALE	None/ None	G2Q/ S2.2	1B/ 2-2-3	
ATRIPLEX JOAQUINIANA SAN JOAQUIN SALTBUSH	None/ None	G2/ S2.1	1B/ 2-2-3	
BUTEO SWAINSONI SWAINSON'S HAWK	None/ Threatened	G4/ S2		
CHARADRIUS ALEXANDRINUS NIVOSUS WESTERN SNOWY PLOVER	Threatened/ None	G4T2/ S2		SC
CHARADRIUS MONTANUS MOUNTAIN PLOVER	Proposed Threatened/ None	G3/ S2?		SC
CORDYLANTHUS PALMATUS PALMATE-BRACTED BIRD'S-BEAK	Endangered/ Endangered	G1/ S1.1	1B/ 3-3-3	
LEPIDIUM LATIPES VAR HECKARDII HECKARD'S PEPPER-GRASS	None/ None	G4T1/ S1.2	1B/ 3-2-3	
PLEGADIS CHIHI WHITE-FACED IBIS	None/ None	G5/ S1		SC
POGONICHTHYS MACROLEPIDOTUS SACRAMENTO SPLITTAIL	Threatened/ None	G2/ S2		SC
THAMNOPHIS GIGAS GIANT GARTER SNAKE	Threatened/ Threatened	G2G3/ S2S3		

California Department of Fish and Game
Natural Diversity Data Base

List of Elements and Status by Scientific Name
Taylor Monument Quad

Scientific/Common Name	Federal/ State Status	Global/ State Rank	CNPS/ R-E-D	CDFG Status
AGELAIUS TRICOLOR TRICOLORED BLACKBIRD	None/ None	G3/ S3		SC
ARDEA ALBA GREAT EGRET	None/ None	G5/ S4		
ATHENE CUNICULARIA BURROWING OWL	None/ None	G4/ S2		SC
BUTEO SWAINSONI SWAINSON'S HAWK	None/ Threatened	G4/ S2		
DESMOCERUS CALIFORNICUS DIMORPHUS VALLEY ELDERBERRY LONGHORN BEETLE	Threatened/ None	G3T2/ S2		
EGRETTA THULA SNOWY EGRET	None/ None	G5/ S4		
NYCTICORAX NYCTICORAX BLACK-CROWNED NIGHT HERON	None/ None	G5/ S3		
POGONICHTHYS MACROLEPIDOTUS SACRAMENTO SPLITTAIL	Threatened/ None	G2/ S2		SC
THAMNOPHIS GIGAS GIANT GARTER SNAKE	Threatened/ Threatened	G2G3/ S2S3		

California Department of Fish and Game
Natural Diversity Data Base

List of Elements and Status by Scientific Name
Rio Linda Quad

Scientific/Common Name	Federal/ State Status	Global/ State Rank	CNPS/ R-E-D	CDFG Status
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NORTHERN CLAYPAN VERNAL POOL	None/ None	G1/ S1.1		
NORTHERN HARDPAN VERNAL POOL	None/ None	G3/ S3.1		
THAMNOPHIS GIGAS GIANT GARTER SNAKE	Threatened/ Threatened	G2G3/ S2S3		

California Department of Fish and Game
Natural Diversity Data Base

List of Elements and Status by Scientific Name
Sacramento West Quad

Scientific/Common Name	Federal/ State Status	Global/ State Rank	CNPS/ R-E-D	CDFG Status
AGELAIUS TRICOLOR TRICOLORED BLACKBIRD	None/ None	G3/ S3		SC
ARCHOPLITES INTERRUPTUS SACRAMENTO PERCH	None/ None	G3/ S1		SC
BUTEO SWAINSONI SWAINSON'S HAWK	None/ Threatened	G4/ S2		
DESMOCERUS CALIFORNICUS DIMORPHUS VALLEY ELDERBERRY LONGHORN BEETLE	Threatened/ None	G3T2/ S2		
ELDERBERRY SAVANNA	None/ None	G2/ S2.1		
GREAT VALLEY COTTONWOOD RIPARIAN FOREST	None/ None	G2/ S2.1		
HIBISCUS LASIOCARPUS ROSE-MALLOW	None/ None	G4/ S2.2	2/ 2-2-1	
POGONICHTHYS MACROLEPIDOTUS SACRAMENTO SPLITTAIL	Threatened/ None	G2/ S2		SC

California Department of Fish and Game
Natural Diversity Data Base

List of Elements and Status by Scientific Name
Sacramento East Quad

Scientific/Common Name	Federal/ State Status	Global/ State Rank	CNPS/ R-E-D	CDFG Status
ACCIPITER COOPERII COOPER'S HAWK	None/ None	G4/ S3		SC
ATHENE CUNICULARIA BURROWING OWL	None/ None	G4/ S2		SC
BRANCHINECTA LYNCHI VERNAL POOL FAIRY SHRIMP	Threatened/ None	G2G3/ S2S3		
DESMOCERUS CALIFORNICUS DIMORPHUS VALLEY ELDERBERRY LONGHORN BEETLE	Threatened/ None	G3T2/ S2		
ELDERBERRY SAVANNA	None/ None	G2/ S2.1		
LEPIDURUS PACKARDI VERNAL POOL TADPOLE SHRIMP	Endangered/ None	G2G3/ S2S3		
LINDERIELLA OCCIDENTALIS CALIFORNIA LINDERIELLA	None/ None	G2G3/ S2S3		
RIPARIA RIPARIA BANK SWALLOW	None/ Threatened	G5/ S2S3		
SAGITTARIA SANFORDII SANFORD'S ARROWHEAD	None/ None	G3/ S3.2	1B/ 2-2-3	

APPENDIX C

**Summary of Previous Environmental Review
of Planned Urban Development**

TABLE C-1
Prior Analysis of Geology and Soils Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
City of Sacramento General Plan EIR				
Potential for exposure to earthquake groundshaking at a maximum intensity of VIII (on the Modified Mercalli Scale).	Significant.	Implement Goal A and Policies 1, 3, and 7 of the Health and Safety Element (Seismic Safety section) of the General Plan. Engineer structures for earthquake resistance.	Less than significant.	No further action necessary.
Potential for liquefaction, triggered by groundshaking.	Significant.	Implement Policies 2, 4, and 7 of the Health and Safety Element (Seismic Safety section) of the General Plan. Require the evaluation of liquefaction potential of proposed development sites and implement appropriate specially engineered earthwork and structural design.	Less than significant.	No further action necessary.
Incremental contribution to the loss of aggregate resources if all mineral resources sectors within the SGPU area (except the American River Parkway) were rendered unavailable for aggregate production due to urbanization.	Significant.	Implement Goal B and Policies 1, 2, 3, and 4 of the Open Space Element (Managed Production of Resources section) of the General Plan. Zone mineral resources sectors and adjacent lands to permit aggregate mining. Require reclamation of mined lands for urban uses.	Less than significant.	No further action necessary.
9,700 acres meeting the soil criteria of the prime land component of the Important Farmland Inventory of California, 7,500 acres of which are currently irrigated and considered prime farmland, would be removed from agricultural production.	Significant.	Full mitigation would require the adoption of the No Project Alternative. The City Council determined that this was infeasible.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.

TABLE C-1
 Prior Analysis of Geology and Soils Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
North Natomas Community Plan EIR				
No significant impacts identified.	N/A	N/A	N/A	No further action necessary.
South Natomas Community Plan EIR				
No significant impacts identified.	N/A	N/A	N/A	No further action necessary.
Sutter County General Plan EIR				
Impact 4.3.1. Future development in accordance with the proposed General Plan may expose structures and people to moderate ground shaking.	Potentially Significant	Implement General Plan Goal 7.B, Policy 7.B.2, and Implementation Program 7.1. Mitigation Measure 4.3.1. Prior to permitting development in areas of geologic or soils hazards, the County shall require the preparation of a soils engineering and/or geotechnical analysis by a licensed civil or geotechnical engineer. The County shall review and enforce the recommendations of said analysis by adopting them as conditions of specific project-level approvals.	Less than significant.	No further action necessary.
Impact 4.3.2. Future development in accordance with the proposed General Plan may expose structures to liquefaction and/or seismic compaction.	Potentially significant.	Same as Mitigation Measure 4.3.1.	Less than significant.	No further action necessary.
Impact 4.3.3. Future development in accordance with the proposed General Plan may expose structures to subsidence.	Potentially significant.	Same as Mitigation Measure 4.3.1.	Less than significant.	No further action necessary.

TABLE C-1
Prior Analysis of Geology and Soils Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Impact 4.3.4. Future development within the County in accordance with the General Plan may subject new development to geologic hazards associated with expansive soils.	Potentially significant.	Same as Mitigation Measure 4.3.1.	Less than significant.	No further action necessary.
Impact 4.3.5. Future development in accordance with the proposed General Plan will require grading activities, resulting in exposed earth and the potential for soil erosion.	Potentially significant.	Mitigation Measure 4.3.2. Prior to or concurrent with a specific development proposal, the County shall adopt and implement a grading ordinance or other appropriate measures. The grading ordinance shall limit the effects of soil erosion and shall include, but is not limited to, the following specific areas: (1) timing of grading operations (targeted for April 15 – November 15); (2) erosion control methods which utilize sediment traps, barriers, covers, or other methods approved by the County; (3) recommendations for cut and fill angles of slopes; (4) recommendations for mulching, seeding, revegetation, and other stabilization measures as approved by the County; and (5) plans for deposition and storage of excavated materials.	Less than significant.	No further action necessary.
Impact 4.3.6. Increased urbanization proposed by the General Plan may decrease accessibility to natural gas resources or result in hazards due to new construction in the vicinity of abandoned gas well sites.	Potentially significant.	Implement General Plan Goal 4.H; Policies 4.H.1, 4.H.2, 4.H.3, 4.H.4, and 4.H.5; and Implementation Program 4.5. Mitigation Measure 4.3.3. For future development proposals located within the vicinity of an abandoned gas well, the applicant shall demonstrate to the satisfaction of the County that reabandonment operations have been successfully completed, if necessary, in consultation with the Department of Conservation, Division of Oil, Gas, and Geothermal Resources. If any plugged and abandoned or unrecorded wells are damaged or uncovered during excavation or grading, remedial plugging operations may be required. The cost of reabandonment operations is the responsibility of the property owner.	Less than significant.	No further action necessary.

^a The analysis of environmental impacts presented in these documents was prepared in accordance with the requirements of CEQA. No changes to the types of impacts presented would be anticipated if the documents were prepared for NEPA purposes.

TABLE C-2
 Prior Analysis of Water Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
City of Sacramento General Plan EIR				
<p>The number of persons and developments exposed to potential flood damage from levee failure would increase by an unknown amount, especially in North Natomas. The amount is unknown since the U.S. Army Corps of Engineers, at the request of the Federal Emergency Management Agency, is still in the process of updating 100-year floodplain maps for the American River levees, the Sacramento River east levee north of the American River, and several levees along local creeks and drainage canals in the SGPU area.</p>	Significant.	<p>Full mitigation would require: (1) assisting in the reconstruction of inadequate levees as development occurs, (2) assisting in the implementation of one or more Corps of Engineers flood control alternatives, and (3) restricting development in areas subject to flooding. The City Council determined that full mitigation under (1) and (2) above was infeasible because implementation of possible flood control alternatives is the responsibility of the federal government. The City Council adopted (3).</p>	Less than significant.	No further action necessary.
<p>Transport of pollutants to streams would increase from construction activities and runoff from industrial, commercial, and residential development.</p>	Significant.	<p>Implement precautionary measures during construction, such as minimizing surface disturbance, disposing excavated materials away from water sources, and grading spoil disposal sites to minimize surface water erosion.</p> <p>Implement measures to reduce long-term water quality impacts, such as provision of onsite retention and detention storage; designing storm drainage to slow water flows; minimizing impervious surfaces; and maximizing percolation, evaporation, and evapotranspiration of stormwater.</p> <p>The City Council determined that it was infeasible to adopt full mitigation because the analysis of water quality measures are conducted on a project-specific basis, and therefore the feasibility of mitigating citywide water quality impacts could not be determined.</p>	Significant.	<p>The City determined that any remaining unmitigated environmental impacts attributable to the project would be outweighed by specific economic, fiscal, social, environmental, land use, and other overriding considerations.</p>

TABLE C-2
 Prior Analysis of Water Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Continued rice herbicide application has the potential to impact surface and groundwater quality, thereby exposing an increased population to hazards.	Significant.	Reduce the release of agricultural chemicals by establishing an effective regulatory program. The City Council determined that this mitigation measure is the responsibility of the County and state regulatory bodies.	Less than significant.	No further action necessary.
The maximum average water demand would increase 104 percent to 368.2 million gallons per day, requiring expansion of existing water treatment plants, possible a new plant in North Natomas, additional storage reservoir capacity, and new transmission lines.	Significant.	Implement the following Goal and Policy from the Public Services and Facilities Element (Water section) of the General Plan: Goal A, Policy 5 Require water facilities prior to development. Require water conservation measures.	Less than significant.	No further action necessary.

North Natomas Community Plan EIR

Impact 4.7-1. The [North Natomas Community Plan] Update will result in drainage impacts relating to hydrology and water quality arising from the conversion of agricultural lands to urban uses. That conversion will change existing drainage patterns and increase peak stormwater discharge rates, increase stormwater flows in drainage canals resulting in increased pump station flows and discharge requirements, require increased maintenance of canals to prevent bank sloughing, and	Potentially significant.	At the time the EIR was adopted, mitigation requirements were assumed to be met by the City's Comprehensive Drainage Plan, which was in draft for at that time. The Update also included implementing policies for the drainage system, which were determined to also provide mitigation measures to reduce drainage impacts.	The City determined that impacts would be lessened by the adoption of the mitigation requirements. Because the draft Comprehensive Drainage Plan had not been adopted and environmental review completed on the draft plan, the City determined that impacts could not be demonstrated to be less than significant.	The City determined that any remaining unmitigated environmental impacts attributable to the project would be outweighed by specific economic, fiscal, social, environmental, land use, and other overriding considerations.
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TABLE C-2
Prior Analysis of Water Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
could result in mosquito abatement problems arising from the ponding of drainage waters.		<p>Various future scenarios are discussed in which the flood hazard risk would be lessened. These scenarios generally involved the actions of the U.S. Army Corps of Engineers and the Sacramento Area Flood Control Agency to increase flood protection in the Natomas Basin.</p> <p>In addition, the Update also contains measures designed to reduce flooding by prohibiting new development until flood protection is secured.</p>	Impacts would be reduced to a less-than-significant level after completion of regional flood control projects. Residual impacts would remain "so long as the City of Sacramento and the Update Area are depending upon levees for flood protection from major storm events, no matter how high the levee system."	The City determined that any remaining unmitigated environmental impacts attributable to the project would be outweighed by specific economic, fiscal, social, environmental, land use, and other overriding considerations.
The following groundwater and seepage impacts would result from development of the Update area: (1) an alteration of groundwater flow patterns in the vicinity of new canal segments could result from the interception of near surface groundwater with surface drainage; (2) a reduction in groundwater recharge due to increased impervious surfaces in the area; (3) a reduction in irrigated agriculture could lower groundwater levels by	Potentially significant.	No mitigation proposed.	The groundwater recharge, groundwater level, and seepage impacts of implementing the update are irreversible, unavoidable, and significant adverse effects.	The City determined that any remaining unmitigated environmental impacts attributable to the project would be outweighed by specific economic, fiscal, social, environmental, land use, and other overriding considerations.

TABLE C-2
 Prior Analysis of Water Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
<p>decreasing groundwater recharge; and (4) lower groundwater levels due to canal excavation would reduce seepage problems in low-lying areas near the Sacramento River.</p>	<p>Potentially significant.</p>	<p>The Update contains the following measures: (1) meet all NPDES and other regulatory permit requirements; (2) all drainage flows from the NNCP will be discharged to the Sacramento River; (3) utilize Best Management Practices emphasizing upstream and on-site treatment; (4) the Comprehensive Drainage Plan must meet all EPA and Corps of Engineers 404 permit requirements; (5) ensure that the CDP operational plans are compatible with the other uses of the existing canals such as drainage, water delivery, and preservation of existing Fisherman’s Lake water levels: (6) the CDP must be designed in a manner compatible with and complementary to the Habitat Mitigation Plan under development by SAFCA for the American River Flood Control Project; (7) incorporate water quality control into the lake, canal, and basin maintenance programs; (8) grease and oil traps should be integrated into the storm drain system wherever practical; (9) industries that use solvents and/or other toxic or hazardous materials should be sited in concentrated locations, on sites with low permeability soil, far from drainage canals and basins, and close to the freeway to reduce intrusion of trucks transporting chemicals into residential neighborhoods; and (10) industries that use solvents and other hazardous materials will be required to prepare a Hazardous Substance Management Plan.</p>	<p>Although impacts would be lessened by the mitigation measures, significant impacts were determined to remain.</p>	<p>The City determined that any remaining unmitigated environmental impacts attributable to the project would be outweighed by specific economic, fiscal, social, environmental, land use, and other overriding considerations.</p>

TABLE C-2
Prior Analysis of Water Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
South Natomas Community Plan EIR				
The entire South Natomas community is located within an area which may not be protected by 100 year level flood protection due to the potential instability of the Sacramento River Levee and the lack of adequate height of the East Main Drainage Canal and the Natomas Main Drainage Canal Levees.	Potentially significant.	The City identified full mitigation as increasing the height of the East Main Drain Levee and the Natomas main canal levee to an adequate level, build additional levees to protect the area, and stabilize the levee along the Sacramento River. The City determined that full mitigation was infeasible because reconstruction of the levees is the responsibility of the federal government, and recommended partial mitigation to prohibit additional development in South Natomas.	The City did not identify a level of significance associated with the mitigated project.	The City determined that partial mitigation was not feasible because of specific economic, social, and environmental, and other considerations.
Increased flows to Reclamation District 1000 exceed the capacity of the existing system.	Potentially significant.	The City determined that RD 1000 is responsible for mitigating this impact.	New developers may be required to contribute to sufficient system improvements to reduce this impact to a less-than-significant level.	None.
Sutter County General Plan EIR				
Impact 4.4.1. Future development under the provisions of the General Plan would alter existing drainage patterns and increase stormwater runoff.	Significant.	Implement General Plan Goals 3.D and 7.C; Policies 3.D.1, 3.D.2, 3.D.3, 3.D.4, 3.D.5, 7.C.1, 7.C.2, and 7.C.3; and Implementation Programs 3.9, 3.10, 3.11, 7.2, 7.3, and 7.4. Mitigation Measure 4.4.1. Prior to the approval of subsequent development projects in accordance with the General Plan, the project applicant must demonstrate the project's compliance with the County's Flood Damage Prevention Regulations, and any approved local drainage master plan. In the absence of such regulations and local master plans, project applicants shall be required, on a project-by-project basis, to demonstrate specific drainage and flooding impacts and mitigation in accordance with CEQA and consistent with County policy.	Less than significant.	No further action necessary.

TABLE C-2
 Prior Analysis of Water Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
<p>Impact 4.4.3. Future development under the provisions of the General Plan could result in the degradation of surface and groundwater quality due to urban runoff.</p>	<p>Significant</p>	<p>Mitigation Measure 4.4.2. For any development proposed within the 100-year floodplain, such development will be conditioned upon the applicant’s ability to demonstrate that finished grade elevations are raised above inundation levels, or that other site-specific flood control measures are implemented to protect new structures from 100-year inundation.</p>	<p>Less than significant.</p>	<p>No further action necessary.</p>
		<p>Implement General Plan Goals 3.B and 3.C; Policies 3.B.2, 3.B.3, 3.B.4, 3.B.5, 3.B.6, 3.C.1, 3.C.2, 3.C.3, 3.C.4, 3.C.5, 3.D.6, 4.A.2, 9.A.2 and 9.A.3; and Implementation Programs 3.5, 3.6, and 3.8.</p>		
		<p>Mitigation Measure 4.4.4. As a condition of future project-level development approvals, project proponents shall provide and implement a comprehensive plan to prevent erosion, siltation, contamination of stormwater during construction, and “first flush” contaminants after construction. Detail of the plan shall reflect the scale of the project. Such a plan shall be prepared in accordance with permit conditions and requirements of the NPDES general industrial stormwater permit, when applicable.</p>		
<p>Mitigation Measure 4.4.5. As a condition of future project-level development approvals, project proponents shall provide and implement Best Management Practices to reduce pollutants from entering the waterways. Best management practices to reduce pollutants include the use of oil and sand separators, grassy swales, detention ponds, vegetative buffers, and other source control measures.</p>				

TABLE C-2
Prior Analysis of Water Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Impact 4.4.4. Future development under the provisions of the General Plan may reduce recharged groundwater supplies as a result of converting agricultural uses to urban uses, and as a result of a reduction of permeable ground surface.	Potentially significant.	Same as above for Impact 4.4.3. The policies and implementation actions described above are effective only when implemented in conjunction with Mitigation Measures 4.10.1, 4.10.2, and 4.10.3 for water supply [see below].	Less than significant.	No further action necessary.
Impact 4.10.1. Future urban development in accordance with the General Plan Revision would result in increased demand for water in the County. The demand for water would require either expansion of existing systems and/or development of new water systems.	Significant impact.	<p>Implement General Plan Goals 3.B and 4.A; Policies 3.B-1, 3.B-2, 3.B-3, 3.B-4, 3.B-5, 3.B-6, 3.B-7, 3.B-8, 3.B-9, 3B-10, and 4.A-3; and Implementation Programs 3.5, 3.6, and 3.7.</p> <p>Mitigation Measure 4.10.1. As a condition of subsequent project-level approvals, project applicants shall submit to the County for verification that the expansion of an existing water supply system or acceptable alternative water system improvements in accordance with Policy 3.B-1 (deemed to be appropriate by the Community Services Department Environmental Services Program to meet the water needs of that project) will be completed.</p> <p>Mitigation Measure 4.10.2. As a condition of subsequent project-level approvals, project applicants shall demonstrate that the water system proposed for the project is designed to meet the projected water capacity and fire flow requirements and specifications.</p> <p>Mitigation Measures 4.10.3. All buildings constructed as part of subsequent development projects shall be encouraged to include low-flow plumbing fixtures within project designs in order to conserve water.</p>	Less than significant.	No further action necessary.

^a The analysis of environmental impacts presented in these documents was prepared in accordance with the requirements of CEQA. No changes to the types of impacts presented would be anticipated if the documents were prepared for NEPA purposes.

TABLE C-3
 Prior Analysis of Biological Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
City of Sacramento General Plan EIR				
<p>The elimination or conversion of five natural communities would occur. All occurrences of these communities are not known. Of the ones that are known, the following would be potentially affected: (1) blue oak woodland in North Sacramento east of the Union Pacific Railroad; (2) riparian stands in South Natomas north of Garden Highway (on either side of I-5 north and adjacent to Garden Highway) and along the Natomas East Main Drainage Canal, and in North Sacramento along Magpie Creek; (3) habitat supported by creeks and canals in North Natomas and South Sacramento; (4) northern hardpan vernal pools in North Sacramento east of Raley Boulevard and in South Sacramento north of Sheldon Road; and (5) fence row habitat along the undeveloped edges of urban and agricultural habitats.</p>	Significant.	<p>Full mitigation would include preservation of significant habitat areas by allowing only compatible low-intensity uses. The City Council determined that full mitigation was infeasible. Adopted partial mitigation included the implementation of the following Goals and Policies from the General Plan Conservation and Open Space Element (Preservation of Natural Resources section): Goal B, Policies 1 and 2; Goal C, Policies 1 and 2; Goal D, Policy 1; Goal E, Policies 1 and 2.</p>	Significant.	<p>The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.</p>

TABLE C-3
Prior Analysis of Biological Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Elimination or conversion of potential (but previously unknown or unsearched) habitat could occur for federally listed, proposed, and candidate threatened or endangered plant species, and California Native Plant Society rare and endangered plant species (especially in previously unsearched northern hardpan vernal pools and riparian communities).	Significant.	Full mitigation would include site-specific surveys of all sites where special-status plants could potentially occur, and preserving those habitats where special-status plants are found. The City Council determined that full mitigation was infeasible. Adopted partial mitigation included the implementation of the following Policy from the General Plan Conservation and Open Space Element (Preservation of Natural Resources section): Policy 1.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.
Elimination or conversion for habitat for the state-listed Swainson's hawk and the California fully protected white-tailed kite.	Significant.	Full mitigation would require the avoidance of all nest and roost sites by creating a buffer zone (typically a 400-meter radius) around each nest. The City Council determined that full mitigation was infeasible. Proposed partial mitigation included the implementation of the following Policy from the General Plan Conservation and Open Space Element (Preservation of Natural Resources section): Policy 1.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.
Elimination or conversion of habitat for the federal candidate (Category 2) and state-threatened giant garter snake and the federally listed threatened valley elderberry longhorn beetle.	Significant.	Full mitigation would include site-specific surveys of all sites where special-status animals could potentially occur, and preserving those habitats where special-status animals are found. The City Council determined that full mitigation was infeasible. Adopted partial mitigation included the implementation of the following Policy from the General Plan Conservation and Open Space Element (Preservation of Natural Resources section): Policy 1.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.

TABLE C-3
Prior Analysis of Biological Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Removal of potential heritage trees, as defined in the City's Heritage Tree Ordinance, could occur.	Significant.	Implement Policy 2 of the Conservation and Open Space Element (Preservation of Natural Resources section) of the General Plan. Identify and preserve native and nonnative trees of outstanding value as heritage trees by enforcing the City's Heritage Tree Ordinance.	Less than significant.	No further action necessary.
Canal and river maintenance activities, including the removal of vegetation and soils, would alter natural habitats, introduce weedy species, and introduce pollutants into water bodies supporting fish populations.	Significant.	Full mitigation includes developing citywide canal and creek maintenance plans (as a joint effort of the reclamation and flood control districts and the City) to preserve wetland vegetation growing on the edges of canals and creeks and to require revegetation with natural species where vegetation removal could not be avoided. The City Council determined that full mitigation was infeasible. Partial mitigation included the implementation of the following Goals and Policies of the General Plan Conservation and Open Space Element (Preservation of Natural Resources section): Goal B, Policies 1 and 2; Goal C, Policies 1 and 2; Goal D, Policy 1; and Goal E, Policies 1 and 2.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.
The elimination of 21,871 acres of agricultural land would destroy the habitat for thousands of water birds.	Significant.	The only mitigation available was to implement the No Project Alternative. The City Council did not adopt this mitigation measure.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.
City parks supporting important natural communities such as riparian and freshwater marsh habitats would be subject to vegetation, soil, and wildlife disturbance by increased human use of the parks.	Significant.	Implement Policy 5 of the Public Facilities Element (Recreation Services section) of the General Plan. Design parks to control user densities to be compatible with preservation of natural habitats by directing use away from sensitive areas with natural barriers and judicious use of trails, interpretive paths and displays, and guides.	Less than significant.	No further action necessary.

TABLE C-3
 Prior Analysis of Biological Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
North Natomas Community Plan EIR				
<p>Impact 4.5-1. The Update has the potential to generate short-term dust and erosion impacts during construction activities that could impact water quality via increased turbidity, and subsequently could impact biological resources.</p>	<p>Less than significant because of compliance with City erosion control standards.</p>	<p>All construction sites shall be graded such that the new topography makes a smooth transition to existing adjacent topography. Dust and soil control measures shall be implemented during the construction phases of all projects. Additional measures include: (a) watering exposed soils, (b) covering exposed soils with straw or other materials, (c) adopting measures to prevent construction vehicles from tracking mud onto adjacent roadways, (d) covering trucks containing loose and dry soils, and (e) providing interim drainage measures during the construction period. In non-pavement areas, any vegetation covered or removed during grading or construction is to be replaced following the construction activities.</p>	<p>Less than significant.</p>	<p>No further action necessary.</p>
<p>Impact 4.5-2. Removal of any tree with an active Swainson's hawk nest or disturbance of an active nest.</p>	<p>Significant.</p>	<p>No disturbance will be allowed within ½ mile of an active nest between March 1 – August 15 or until fledglings are no longer dependent upon nest tree habitat (which could be as late as September 15). If the nest tree is to be removed and fledglings are present, the nest tree may not be removed until September 15 or until CDFG has determined that the young have fledged or are no longer dependent upon the nest tree. If construction or other project-related activities which may cause nest abandonment or forced fledgling are proposed within the ½ mile buffer zone, intensive monitoring (funded by the project sponsor) by a CDFG-approved raptor biologist will be required. Exact implementation of this measure will be based upon specific information at the project site.</p> <p>Projects should be designed to avoid direct and indirect impacts to nest trees. In addition, the revegetation of historical nesting habitat with suitable native nest tree species (e.g., oaks, cottonwoods, sycamores, etc.) adjacent to adequate foraging habitat shall be undertaken. Sites at least five acres in size are recommended.</p>	<p>Less than significant.</p>	<p>No further action necessary.</p>

TABLE C-3
 Prior Analysis of Biological Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Impact 4.5-3. Loss of wooded riparian/wetland habitat.	A significant impact could occur, although the City determined that implementation of the proposed Comprehensive Drainage Plan would likely result in a less-than-significant impact because of the small amount of habitat expected to be affected.	<p>The Environmental Design Standards contained in the Update also contain measures to mitigation any impacts to Swainson's hawk nest trees and nesting activities: (1) Valley oaks and other large trees should be preserved wherever possible. Preserve and restore stands of riparian trees used by Swainson's hawks and other animals for nesting, particularly adjacent to Fisherman's Lake. (2) Improve the wildlife value of landscaped parks, buffers, and developed areas by planting trees and shrubs which are native to the North Natomas areas and therefore used by many native animals. Simulate natural riparian and valley oak woodlands by planting larger stands. (3) Avoid the raptor nesting season when scheduling construction near nests.</p> <p>No specific mitigation measures were considered necessary.</p> <p>The Update also contains a number of measures intended to reduce the impacts of the project on wooded riparian/wetland habitat types: (1) Valley oaks and other large trees should be preserved whenever possible. Preserve and restore stands of riparian trees used by Swainson's hawks and other animals for nesting, particularly adjacent to Fisherman's Lake. (2) Improve the wildlife value of landscaped parks, buffers, and developed areas by planting trees and shrubs which are native to the North Natomas area and therefore used by many native animals. Simulate natural riparian and valley oak woodlands by planting larger stands.</p>	Less than significant.	No further action necessary.

TABLE C-3
 Prior Analysis of Biological Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
<p>Impact 4.5-4. The Update would result in the conversion of agricultural lands used as rice fields to urban uses. Those rice fields provide seasonal wetlands values to wildlife.</p>	<p>Significant and unavoidable.</p>	<p>The Environmental Design Standards of the Update propose the creation of a minimum 250-foot wide greenbelt along the northern and western boundaries of the Update area to create a strong edge between the urban area and adjacent areas of permanent agriculture. The landscaping in this greenbelt will be of native trees and shrubs, which are used by many native animals. riparian and wetland areas will have limited human use so as to enhance their value for wildlife. In addition, various landowners in the Update Area have entered into a Memorandum of Understanding with CDFG for the creation of a Habitat Mitigation Plan. The HMP will preserve and create wildlife habitat for a riparian species such as the Giant Garter Snake which is found near rice fields. Thus the HMP will also mitigate for the loss of rice fields which provide wetland habitat values during certain times of the year.</p>	<p>Significant and unavoidable.</p>	<p>The City determined that any remaining unmitigated environmental impacts attributable to the project would be outweighed by specific economic, fiscal, social, environmental, land use, and other overriding considerations.</p>
<p>Impact 4.5-5. Implementation of the Update would result in the conversion of agricultural lands other than rice fields, to urban uses. These agricultural lands include pastures, grain fields, alfalfa, and fallow fields, which all provide some value to wildlife as foraging areas as well as nest sites. The Update could also result in the loss of tree resources, such as small stands of oaks or other trees which provide nesting and roosting sites for raptors and other birds. There is also some potential for the loss of Heritage trees or City Street trees.</p>	<p>Significant.</p>	<p>The City Arborist will review individual project applications and recommend trees for preservation. All trees not designated for removal and/or replanting shall be protected during construction by the following means: (1) the placement of temporary chain link fencing around individual trees or around protected groves or lines of trees, (2) no trenching or grading below the driplines of trees shall be allowed, (3) cuts or fills near trees to be retained on site shall not cause water to pond continuously around trees, and (4) no parking of vehicles or storage of material shall occur within fenced areas.</p> <p>Various landowners in the Update Area have agreed with CDFG to work for the creation of a Habitat Management Plan to preserve and create habitat for certain species, such as the Swainson's hawk, which use these "other agricultural lands" as foraging habitat. To the extent that a HMP is adopted, it will mitigate for the loss of these types of "other agricultural lands."</p>	<p>Significant.</p>	<p>The City determined that any remaining unmitigated environmental impacts attributable to the project would be outweighed by specific economic, fiscal, social, environmental, land use, and other overriding considerations.</p>

TABLE C-3
Prior Analysis of Biological Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
<p>Impact 4.5-6. Implementation of the Update could result in the loss of wetland habitat values and acreage from areas other than rice fields. Drainage ditches and canals may represent a source of wetlands habitat. There is also a slight potential for the existence of vernal pools in some areas of North Natomas, although none have yet been identified. The Army Corps of Engineers and Environmental Protection Agency consider any fill activity in jurisdictional wetlands to be a significant impact.</p>	Significant.	<p>The Update contains measures to reduce the impacts arising from a loss of trees in its Environmental Standards Section: (1) Valley oaks and other large trees should be preserved wherever possible. Preserve and restore stands of riparian trees used by Swainson's hawks and other animals for nesting, particularly adjacent to Fisherman's Lake. (2) Improve the wildlife value of landscaped parks, buffers, and developed areas by planting trees and shrubs which are native to the North Natomas area and therefore used by many native animals. Simulate natural riparian and valley oak woodlands by planting larger stands.</p> <p>Prior to any physical alteration on property which contains jurisdictional wetlands, the applicant shall submit a wetland mitigation and compensation plan for the creation or preservation of wetlands. That plan shall include detailed plans for the creation of new wetlands (when required), the specific designated area for the wetlands and supporting watershed, a monitoring program and provision for long-term maintenance of the created wetlands, fencing and buffer details, and provisions for future ownership or stewardship acceptable to the City of Sacramento. The plan shall specify vegetative performance criteria and standards to judge the success of the created wetlands, and remedial actions to be taken if the performance standards are not met. If endangered, threatened, or candidate species are found to inhabit or use the wetlands, mitigation shall occur per the appropriate regulations and guidelines (where promulgated) or through consultation with the appropriate regulatory agency. The applicant shall also obtain the applicable Section 404 permit from the U.S. Army Corps of Engineers and enter into any required Streambed Alteration Agreement with CDFG for any proposed modification to jurisdictional wetlands or streambeds.</p>	Less than significant.	No further action necessary.

TABLE C-3
Prior Analysis of Biological Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
<p>Impact 4.5-7. Implementation of the Update may lead to the enlargement of abandonment of the existing system of drainage canals which provide important habitat for the Giant Garter Snake.</p>	<p>The loss of modification of canal habitat used by Giant Garter Snake would be a significant impact since the snake is listed as Threatened by the California Endangered Species Act and is a Category 1 candidate for endangered status under the Federal Endangered Species Act.</p>	<p>In cases where a drainage canal is being abandoned, the canal should be allowed to dry out slowly while emergent vegetation in newly restored areas is establishing itself. This allows a transition period for the emergent vegetation and provides CDFG with an opportunity to relocate any Giant Garter Snakes to the new areas if desired. Because relocation or replacement of Giant Garter Snake habitat will not meet the habitat quality goal in the short term, replacement of existing habitat will require compensation at a 2:1 ratio in order to overcome possible population declines that may occur during the time between destruction of the original habitat and maturation of the new habitat. Habitat relocation procedures and timing considerations specified in the SEIR were: (1) no grading, excavating, or filling activities may take place within 30 feet of existing Giant Garter Snake habitat between October 1 and May 1, unless authorized by CDFG; (2) the construction of replacement habitat may take place at any time of year, but summer is preferred; water may be diverted from existing habitat as soon as the new habitat is completed, but the placement of dams or other diversion structures in the existing habitat will require on-site CDFG approval; (3) replacement habitat will be revegetated as directed by CDFG; (4) dewatering of existing habitat may begin at any time after November 1, but must begin by April 1 of the following year; (5) any Giant Garter Snake surveys required by the CDFG must be completed to the satisfaction of CDFG prior to dewatering; (6) all water must be removed from existing habitat by April 15, or as soon thereafter as weather permits, and the habitat must remain dry without any standing water for 15 consecutive days after April 15 and prior to excavating or filling the dewatered habitat; (7) CDFG is to be notified when dewatering begins and when it is completed.</p> <p>In addition to the above described mitigation measures, further measures may be required as described in a report published by CDFG in January 1992 entitled <u>Status and Future Management of the Giant Garter Snake (<i>Thamnophis gigas</i>) within the Southern American Basin, Sacramento and Sutter Counties, California</u>, by John M. Brode and George E. Hansen.</p>	<p>Less than significant.</p>	<p>No further action necessary.</p>

TABLE C-3
 Prior Analysis of Biological Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
<p>Impact 4.5-8. The clearing and removal of riparian trees during drainage canal improvements, and the removal of other stands of trees (such as large cottonwoods and oaks) for various developments has the potential to eliminate nesting habitat for the Swainson's hawk, a protected species under the California Endangered Species Act. The cottonwood trees bordering Fisherman's Lake are considered the best nesting habitat in the area of the Update.</p>	Significant.	<p>The Environmental Standards Section of the Update also contained measures to lessen the impacts of the Project on the Giant Garter Snake: (1) Maintain the natural beauty of wildlife habitat of creeks and drainage canals and basins as part of the necessary improvements, including the planting of native, drought tolerant plants. (2) Protect existing riparian and wetland habitats when building the proposed drainage canals and detention basins. (3) Provide vegetation along the new and existing canals to provide suitable habitat for Giant Garter Snakes and other wetland species.</p> <p>In addition to the above mitigation measures, various landowners in the Update Area have agreed to work with CDFG for the creation of a Habitat Mitigation Plan to preserve and create suitable habitat for the Giant Garter Snake.</p> <p>See above for Impact 4.5-2 and below for Impact 4.5-9.</p>	Less than significant.	No further action necessary.

TABLE C-3
Prior Analysis of Biological Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
<p>Impact 4.5-9. Implementation of the Update would remove agricultural fields used as foraging habitat by Swainson's hawks which nest along the Sacramento River and Fisherman's Lake, west of the Update area.</p>	Significant.	<p>Prepare a Habitat Mitigation Plan to lessen the impacts of the Update on the Swainson's hawk and other wildlife species. Also preserve as open space or agriculture the western part of the Project Area near the Swainson's hawk nesting sites along the Sacramento River and Fisherman's Lake, or the preservation and enhancement of foraging habitats outside the Project Area but near known nesting territories. In order to provide funding for the costs of the Swainson's hawk mitigation measures, the developer/applicant shall pay such lawful fees, taxes, or assessments as the City may impose through development fees, impact fees, fee districts, community facilities district, assessment districts, or other similar fair, equitable, and appropriate mechanisms designed to address the cost of Swainson's hawk foraging habitat mitigation, and that the developer/applicant be required to execute an agreement satisfactory to the City Attorney and suitable for recordation which obligates the developer/applicant to pay development fees, assessments, or taxes.</p>	Significant.	<p>The City determined that any remaining unmitigated environmental impacts attributable to the project would be outweighed by specific economic, fiscal, social, environmental, land use, and other overriding considerations.</p>
<p>Impact 4.5-10. Earth moving activities and construction activities may cause a direct loss of burrowing owls or their habitat.</p>	Potentially significant.	<p>Prior to initiation of grading or other earth disturbing activities, the applicant/developer shall hire a qualified biologist to perform a pre-construction survey of the site to determine if any burrowing owls are using the site for foraging or nesting. If any nest sites are found, CDFG shall be contacted regarding suitable mitigation measures, which may include the provision of a 300-foot buffer from the nest site during the breeding season (March 15 – August 31), or a relocation effort for the burrowing owls. The pre-construction survey shall be submitted to the City for review prior to the commencement of construction activities. If future surveys reveal the presence of burrowing owls on the project site, the applicant/ developer shall prepare a plan for relocating the owls to a suitable site. The relocation plan must include: (1) the location of the nest and owls proposed for relocation; (2) the location of the proposed relocation site; (3) the number of owls involved and the time of year when the relocation is proposed to take place; (4) the name and credentials of the biologist who will be retained to supervise</p>	Less than significant.	No further action necessary.

TABLE C-3
Prior Analysis of Biological Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Impact 4.5-11. The implementation of the Update could result in the direct destruction of other special-status species or the destruction of their nesting or foraging habitat.	Potentially significant.	<p>the relocation; (5) the proposed method of capture and transport for the owls to the new site; (6) a description of the site preparations at the relocation site (e.g., enhancement of existing burrows, creation of artificial burrows, one-time or long-term vegetation control, etc.), and (7) a description of efforts proposed to monitor the relocation.</p> <p>The Environmental Standards Section of the Update also contains mitigation measures: (1) Search for special-status plants during flowering season prior to construction and special-status animals during the appropriate season, and (2) avoid the raptor nesting season when scheduling construction near nests.</p> <p>Various landowners and CDFG are taking steps to develop a Habitat Mitigation Plan that may be expanded to protect all known threatened, endangered, and candidate species in the Update Area. Potential impacts could be mitigated by the measures previously discussed for the protection of specific habitats. In addition, specific nesting and roosting areas could be protected from development, along with buffer zones. Known sites include a communal roost of white-tailed kites at Fisherman's Lake and several burrowing owl colonies. Another mitigation measure would be the scheduling of construction in the vicinity of raptor nests so as to avoid the breeding season. Impacts to special-status plant species could be mitigated by conducting site-specific searches during the flowering season by a qualified botanist before construction begins. Mitigation plans could thereafter be determined if populations of those plants are found. The Update also contains mitigation measures in its Environmental Standards Section: (1) Valley Oaks and other large trees should be preserved wherever possible. Preserve and restore stands of riparian trees used by Swainson's hawks and other animals for nesting, particularly adjacent to Fisherman's Lake. (2) Improve the wildlife value of landscaped parks, buffers, and developed areas by planting trees and shrubs which are native to the North Natomas area</p>	Less than significant.	No further action necessary.

TABLE C-3
 Prior Analysis of Biological Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
<p>Impact 4.7-5. Excavation and maintenance of existing RD 1000 canals could have significant impacts on existing riparian and wetland habitat in Fisherman's Lake and the East Drainage Canal. In addition, contamination of surface and groundwater could potentially result in adverse impacts on wetland and riparian habitats.</p>	<p>Determined to be significant and unavoidable in the prior (i.e., 1986) environmental review.</p>	<p>and therefore used by many native animals. (3) Riparian and wetland areas are more valuable as wildlife habitat when they are located where human use is limited, such as along agricultural and freeway buffers and other large open space areas. (4) Avoid the raptor nesting season when scheduling construction near nests. (5) Search for special-status plants during the flowering season prior to construction and special-status animals during the appropriate season.</p> <p>The draft Comprehensive Drainage Plan avoids the widening and alteration of the existing wetland and riparian areas along existing drainage canals.</p>	<p>Less than significant.</p>	<p>No further action necessary.</p>
<p>South Natomas Community Plan EIR</p>				
<p>Elimination of agricultural, waste field, and fence row habitat for wildlife caused by urbanization of these lands.</p>	<p>Significant.</p>	<p>No mitigation measures were identified.</p>	<p>Significant.</p>	<p>Approval was justified by specific economic, social, environmental, and other considerations.</p>

TABLE C-3
Prior Analysis of Biological Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Disturbance to wildlife habitat along Bannon Slough and main drainage canal.	Significant.	Preserve riparian habitat and dedicate to the City.	Less than significant.	No further action necessary.
Sutter County General Plan EIR				
Impact 4.8.1. Future development in accordance with the proposed General Plan will disturb or degrade jurisdictional and other wetland habitat resulting from modifications of the canal system and loss of habitats associated with existing rice fields.	Considered a significant impact.	<p>Implement General Plan Goals 4.B, 4.C, and 4.D; Policies 4.B-1, 4.B-2, 4.B-3, 4.B-4, 4.C-1, 4.C-2, 4.C-3, 4.C-4, 4.C-5, 4.C-6, 4.C-7, 4.D-1, 4.D-2, 4.D-3, 4.D-4, 4.D-5; and Implementation Programs 4.1, 4.2, 4.3, and 4.4.</p> <p>Mitigation Measure 4.8.1. Prior to modification of canals, biological surveys targeting sensitive species shall be conducted and evaluated. In addition to the implementation of any mitigation measures prescribed as a result of these surveys, the following measures shall be implemented: (a) Prior to destruction or modification of any canals, workers will allow the canals to slowly drain thus providing escape opportunities for displaced wildlife. (b) Prior to draining, replacement canal areas similarly suitable for habitat shall be constructed and constituent vegetation allowed to become established. (c) Whenever possible, new canals should be established in close proximity to existing canals to provide for easy relocation by displaced wildlife, Sufficient time for translocation of species if so desired by trustee agencies should be allowed. (d) A monitoring program to determine the success of habitat management objectives shall be developed and implemented by a qualified biologist.</p> <p>Mitigation Measure 4.8.1A. Subsequent development projects shall provide species and habitat mitigation in accordance with the provisions of the Natomas Basin Habitat Conservation Plan, should this plan be adopted by Sutter County. In the absence of an adopted HCP, or should an applicant choose not to participate in the adopted HCP, subsequent development projects for specific sites shall be required to: (a) Submit to Sutter County verification that no</p>	Less than significant.	No further action necessary.

TABLE C-3
 Prior Analysis of Biological Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
		<p>special-status species, sensitive resources, or significant habitat exist at that site; or (2) Participate in an alternative comprehensive mitigation plan as developed and implemented by the County. Such a plan would be developed in consultation with CDFG and USFWS, and would plan for the replacement of suitable Swainson's hawk and giant garter snake habitat. (c) Conduct individual site-specific biological reconnaissance surveys and provide site-specific mitigation for wetlands, special-status species, and significant habitat areas. Individual project mitigation strategies for identified resources will require review and approval of the County, COE, CDFG, and USFWS to obtain individual permits; and (4) Implement the general mitigation strategies of MM 4.8-1 through MM 4.8-6 below.</p> <p>Mitigation Measure 4.8.2. Prior to any construction activities resulting from development under the proposed General Plan, a temporary 100-foot buffer zone shall be established during project construction near wetlands to avoid possible inadvertent impacts to wetland habitats. This fenced zone shall be exclusionary and any construction related activities including activities which may cause inadvertent fill or contamination of wetlands shall be avoided within these zones.</p> <p>Mitigation Measure 4.8.3. Prior to approval of subsequent project-specific development proposals which would modify and/or remove man-made and natural wetlands, a comprehensive mitigation plan shall be prepared at applicant expense by a qualified habitat restoration specialist. Said plan shall be developed in cooperation with COE and in accordance with current requirements.</p> <p>Mitigation Measure 4.8.4. Prior to disturbance of any identified vernal pools, project applicants will consult with COE and negotiate an acceptable mitigation plan. These plans may consist of construction of artificial pools or wetlands banking, however, because the COE has jurisdictions over these wetlands, they retain final approval authority over all mitigation plans.</p>		

TABLE C-3
 Prior Analysis of Biological Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Impact 4.8.2. Future development in accordance with the proposed General Plan will adversely affect populations and critical habitat of special-status animal species.	Significant.	Same as described above for Impact 4.8.1.	Less than significant.	No further action necessary.

^a The analysis of environmental impacts presented in these documents was prepared in accordance with the requirements of CEQA. No changes to the types of impacts presented would be anticipated if the documents were prepared for NEPA purposes.

TABLE C-4
 Prior Analysis of Cultural Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
City of Sacramento General Plan EIR				
Prehistoric and historic resources would be adversely impacted through ground disturbance and other development activities. The primary prehistoric impact areas have been identified as: (1) along the Sacramento and American Rivers, (2) North Natomas, (3) portions of North Sacramento lying north of I-80 along drainage courses and the American River floodplain, (4) southwest portion of South Natomas, and (5) Florin Road vicinity. The primary historic impact areas are the: (1) Central city, (2) 0.5-mile buffer along the Sacramento River in the Pocket area and Airport Meadowview, and (3) 0.5-mile buffer along Folsom Boulevard in East Broadway.	Significant.	<p>Require consultation with the North Central Information Center to identify known cultural resources and potential cultural resources that could be found on land proposed for development.</p> <p>Require an archeological field survey if the development area is sensitive.</p> <p>Implement specific preservation measures recommended by the survey archeologist.</p> <p>Cease construction activities and consult qualified archaeologists upon discovery of potential cultural resources.</p> <p>Maintain confidentiality of significant resource locations.</p> <p>Adopt cultural resource policies as part of the SGPU.</p>	Less than significant.	No further action necessary.
North Natomas Community Plan EIR				
None identified.	N/A	N/A	N/A	No further action necessary.

TABLE C-4
 Prior Analysis of Cultural Resources Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
South Natomas Community Plan EIR				
Potential disturbance of community cultural resources in the southwest corner of the community.	Significant.	Cultural resource survey may be required prior to approval for specific developments in the affected area.	Less than significant.	No further action necessary.
Sutter County General Plan EIR				
Impact 4.9-1. Future development in accordance with the proposed General Plan will require excavation and grading activities, resulting in potential damage to any unidentified prehistoric or historic resources.	Potentially significant.	Implement General Plan Goal 5.B, Policy 5.B-3, and Implementation Program 5.2. Mitigation Measure 4.9-1. The County shall require that an archeological reconnaissance be conducted and a report be prepared for development projects located in areas of high archeological sensitivity. Should the report conclude that an archeological site exists onsite, the County shall require the project proponent to implement the report's mitigation strategy.	Less than significant.	No further action necessary.

^a The analysis of environmental impacts presented in these documents was prepared in accordance with the requirements of CEQA. No changes to the types of impacts presented would be anticipated if the documents were prepared for NEPA purposes.

TABLE C-5
 Prior Analysis of Land Use Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
City of Sacramento General Plan EIR				
Farming on parcels adjacent to the SGPU area would be more difficult due to increased restrictions on agricultural activities that are incompatible with urban uses.	Significant.	Full mitigation would require the adoption of the No Project Alternative. The City Council determined that this was not feasible. No partial mitigation was identified.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.
21,871 acres of vacant/agricultural land would be converted to urban use, including approximately 9,700 acres of prime agricultural lands (7,500 acres of which are currently irrigated) and 100 acres of land under Williamson Act contracts.	Significant.	Full mitigation would require the adoption of the No Project Alternative. The City Council determined that this was not feasible. Identified partial mitigation included (1) establishing a development phasing program, (2) redesignating SGPU land uses to reduce project development by one-half, (3) converting non-farmland to new farmland of equivalent quality and quantity, (4) minimizing agricultural conversion impacts on higher quality soils by directing conversion onto lower quality soils, (6) protecting other existing agricultural land through the use of Williamson Act contracts, and (7) establishing greenbelt areas. The City Council adopted (1) and (7) above, and determined that measures (2) through (6) were not feasible.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.
No impacts identified for land use conflicts between Sacramento International Airport and Authorized Development.	N/A	N/A	N/A	N/A

TABLE C-5
 Prior Analysis of Land Use Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
North Natomas Community Plan EIR				
Impact 4.2-3. Cumulative planned development in the vicinity of the Project has the potential to result in the conversion of approximately 12,670 acres of farmland to urban uses.	Significant and unavoidable.	Develop a greenbelt along the northern and western boundaries of the Project area to create a strong edge between the community and adjacent areas of permanent agriculture. This greenbelt should be a minimum of 250-feet wide, not including the Elkhorn Boulevard right-of-way and the irrigation canals and maintenance roads on the north side of Elkhorn. The City Council determined that it was infeasible to fully mitigate this impact, and that significant impacts would remain after the adoption of this mitigation measure.	Significant.	The City determined that any remaining unmitigated environmental impacts attributable to the project would be outweighed by specific economic, fiscal, social, environmental, land use, and other overriding considerations.
Impact 4.6-2(A). No impacts identified for land use conflicts between Sacramento International Airport and Authorized Development.	N/A	N/A	N/A	N/A
South Natomas Community Plan EIR				
There is the potential that adjacent land uses would be incompatible.	Significant.	Buffer incompatible features through design review of individual projects.	Less than significant.	No further action necessary.
Conversion of agricultural land to urban use.	Significant.	None available.	Significant.	Approval was justified by specific economic, social, environmental, and other considerations.
Removal of 2,500 acres of prime agricultural soil from production.	Significant.	None available.	Significant.	Approval was justified by specific economic, social, environmental, and other considerations.
No impacts identified for land use conflicts between Sacramento International Airport and Authorized Development.	N/A	N/A	N/A	N/A

TABLE C-5
Prior Analysis of Land Use Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Sutter County General Plan EIR				
<p>Impact 4.1.1. The proposed General Plan Update will disrupt the existing physical arrangement by allowing for industrial, commercial, residential, as well as recreational and natural resource uses.</p>	Significant.	<p>Implement General Plan Goals 1.A, 1.C, 1.D, and 9.C; Policies 1.A-1, 1.A-2, 1.A-3, 1.A-4, 1.A-5, 1.A-6, 1.A-7, 1.C-1, 1.C-2, 1.C-3, 1.C-4, 1.D-1, 9.C-1, 9.C-2, 9.C-3, 9.C-4, and 9.C-5; and Implementation Programs 1.1, 1.2, 1.3, 1.4, and 1.5.</p> <p>Mitigation Measure 4.1-1. Concurrent with project application submittals, the County will ensure that such proposals are evaluated for potential project impacts upon surrounding development patterns and land uses. This evaluation may be accomplished through the Community Services Department Planning Program in conjunction with an administrative zoning clearance process, or through subsequent CEQA documentation, depending upon the scale and nature of the project.</p> <p>Appropriate project-level design standards and mitigation shall either be included within subsequent development proposals, or be required through the environmental review process to eliminate or reduce any identified land use impact. Mitigation strategies to be considered should include (but not be limited to): (1) concentration of development within the Industrial-Commercial Reserve, (2) appropriate development phasing and the logical provision of infrastructure, (3) site-sensitive land planning to ensure adequate transitions between type and intensity of land use patterns both internally and between parcels, (4) design guidelines and edge treatments between land uses, and (5) landscape standards.</p>	Less than significant.	No further action necessary.

TABLE C-5
 Prior Analysis of Land Use Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
<p>Impact 4.1.2. The proposed General Plan has the potential to conflict with adjacent land uses or cause a substantial adverse change in the types or intensity of existing land use patterns.</p>	Significant.	<p>Implement General Plan Goals 1.C, 1.E, 1.F, and 9.C; Policies 1.C-4, 1.E-1, 1.E-2, 1.E-3, 1.F-1, 1.F-2, 1.F-3, 1.F-4, 9.C-1, 9.C-2, 9.C-3, 9.C-4, and 9.C-5; and Implementation Programs 1.4 and 1.7.</p> <p>Mitigation Measure 4.1-2. In order to ensure that new development in the South County in the vicinity of the Sacramento International Airport does not create a conflict in terms of land use compatibility, the County shall review all new development projects within the overflight zones for consistency with the applicable airport comprehensive land use plan.</p>	Less than significant.	No further action necessary.
<p>Implementation of the project will result in a loss of prime agricultural land as defined by the SCS Soil Classification System and/or other farmlands designated as Important Farmlands by the State Important Farmlands Inventory.</p>	Significant.	<p>Implement General Plan Goal 6.A; Policies 6.A-1, 6.A-2, 6.A-4, and 6.A-5; and Implementation Programs 6.3, 6.4, and 6.5.</p> <p>Mitigation Measure 4.2-1. The County shall encourage future development of the 3,500 acres within the 10,500 acres of the Industrial-Commercial Reserve designation to locate outside the area with soils classified as I and II bordering the Sacramento River.</p>	Significant.	<p>The Board of Supervisors determined that the remaining unavoidable and irreversible impacts of the Project are acceptable in light of the economic, fiscal, social, planning, land use, and other considerations set forth herein because the benefits of the Project outweigh any significant and unavoidable or irreversible adverse environmental impacts of the Project.</p>
<p>Impact 4.1.2. The proposed General Plan has the potential to conflict with adjacent land uses or cause a substantial adverse change in the types or intensity of existing land use patterns.</p>	Significant	<p>Implement General Plan Goals 1.C, 1.E, 1.F, and 9.C; Policies 1.C-4, 1.E-1, 1.E-2, 1.E-3, 1.F-1, 1.F-2, 1.F-3, 1.F-4, 9.C-1, 9.C-2, 9.C-3, 9.C-4, and 9.C-5; and Implementation Programs 1.4 and 1.7.</p> <p>Mitigation Measure 4.1.2. In order to ensure that new development in the South County in the vicinity of the Sacramento International Airport does not create a conflict in terms of land use compatibility, the County shall review all new development projects within the overflight zones for consistency with the applicable airport comprehensive land use plan.</p>	Less than Significant	No further action necessary.

^a The analysis of environmental impacts presented in these documents was prepared in accordance with the requirements of CEQA. No changes to the types of impacts presented would be anticipated if the documents were prepared for NEPA purposes.

TABLE C-6
 Prior Analysis of Socioeconomic Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
City of Sacramento General Plan EIR				
Secondary impacts related to increased housing costs, longer commute trips, and difficulties in attracting workers would occur with the project increase in the employment-to-housing ratio.	Significant	Full mitigation would require the redesignation of land uses to achieve a one-to-one ratio of employment to housing. The City Council determined that full mitigation was not feasible. Identified partial mitigation included: (1) encouraging additional medium- to high-density housing in the Central City, (2) rezoning infill areas to residential, (3) using zones of opportunity to encourage residential construction, (4) rezoning 54 blocks along R Street from C-4 to residential uses, and (5) establishing citywide requirements for the development of housing as a mitigation measure for the creation of jobs. The City Council adopted measures (1), (3), and (4) above, and determined that (2) and (5) were not feasible.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.
An increase in the absolute number of households unable to afford market rate units would occur.	Significant.	Full mitigation would require establishing a fee program to provide financial assistance for the construction and/or rehabilitation of affordable housing. The City Council determined that this was not feasible. Partial mitigation was to adopt a Housing Trust Fund ordinance for nonresidential developers to partially offset the increased demand for low-income housing generated by new employment. The feasibility of implementing this measure could not be determined.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.
North Natomas Community Plan EIR				
None identified.	N/A	N/A	N/A	No further action necessary.

TABLE C-6
 Prior Analysis of Socioeconomic Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
South Natomas Community Plan EIR				
The Community Plan shows more jobs than housing units.	Significant.	The square footage of many new non-residential housing units has been reduced under the revised Community Plan, but there is still an excess of jobs over housing units. No further mitigation was available.	Significant.	Approval was justified by specific economic, social, environmental, and other considerations.
The Community Plan changes the mixture of housing units whereby at buildout 60 percent of the housing units are single-family units.	Significant.	In adopting the Community Plan, the square footage of new office space was reduced and additional single-family homes was permitted on some of the vacant land created. In addition, the maximum density in several residential areas was reduced from 14 units to 10 units per acre.	Less than significant.	No further action necessary.
Changes to the Plan which reduce the number of housing units provided in South Natomas have an adverse effect on the availability of housing to the Central City.	Significant.	The Council reduced the square footage of new non-residential projects and allowed some of the vacant land made available to be used for residential purposes. Additional mitigation called for the increase in the supply of housing planned in the Central City including the R Street Corridor, 2 nd Street to Alhambra Boulevard. The Council determined that this additional mitigation measure was not feasible because of ongoing studies on the R Street Corridor.	Significant.	Approval was justified by specific economic, social, environmental, and other considerations.
Sutter County General Plan EIR				
No impacts identified.	N/A	N/A	N/A	No further action necessary.

^a The analysis of environmental impacts presented in these documents was prepared in accordance with the requirements of CEQA. No changes to the types of impacts presented would be anticipated if the documents were prepared for NEPA purposes.

TABLE C-7
 Prior Analysis of Transportation Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
City of Sacramento General Plan EIR				
Traffic modeling showed that approximately 90 roadway segments would operate at an unacceptable level of service with implementation of the General Plan Update.	Significant.	No mitigation is available to reduce impacts to a less-than-significant level because existing development would have to be displaced.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.
Traffic modeling showed that three segments of I-80 and one segment of I-5 would operate at an unacceptable level of service with implementation of the General Plan Update.	Significant.	Widening these highway segments to 8 lanes would reduce the impact to a less-than-significant level. However, widening of freeways requires State approval, and funding was not programmed in the State Transportation Improvement Program.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.
Traffic modeling showed that about 35 local roadway segments would operate at an unacceptable level of service with implementation of the General Plan Update.	Significant.	For each roadway, full mitigation was identified, or it was stated that full mitigation was not possible. The City determined that the mitigation measures were not feasible to adopt for one of the following reasons: (1) the identified improvement was not contained in the City's 5-year Capital Improvement Program, and funding would require displacement of funds for other needed projects; (2) mitigation is the responsibility of another local agency (e.g., Sacramento County); (3) the measure would have adverse social and neighborhood impacts; or (4) the measure was being studied.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.
There would be increased delays to transit caused by greater auto traffic.	Significant.	Implement all proposed mitigation measures for traffic impacts identified above. The City Council determined that this would be infeasible for the reasons described above.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.

TABLE C-7
 Prior Analysis of Transportation Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Demand for transit would increase, thereby requiring that funding be available to expand that service.	Significant.	Establish funding mechanisms to finance transit expansion. The City determined that it has no authority to implement this measure. Also implement Policy 4 of the General Plan Circulation Element (Transit section).	Less than significant.	No further action necessary.
Potential for conflicts between Light Rail and vehicles would increase, causing significant delays to Light Rail.	Significant.	Establish and enforce yield requirements for vehicles using shared lanes. Design access to Light Rail stations to minimize disruption to main line traffic flows and to assure efficient ingress and egress.	Less than significant.	No further action needed.
Potential for bike-vehicle conflicts and other safety problems for bicyclists would increase.	Significant.	Establish off-street bikeways where feasible. Also implement Goal A, Policies 1 and 3 from the General Plan Circulation Element (Bikeways section).	Less than significant.	No further action necessary.
North Natomas Community Plan EIR				
Impact 4.3-1(A). Traffic modeling shows that the existing plus Project daily traffic volumes (assuming all single-occupancy vehicles) will result in avoidable impacts to seven roadway segments.	Significant.	Additional turn lanes and/or optimization of traffic control at major intersections, together with stringent access management policies, will mitigate impacts at three of these roadway segments. Additional travel lanes will be required on the other roadway segments. The Update also contains Guiding Policies to mitigate for the impacts to the circulation system: (1) link all land uses with all modes of transportation; (2) connect, don't isolate, neighborhoods or activity centers; (3) create an orderly development pattern through phasing that provides for adequate local circulation resulting in completion of the community-wide circulation system; (4) provide multiple routes and connections to adjacent developments; (5) the size and layout of the major street system should be based on traffic projections that assume successful implementation of the trip and emission reduction programs; (6) street system capacity should be based on no greater than the future traffic	Less than significant.	No further action necessary.

TABLE C-7
Prior Analysis of Transportation Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Impact 4.3-2(A). Traffic modeling shows that the existing plus Project daily traffic volumes (assuming the SACMET mode split and a 12% reduction in vehicle trips) will result in avoidable impacts to six roadway segments.	Significant.	projections; and (7) develop street cross-sections that encourage all street to be as pedestrian friendly as possible to encourage walking instead of vehicle use. Additional turn lanes and/or optimization of traffic control at major intersections, together with stringent access management policies, will mitigate impacts at two of these roadway segments. Additional travel lanes will be required on the other roadway segments. The Update also contains Guiding Policies to mitigate for the impacts to the circulation system as described above.	Less than significant.	No further action necessary.
Impact 4.3-2(B). If Light Rail is not extended to North Natomas, then demands for bus service will increase (12% trip reduction scenario).	Potentially significant.	Provide for expanded operation by Regional Transit, including additional buses and personnel, along major roadways in the North Natomas area. The Update also contains Guiding Policies that will mitigate for the impacts to the transit system: (1) provide a concentration of density at each phase to support appropriate transit service, (2) design for a phased implementation of transit corridors to accommodate intermediate stages of land development, (3) maximize rider access to transit stops and stations, and (4) each non-residential project shall comply with the Citywide Transportation Systems Management Ordinance and a Transportation Management Plan shall be required.	Less than significant.	No further action necessary.
Impact 4.3-3(A). Traffic modeling shows that the existing plus Project daily traffic volumes (assuming the SACMET mode split and a 35% reduction in vehicle trips) will result in avoidable impacts to five roadway segments.	Significant.	Additional turn lanes and/or optimization of traffic control at major intersections, together with stringent access management policies, will mitigate impacts at two of these roadway segments. Additional travel lanes will be required on the other roadway segments. The Update also contains Guiding Policies to mitigate for the impacts to the circulation system as described above.	Less than significant.	No further action necessary.

TABLE C-7
 Prior Analysis of Transportation Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Impact 4.3-3(B). If Light Rail is not extended to North Natomas, then demands for bus service will increase (35% trip reduction scenario).	Significant.	Same as described above for the 12% trip reduction scenario.	Less than significant.	No further action necessary.
South Natomas Community Plan EIR				
Traffic modeling indicated that unacceptable level of service would occur at two intersections.	Significant.	Construct recommended intersection improvements.	Less than significant.	No further action necessary.
Traffic modeling indicated that unacceptable level of service would occur at 17 roadway segments and 18 intersections.	Significant.	Identified mitigation measures (e.g., road widening) were determined to be infeasible for one or more of the following reasons: (1) the required road widening would exceed the maximum design width of City streets, (2) the required road widening would displace existing development, (3) additional study was warranted, (4) the project was within the jurisdiction of another agency, (5) the project would have significant environmental impacts, or (6) the project was cost-prohibitive.	Significant.	Approval was justified by specific economic, social, environmental, and other considerations.
Traffic modeling indicated that unacceptable level of service would occur at three additional roadway segments.	Significant.	No mitigation measures are available.	Significant.	Approval was justified by specific economic, social, environmental, and other considerations.
Sutter County General Plan EIR				
Impact 4.5-1. Implementation of the Revised General Plan Land Use Diagram would result in numerous State highway and county roadway segments to operate at unacceptable levels of service in 2015.	Significant.	Implement General Plan Goal 2.A; Policies 2.A-1, 2.A-2, 2.A-3, 2.A-4, 2.A-5, 2.A-6, 2.A-7, 2.A-8, 2.A-9, 2.A-10, and 2.A-11; and Implementation Programs 2.1, 2.2, and 2.3. In addition, specific improvements were recommended to 10 roadway segments throughout the County (5 within the Natomas Basin).	Less than significant.	No additional action necessary.

TABLE C-7
Prior Analysis of Transportation Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Implementation of the proposed land use diagram may have a long-term impact on existing or planned transit facilities and services. Although implementation of the Revised General Plan will not directly disrupt, interfere, or conflict with existing or planned operations, future development will introduce demand to areas not currently planned for transit service.	Potentially significant.	Implement General Plan Goal 2.B; Policies 2.B-1, 2.B-2, 2.B-3, 2.B-4, and 2.B-5; and Implementation Programs 2.4, 2.5 and 2.6. Mitigation Measure 4.5-11. Modification of transit service to accommodate new development should be made in consultation with the County and Yuba-Sutter Transit. to enhance the potential for transit service in the areas with modified land uses, development in these areas should include land dedication, easement agreements, and funding for the installation of transit and rideshare facilities (e.g., bus turnouts, transit shelters, park and ride lots).	Less than significant.	No further action necessary.
Impact 4.5.3. Future development will create additional demand to the bicycle/pedestrian circulation system in areas not currently planned to accommodate such facilities.	Potentially significant.	Implement General Plan Goal 2.C; Policies 2.C-1 and 2.C-2; and Implementation Programs 2.6 and 2.7. Mitigation Measure 4.5-12. Future development under the Revised General Plan should provide adequate right-of-way and funding to construct pedestrian/bikeway system facilities to support increased demand. Such projects should also be incorporated into the Yuba-Sutter Bicycle Master Plan.	Less than significant.	No further action necessary.

^a The analysis of environmental impacts presented in these documents was prepared in accordance with the requirements of CEQA. No changes to the types of impacts presented would be anticipated if the documents were prepared for NEPA purposes.

TABLE C-8
 Prior Analysis of Noise Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
City of Sacramento General Plan EIR				
Interior noise levels along some roadway segments in areas proposed for development would exceed normally acceptable levels for residential land uses and would create an adverse community response.	Significant.	Reduce noise levels to the normally acceptable levels identified in the Noise Element through proper site planning and architectural layout, noise barriers, and construction modification. Also implement the following Goals and Policies from the General Plan Health and Safety Element (Noise section): Goal A; Policies 1, 2, and 3.	Less than significant.	No further action necessary.
Exterior noise levels along some roadway segments in areas proposed for development would exceed normally acceptable levels for residential land uses and would create an adverse community response.	Significant.	Same as above for interior noise levels.	Less than significant.	No further action necessary.
Interior noise levels along some roadway segments in currently developed areas would exceed normally acceptable levels for residential land use and would create an adverse community response.	Significant.	Reduce noise levels to the normally acceptable levels through proper site planning and architectural layout, noise barriers, and construction modification. The City Council determined that it was infeasible to adopt this measure because it would be impracticable to require owners to retrofit their homes to comply with the Noise Element since no mechanism exists to enforce such a requirement and no public funding sources have been identified to retrofit existing uses.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.

TABLE C-8
 Prior Analysis of Noise Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Interior noise levels along some roadway segments in currently developed areas would exceed normally acceptable levels for residential land use and would create an adverse community response.	Significant.	Same as above for interior noise levels.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.
North Natomas residents in the vicinity of Sacramento International Airport would be exposed to noise levels in excess of that considered normally acceptable (the proposed SGPU Noise Element identifies 60dB).	Significant.	One of the following measures would be required to mitigate this impact: (1) amend the noise standard, (2) amend the land uses in the North Natomas Community Plan, or (3) request the County Division of Airports to make flight modifications. The City Council adopted measure (3) above, but determined that full mitigation, including measures (1) and (2), would be infeasible.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.
Additional residences would be exposed to interior noise levels in excess of that considered normally acceptable as a result of railroad operations.	Significant.	Reduce noise levels to the normally acceptable levels identified in the SGPU Noise Element through proper site planning and architectural layout, noise barriers, and construction modifications. Also implement the following Goals and Policies from the General Plan Health and Safety Element (Noise section): Goal A; Policies 1, 2, and 3.	Less than significant.	No further action necessary.

TABLE C-8
 Prior Analysis of Noise Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Additional residences would be exposed to exterior noise levels in excess of that considered normally acceptable as a result of railroad operations.	Significant.	Same as above for interior noise levels.	Less than significant.	No further action necessary.
North Natomas residences in the vicinity of Sacramento International Airport would be exposed to noise levels in excess of that considered normally acceptable. <i>Note that the General Plan was under consideration prior to the North Natomas Community Plan Update (see impacts below).</i>	Significant	Full mitigation would require amending local noise control standards, amending the 1986 North Natomas Community Plan, and rerouting air traffic. The City Council determined that full mitigation was not feasible, and adopted partial mitigation to request the County Division of Airports to make operational and flight modifications.	Significant	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.

TABLE C-8
 Prior Analysis of Noise Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
North Natomas Community Plan EIR				
<p>Impact 4.6-1(A). Traffic-related noise would impact residential land uses proposed within the 60dB traffic noise contour line.</p>	<p>Potentially significant.</p>	<p>Conduct a detailed acoustical analysis for any land use that would be potentially incompatible with outdoor noise limits specified by the City’s Noise Element. Residential land uses should be developed such that there is some usable outdoor space associated with the development which provides an exterior noise level that does not exceed a day/night average sound level of 45dB. Each development proposal should be reviewed to ensure compliance with this goal. In addition, the Environmental Standards Section of the Update also contains mitigation measures for traffic-related noise impacts, as follows: (1) A detailed acoustical study shall be required for any land use which potentially would be incompatible with outdoor noise limits specified by the requirements of the Noise Element of the General Plan, or which is located within the Noise Impacts areas shown in the EIR. (2) Development exposed to surface transportation noise should be designed to be consistent with the goals of the City General Plan. Residential land uses should be developed such that there is some usable outdoor space associated with the development that provides an exterior noise level that does not exceed an Ldn of 45dB. (3) Indoor noise levels shall not exceed an Ldn of 45dB. (4) Setback and landscaping requirements for major roads identified in the Circulation Element should be provided dependent on the function of the road and adjacent land uses. (5) The I-5 Corridor Overlay Zone, described in Section 27 of the City’s Zoning Ordinance, specifies a 100-foot building setback on both sides of the freeway. The Council determined that these measures, although feasible to implement, would not reduce noise impacts to a less-than-significant level.</p>	<p>Significant.</p>	<p>The City determined that any remaining unmitigated environmental impacts attributable to the project would be outweighed by specific economic, fiscal, social, environmental, land use, and other overriding considerations.</p>

TABLE C-8
 Prior Analysis of Noise Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Impact 4.6-1(B). Traffic associated with the Update may generate significant traffic noise impacts in the South Natomas area.	Potentially significant.	No specific mitigation measures were identified to reduce the traffic generated noise impacts of the Update on existing sensitive receptors in South Natomas. All new development along Northgate (from I-80 to Rosin Court), Truxel (from I-80 to Rosin Court), and San Juan (from I-80 to Rosin Court) should include a detailed acoustical analysis and the use of design measures on new structures that would reduce potential noise impacts. The City Council determined that these measures could not assure that noise impacts would be mitigated below the 60dB threshold.	Significant.	The City determined that any remaining unmitigated environmental impacts attributable to the project would be outweighed by specific economic, fiscal, social, environmental, land use, and other overriding considerations.
Impact 4.6-2(A). Aircraft noise exposures associated with existing and future operations at Sacramento International Airport will not affect land use compatibility in the Update area because the area will lie outside the 60dB CNEL contour.	Less than significant.	N/A	N/A	No further action necessary.
Impact 4.6-2(B). Aircraft noise exposures associated with existing and future operations at Sacramento International Airport will not affect land use compatibility in the South Natomas because South Natomas lies outside the 60dB CNEL contour.	Less than significant.	N/A	N/A	No further action necessary.

TABLE C-8
 Prior Analysis of Noise Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
<p>Impact 4.6-3(A). Based on the distances to the predicted light rail day/night average noise level contours, it is anticipated that roadway traffic on streets adjacent to the proposed light rail lines will dominate the noise environment.</p>	<p>Less than significant.</p>	<p>N/A</p>	<p>N/A</p>	<p>No further action necessary.</p>
<p>Impact 4.6-3(B). Based on the distances to the predicted light rail day/night average noise level contours, it is anticipated that roadway traffic on streets adjacent to the proposed light rail lines will dominate the noise environment in South Natomas.</p>	<p>Less than significant.</p>	<p>N/A</p>	<p>N/A</p>	<p>No further actions necessary.</p>

TABLE C-8

Prior Analysis of Noise Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Impact 4.6-4(A). Noise from outdoor concerts at the Sports Complex could potentially affect land use compatibility at the southeast corner of the Sports Complex, near the intersection of Stadium/Market Boulevard and Truxel Road. In addition, use of the public address system could potentially affect land use compatibility to the north, east, and southeast of the complex.	Potentially significant.	The stadium operator in the Sports Complex should be required to carefully orient the speaker arrays to minimize directing sound beyond the seating areas. This can be accomplished through speaker array design and by the location of seating areas. The primary mitigation measures for outdoor concerts and the public address system are careful targeting of the speaker arrays, establishment of design sound levels within the stadium, and requirements for noise level monitoring during concerts and sporting events. The Update also proposes Guiding Policies and Environmental Design Standards to mitigate the impacts of the Sports Complex on surrounding land uses, as follows: (1) construct and operate stadium and arena to minimize traffic problems and negative impacts on surrounding residential neighborhoods. (2) Indoor noise levels shall not exceed an Ldn of 45dB. (3) A detailed acoustical study shall be required for any land use which potentially would be incompatible with outdoor noise limits specified by the requirements of the Noise Element of the General Plan, or which is located within the Noise Impacts Areas shown in the EIR. The City Council determined that further mitigation was not feasible.	Significant.	The City determined that any remaining unmitigated environmental impacts attributable to the project would be outweighed by specific economic, fiscal, social, environmental, land use, and other overriding considerations.
Impact 4.6-4(B). The South Natomas Community Plan area is outside of the projected 65dBA noise contour line for the Sports Complex's public address system and the 55dBA contour line for concerts.	Less than significant.	N/A	N/A	No further action necessary.
Aircraft noise exposures will not affect land use compatibility in the Update area because the areas will lie outside the 60 dB CNEL contour.	Less than Significant	N/A	Less than Significant	None required

TABLE C-8
 Prior Analysis of Noise Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
South Natomas Community Plan EIR				
Exterior noise levels along many roadway segments in areas proposed for development will exceed normally acceptable levels for residential development.	Significant.	Implement the policies of the Noise element of the General Plan (described above). The City Council determined that it was not feasible to fully implement the Noise Element.	Significant.	Approval was justified by specific economic, social, environmental, and other considerations.
No noise impacts identified between Sacramento International Airport and Authorized Development.	N/A	N/A	N/A	N/A

TABLE C-8
Prior Analysis of Noise Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Sutter County General Plan EIR				
Impact 4.7.1. The potential exists for noise levels at existing and future noise-sensitive land uses to exceed acceptable noise exposures as defined by the General Plan.	Significant.	<p>Implement General Plan Goal 8.A; Policies 8.A-1, 8.A-2, 8.A-3, 8.A-4, 8.A-5, 8.A-6; and Implementation Programs 8.1, 8.2, and 8.3.</p> <p>Mitigation Measure 4.7.1. Consistent with the General Plan Policies, noise exposure may be reduced by increasing the distance between the noise source and receiving use. Setback areas can take the form of open space, frontage roads, recreational areas, storage yards, etc. The available noise attenuation from this technique is limited by the characteristics of the noise source, but is generally 4 to 6dB per doubling of distance from the source. Setbacks, if utilized as mitigation, will be identified by the project applicant within subsequent development proposals.</p> <p>Mitigation Measure 4.7.2. Consistent with the General Plan policies, noise exposure may be reduced by placing walls, berms, or other structures, such as buildings, as shielding between the noise source and the receiver. The effectiveness of a barrier depends upon blocking line-of-sight between the source and the receiver, and is improved with increasing the distance the sound must travel to pass over the barrier as compared to a straight line from the source to the receiver.</p>	Less than significant.	No further action necessary.
No noise impacts identified between Sacramento International Airport and Authorized Development.	N/A	N/A	N/A	N/A

^a The analysis of environmental impacts presented in these documents was prepared in accordance with the requirements of CEQA. No changes to the types of impacts presented would be anticipated if the documents were prepared for NEPA purposes.

TABLE C-9
 Prior Analysis of Air Quality Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
City of Sacramento General Plan EIR				
Reactive organic gas emissions would increase by 47 percent over existing levels, and nitrogen oxide emissions would decrease by 1 percent, thereby exacerbating the region's non-attainment status for the federal ozone standard.	Significant.	The City Council determined that full mitigation was not feasible. Partial mitigation included: (1) implementing Transportation Systems Management measures, such as ridesharing incentives, parking management measures, alternative transportation incentives, park-and-ride lots, bicycle facilities, major roadway and intersection improvements, signal synchronization, signal preemption, alternatives fuels, bus tokens for employee business travel, employee bicycle fleets, flex time, employee-subsidized bus passes, carpool verification programs, and two-way video communication links and other electronic communication facilities; (2) implement all proposed mitigation for traffic impacts; (3) construct regional facilities; and (4) implement measures to encourage pedestrian travel, such as eliminate rounded curbs, separate sidewalks and roadways whenever possible, and require off-street parking for guests in higher-density neighborhoods. The City Council determined that it was feasible to adopt measures (1) and (4) because of the Goals and Policies contained in the following sections of the General Plan Circulation Element: Transportation Systems Management, Central City Transportation, Transit, Parking, Pedestrianways, Bikeways, and Pedestrians. The City Council determined that it was infeasible to adopt measures (2) and (3) for the same reasons as described under "Traffic."	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.
Carbon monoxide levels would increase, thereby resulting in violations of state or federal carbon monoxide standards in all Community Plan areas except for North Sacramento and the Pocket area.	Significant.	Same as above for reactive organic gasses and nitrogen oxides.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.

TABLE C-9
 Prior Analysis of Air Quality Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
North Natomas Community Plan EIR				
<p>Impact 4.4-1. Buildout of the proposed Update will result in an increase in the regional air quality pollutants such as reactive organic gases, nitrogen oxides, particulate matter, and sulfur oxides.</p>	Significant.	<p>Mitigation measures would not entirely eliminate an increase in emissions. Partial mitigation could be achieved through implementation of the Air Quality Mitigation Strategy, which established a goal of reducing reactive organic gases by 35 percent over the baseline by achieving a 1.4 person per vehicle average ridership ratio and promoting low-emission vehicle use. Specific measures were of three types: (1) site design measures, such as orienting buildings to promote transit use; (2) target area measures, such as reducing the amount of parking allowed at any site within ¼ mile of a light rail station; and (3) community-wide measures, such as the provision of a community shuttle system. The Update also contains a number of Guiding Policies which also act as mitigation measures to reduce the regional air quality impacts of the update, including the following: (1) development in North Natomas shall comply with the Federal and the California Clean Air Acts; (2) the Air Quality Mitigation Strategy shall have as a goal a 35 percent community-wide daily reduction in vehicle and other related reactive organic compound emissions at buildout; (3) structure the community and each development to minimize the number and length of vehicle trips; (4) each non-residential project shall comply with the Citywide Transportation Systems Management Ordinance and a Transportation Management Plan shall be required; (5) minimize air quality impacts through direct street routing, providing a support network for zero-emissions vehicles, bicycles, and pedestrians, and sizing streets suitable to the distance and speed of the traveler. The City Council adopted this partial mitigation.</p>	Significant.	<p>The City determined that any remaining unmitigated environmental impacts attributable to the project would be outweighed by specific economic, fiscal, social, environmental, land use, and other overriding considerations.</p>

TABLE C-9
 Prior Analysis of Air Quality Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Impact 4.4-2. Buildout of the Update will result in increased levels of carbon monoxide concentrations, but these concentrations will not exceed the strictest guidelines set for one-hour and eight-hour localized emissions.	Less than significant.	N/A	N/A	No additional action necessary.
Impact 4.4-3. Buildout of the Update will result in increased levels of carbon monoxide concentrations in South Natomas, but these concentrations are not expected to exceed state and federal standards at any intersections in South Natomas.	Less than significant.	N/A	N/A	No further action necessary.
South Natomas Community Plan EIR				
Development in South Natomas will contribute to increased ozone emissions by exacerbating the region's non-attainment status of the Federal ozone standard.	Significant.	Implement the Transportation Systems Management measures prescribed in the General Plan.	Significant.	Approval was justified by specific economic, social, environmental, and other considerations.

TABLE C-9
 Prior Analysis of Air Quality Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Violation of the carbon monoxide standards are expected to occur under full buildout of South Natomas with worst-case traffic conditions resulting from buildout of surrounding areas at various intersections throughout the Community Plan.	Significant.	Implement the measures described under Traffic that reduce traffic congestion. As described in that section, most intersection improvements could not be mitigated to a less-than-significant level.	Significant.	Approval was justified by specific economic, social, environmental, and other considerations.
Sutter County General Plan EIR				
Impact 4.6.1. Implementation of the Comprehensive General Plan Revision will result in exceedance of ambient air quality standards and contribute to an existing or projected air quality violation.	Significant.	Implement General Plan Goal 4.I; Policies 4.I-1 and 4.I-2; and Implementation Program 4.6. Implement the following mitigation measures (MM 4.6.1 through 4.6.11. (1) For subsequent development proposals, the County shall encourage (or condition) the use of energy efficient street lighting and parking lot lighting to reduce emissions at the power plant which serves the County. (2) For subsequent development proposals, the County shall encourage (or condition) the use of low polluting and high efficiency appliances for development plans wherever possible. (3) For subsequent development proposals, the County shall consider the design of circulation systems, traffic flow and ingress and egress points to minimize idling vehicle emissions. (4) Sutter County shall coordinate with the Feather River Air Quality Management District and other local air districts to implement consistent air quality policies and coordinate efforts to regulate and monitor regional problems, such as pollutant transport. (5) The County shall promote the use of signal synchronization, one-way streets, computerized traffic controls, removal of unnecessary signals, and other engineering techniques to decrease idling time and maximize the speed of traffic on congested surface streets. (6) For	Significant.	The Board of Supervisors determined that the remaining unavoidable and irreversible impacts of the Project are acceptable in light of the economic, fiscal, social, planning, land use, and other considerations set forth herein because the benefits of the Project outweigh any significant and unavoidable or irreversible adverse environmental impacts of the Project.

TABLE C-9
 Prior Analysis of Air Quality Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
<p>Impact 4.6.2. Implementation of the Comprehensive General Plan Revision will cause an increase in the concentration of localized pollutants resulting from construction that, as predicted, would result in a violation of the most stringent State or federal standards.</p>	Significant.	<p>subsequent development proposals, the County shall require that space and water heaters comply with District Stationary Source Rules and Uniform Mechanical Code requirements. (7) For subsequent development proposals, the County shall recommend (or condition) the use of HVAC equipment with a SEER of 12 or greater. (8) The County shall explore the feasibility of converting (or participating in a program which converts) a portion of the local public service vehicle fleet from gasoline or diesel to compressed natural gas (CNG), or electricity. Examples include county owned vehicles, local transit providers, U.S. Postal Service vehicles, and school buses. (9) The County shall encourage the retirement of pre-1974 vehicles to help offset new emissions generated by the General Plan land uses. (10) The County shall encourage (or condition) the use of Parking Management Programs for land uses which generate peak attraction or event-related traffic volumes. (11) The County shall promote county-wide or departmental implementation of employee-based trip reduction strategies, such as flexible work week schedules and carpool incentives, as an example for other County residents. The Board of Supervisors determined that these measures were feasible to implement, but would not reduce impacts to a less-than-significant level.</p> <p>Implement General Plan Goal 4.J, Policy 4.J-1, and Implementation Program 4.7.</p> <p>Implement the following mitigation measures (MM 4.6.12 through 4.6.21. (12) For subsequent development proposals under the General Plan, the County shall require that all active portions of construction sites, earthen access roads, and material excavated or graded by sufficiently watered to prevent excessive amounts of dust. Watering shall occur at least twice a day with complete coverage, preferably in the late morning and after work is done for the day. Where feasible, reclaimed water shall be used. (13) For subsequent development proposals under the General Plan, the County shall require that all clearing, grading, earth moving, or excavation activities</p>	Less than significant.	No further action necessary.

TABLE C-9
 Prior Analysis of Air Quality Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
		<p>shall cease during periods of winds greater than 20 miles per hour averaged over one hour. (14) For subsequent development proposals under the General Plan, the County shall require that all material transported off site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust. (15) For subsequent development proposals under the General Plan, the County shall require that the area disturbed by clearing, earth moving, or excavation activities shall be minimized at all times. This can be accomplished by mowing instead of discing for weed control and seeding and watering inactive portions of the construction site until grass is evident. (16) Construction site vehicle speeds shall be limited to 15 miles per hour, unless particular vehicles require greater speeds to operate. (17) For subsequent development proposals under the General Plan, the County shall require the use of petroleum-based dust palliatives, if used, that meet the road oil requirements set forth by the Air District. (18) For subsequent development proposals, the county shall require that streets adjacent to specific project sites shall be swept as needed to remove silt that may have accumulated from construction activities. (19) For subsequent development proposals under the General Plan, the County shall require that all internal combustion engine driven equipment shall be properly maintained and well tuned according to the manufacturers specifications. (20) For subsequent development proposals under the General Plan constructed during the smog season (May through October), the County shall encourage the lengthening of the construction period to minimize the number of vehicles and equipment operating at the same time. (21) For subsequent development proposals under the General Plan, the County shall encourage the use of diesel powered or electric equipment in lieu of gasoline powered engines.</p>		

^a The analysis of environmental impacts presented in these documents was prepared in accordance with the requirements of CEQA. No changes to the types of impacts presented would be anticipated if the documents were prepared for NEPA purposes.

TABLE C-10

Prior Analysis of Aesthetic Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
City of Sacramento General Plan EIR				
The urbanization of 22,000 acres of currently vacant land in the City of Sacramento would change many viewsheds and intensify the urban character of Sacramento.	Significant and unavoidable.	Partial mitigation included updating the Community Design Element. Partial mitigation was not adopted because: (1) future urbanization of vacant land will generally occur in areas with existing community plan design elements (e.g., North and South Natomas), and existing design guidelines expressed in the Community Plans partially address the impact; and (2) City policy requires that large development projects be permitted as Planned Unit Developments, which would include project-specific design guidelines that could not be evaluated at the time the Findings were adopted.	Significant.	The City Council determined that economic, social, and other considerations make it infeasible to mitigate the impacts to below significant levels.
North Natomas Community Plan EIR				
No significant impacts identified.	N/A	N/A	N/A	No further action necessary.
South Natomas Community Plan EIR				
No significant impacts identified.	N/A	N/A	N/A	No further action necessary.
Sutter County General Plan EIR				
Impact 4.12.2. Future development in accordance with the proposed General Plan and require infrastructure improvements will introduce new sources of light and glare into the development areas and surrounding rural setting.	Significant.	Implement General Plan Goal 1.H, Policy 1.H-3, and Implementation Program 1.9. Mitigation Measure 4.12.1. The County shall review and approve the type, location, and limits of project lighting for consistency with the adopted design and development standards. Lighting standards shall be structured and implemented to minimize project contribution to ambient light production and minimize direct nuisance light sources.	Less-than-significant.	No further action necessary.

^a The analysis of environmental impacts presented in these documents was prepared in accordance with the requirements of CEQA. No changes to the types of impacts presented would be anticipated if the documents were prepared for NEPA purposes.

TABLE C-11
 Prior Analysis of Public Service and Utility Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
City of Sacramento General Plan EIR				
The average daily dry weather flows would increase to 88.5 million gallons per days, possibly requiring expansion of the Regional Plant earlier than currently planned.	Significant.	Reevaluate phasing of the Regional Plant expansion and accelerate construction of the expansion, as needed. Also, adopt Goal A and Policy 1 from the Public Facilities and Services Element (Sanitary Sewers section) of the General Plan Update.	Less-than-significant.	No further action necessary.
Sewer collection facilities would be inadequate to serve North Natomas and Airport-Meadowview.	Significant.	Require sewerage facilities in advance of development. Also, adopt Goal A and Policies 1 and 3 from the Public Facilities and Services Element (Sanitary Sewers section) of the General Plan Update.	Less-than-significant.	No further action necessary.
Infill would necessitate that deteriorating sewer lines be upgraded.	Significant.	Provide necessary infrastructure in infill areas. Also, adopt Policy 2 from the Public Facilities and Services Element (Sanitary Sewers section) of the General Plan Update.	Less-than-significant.	No further action necessary.
Solid waste generation would increase by 165 percent to 543,338 tons annually, necessitating additional landfill capacity.	Significant.	Expand landfill capacity. Also, adopt Goal A and Policy 5 from the Public Facilities and Services Element (Solid Waste section) of the General Plan Update.	Less-than-significant.	No further action necessary.
496 additional sworn police officers (90 percent increase) and facilities would be required.	Significant.	Provide adequate funding for needed police personnel and facilities. Also, adopt Goal A from the Public Facilities and Services Element (Police Services section) of the General Plan Update.	Less-than-significant.	No further action necessary.

TABLE C-11
 Prior Analysis of Public Service and Utility Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
The potential for criminal activity would increase (especially where residential and commercial uses are proximate, where high technology industry is proposed, in parks, and in new large-scale developments).	Significant.	Require expanded site design review by the police department. Train officers to combat high technology crime. Establish crime control programs in recreation areas. Require additional security for special generators. Expand public education and involvement in crime prevention. Also, adopt Goal A and Policies 1 and 2 from the Public Facilities and Services Element (Police Service section) of the General Plan Update.	Less-than-significant.	No further action necessary.
Demand for fire services, facilities, and flows would increase.	Significant.	Require site design review by the fire department. Expand fire protection education programs. Provide adequate funding for needed fire facilities and personnel. Assess the ability of existing fire services and facilities to accommodate infill growth. Also, adopt Goal A and Policies 1-5 from the Public Facilities and Services Element (Fire section) of the General Plan Update.	Less-than-significant.	No further action necessary.
Demand for library services would increase.	Significant.	Expand temporary use of portables until permanent facilities can be constructed. Reevaluate and update the libraries master plan. Provide funding mechanisms for library improvements. Also, adopt Goal A and Policies 1 and 2 from the Public Facilities and Services Element (Library section) of the General Plan Update.	Less-than-significant.	No further action necessary.
Demand for health services would increase.	Significant.	Continue to require special permits for health care facilities. Coordinate with other health care organizations. Also, adopt Goal A and Policies 1-3 from the Public Facilities and Services Element (Medical Facilities section) of the General Plan Update.	Less-than-significant.	No further action necessary.

TABLE C-11
 Prior Analysis of Public Service and Utility Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
The total student yield would increase by 57 percent to 106,366, requiring the designation of additional school sites or deletion of surplus sites.	Significant.	Six mitigation measures were identified for which the school districts have primary responsibility for implementation (provide adequate school sites, reevaluate school sites where a surplus is projected, institute extended day programs where needed, institute year-round attendance where needed, evaluate redistribution of students, and establish funding mechanisms for school improvements). A seventh mitigation measure was to increase school involvement in City planning, which would be accomplished by adopting Goal A and Policies 1, 2, 3, and 5 from the Public Facilities and Services Element (Schools section) of the General Plan Update.	Less-than-significant.	No further action necessary.
Peak electricity demand would increase to approximately four times the current annual actual use of 1,381,597 kW, requiring a significant expansion in electrical capacity.	Significant.	Three mitigation measures were identified for which the Sacramento Municipal Utility District has primary responsibility for implementation (develop and utilize alternative energy sources to the extent feasible, incorporate energy management and conservation measures, and coordinate with energy suppliers to ensure designation of right-of-way for transmission lines and substations). Two other mitigation measures were to adopt energy conservation policies and to require maximum practicable use of solar technologies. These two measures would be implemented by the City through adoption of Goal C, Policy 7 of the Residential Land Use and Housing Element and Goal A, Policies 1 and 2 of the Public Facilities and Services Element (Miscellaneous Utilities section) of the General Plan Update.	Less-than-significant.	No further action necessary.
North Natomas Community Plan EIR				
No significant impacts identified.	N/A	N/A	N/A	No further action necessary.
South Natomas Community Plan EIR				
Increased demand for police officers.	Significant.	Provide additional funding for police personnel and equipment as development occurs and by buffering, lighting, and numbering of buildings.	Less-than-significant.	No further action necessary.

TABLE C-11
 Prior Analysis of Public Service and Utility Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
Increased demand for additional 500 gallons per minute of water for fire protection.	Significant.	Include safety measures in final discretionary approvals for all developers.	Less-than-significant.	No further action necessary.
New students for Del Paso, Natomas Union, and Grant Union School Districts would exceed capacity.	Significant.	The City Council determined that school districts and not the City are responsible for mitigating these impacts. The City Council further determined that state school funding and developer fees should enable the school districts to mitigate the impact to a less-than-significant level.	Less-than-significant.	No further action necessary.
Planned development would increase demand for parks in excess of the amount of park space currently available.	Significant.	Additional land for parks is to be dedicated by developers of Sutter West, Natomas Corporate Center, River Plaza, and Capital 80 projects. In addition, new parks will be acquired pursuant to the City's Quimby Act ordinance in the Metropolitan Center and Willow Creek projects.	Less-than-significant.	No further action necessary.
Increase of potentially 83.7 megawatts over existing electrical demand constitutes adverse environmental impact and may require two to three new substations to be constructed.	Significant.	The City Council determined that another public agency, Sacramento Municipal Utility District, is responsible for mitigating these impacts. The City Council further determined that SMUD construction of substations and its programs for energy conservation and load management measures should mitigate this impact to a less-than-significant level.	Less-than-significant.	No further action necessary.

Sutter County General Plan EIR

TABLE C-11
Prior Analysis of Public Service and Utility Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
<p>Impact 4.10.2. The proposed General Plan Revision will allow for urban uses, which will result in an increase in wastewater flows over current treatment capacity, will require the extension of sewer trunk lines, and will require construction of treatment facilities.</p>	Significant.	<p>Implement General Plan Goal 3.C, Policies 3.C-1 through 3.C-5, and Implementation Program 3.8.</p> <p>Mitigation Measure 4.10.4. As a condition of subsequent project-level approvals, the applicant shall submit to the County verification that the appropriate service district has adequate capacity to process the estimated wastewater generated for that phase of the project.</p> <p>Mitigation Measure 4.10.5. As a condition of subsequent project-level approvals, the proposed use of individual sewage disposal systems, if applicable, must be addressed in an engineer's report as required by the County to confirm that such systems are acceptable.</p>	Less-than-significant.	No further action necessary.
<p>Impact 4.10.3. The proposed project may generate the need for approximately 13 additional sworn patrol deputies, and may create additional demands upon the existing administrative unit and capital facilities of the County Sheriff's Department.</p>	Significant.	<p>Implement General Plan Goal 3.F and Policies 3.F-1 and 3.F-2.</p> <p>Mitigation Measure 4.10.6. As a condition of subsequent project-level approvals in the areas of proposed land use changes, project applicants shall submit verification that the County Sheriff's Department can provide adequate police protection, and that the subject project does not significantly degrade the level of service currently being provided in the County. The applicant shall also participate in the County's existing public facility fee program (which is required of all projects), and/or provide "fair share" funding as required by the County.</p> <p>Mitigation Measure 4.10.7. In conjunction with the development review process, plans shall be made available for review by the County Sheriff's Department for specific service or crime-prevention recommendations.</p>	Less-than-significant.	No further action necessary.

TABLE C-11
 Prior Analysis of Public Service and Utility Impacts from Planned Urban Development in the Natomas Basin^a

Impact	Level of Significance	Mitigation	Level of Significance with Mitigation	Action
<p>Impact 4.10.4. Implementation of the proposed General Plan Amendment will result in a significant increase in the service demands on the various fire districts. Additional fire facilities and personnel will be required to serve the project area.</p>	Significant.	<p>Implement General Plan Goals 3.G, 7.D, and 7.F; Policies 3.G-1, 3.G-2, 3.G-3, 7.D-1, 7.D-2, 7.F-1, 7.F-2, 7.F-3, 7.F-4, and 7.F-5; and Implementation Programs 7.5, 7.7, 7.8, 7.9, 7.10, and 7.11.</p> <p>Mitigation Measure 4.10.8. As a condition of subsequent project-level approvals, the applicant shall obtain verification from the appropriate fire protection district that facilities and personnel are available as required to provide adequate fire protection service, and that the subject project does not significantly degrade the level of service currently being provided in the County based upon ISO ratings or other County standard. The applicant shall also participate in the County's existing public facility fee program (which is required of all projects), and/or provide "fair share" funding as required by the County.</p>	Less-than-significant.	No further action necessary.
<p>Impact 4.11.1. Long-term implementation of the General Plan will result in increased consumption of energy resources to support the proposed land uses.</p>	Significant.	<p>Mitigation Measure 4.11.1. The Community Services Department Building Inspection Program shall continue to enforce Title 24 of the California Administrative Code as related to energy conservation. The County shall also encourage the use of alternative energy resources for new development whenever feasible.</p>	Less-than-significant.	No further action necessary.

^a The analysis of environmental impacts presented in these documents was prepared in accordance with the requirements of CEQA. No changes to the types of impacts presented would be anticipated if the documents were prepared for NEPA purposes.

APPENDIX D

Mitigation Monitoring Plan

Mitigation Monitoring Plan – NBHCP EIR/EIS

Introduction

The following is the Mitigation Monitoring Plan (MMP) for the Natomas Basin Habitat Conservation Plan (NBHCP) Environmental Impact Report/Environmental Impact Statement (EIR/EIS). It includes a brief project description, a description of the requirements of the California Environmental Quality Act (CEQA), and a compliance checklist. The NBHCP EIR/EIS includes mitigation measures. The intent of the MMP is to prescribe and enforce a means for properly and successfully implementing the mitigation measures as identified within the NBHCP EIR/EIS. Mitigation measures related to Planned Development (e.g., North Natomas Community Plan, South Natomas Community Plan, South Sutter County Specific Plan) have been adopted by the respective Land Use Agencies and will be monitored in accordance with individual, project-specific MMPs. In addition, the NBHCP includes avoidance, minimization, and mitigation measures for the Covered Species that will be implemented in accordance with the terms and conditions of the Implementing Agreement and monitored in accordance with the NBHCP's compliance and biological effectiveness monitoring provisions (Section VI.E of the NBHCP).

Project Description

The project comprises: 1) applications for Section 10(a)(1)(B) and Section 2081 permits or permit modifications for each of the permittees; (2) approval of the NBHCP and issuance of permits by the United States Fish and Wildlife Service and the California Department of Fish and Game; (3) implementation of the NBHCP; (4) adoption of the Implementing Agreement(s); and (5) the issuance of incidental take permits (ITPs). The Applicants are the City of Sacramento, Sutter County, and The Natomas Basin Conservancy (TNBC).

The NBHCP would establish a comprehensive program for preservation and protection of habitat for threatened and endangered species potentially found in the Natomas Basin, which is comprised of approximately 53,537 acres of developed and agricultural land in northwestern Sacramento County and southern Sutter County. The acquisition of lands or conservation easements for the purpose of creating and managing permanent habitat reserves would be the primary mechanism for mitigating impacts to listed species. The management of the Mitigation Lands would be performed by TNBC as the Plan Operator.

Compliance Checklist

Section 15097 of the CEQA Guidelines requires all state and local agencies to establish monitoring or reporting programs for projects approved by a public agency whenever approval involves the adoption of either a “mitigated negative declaration” or specified environmental findings related to environmental impact reports.

This MMP is intended to satisfy the requirements of CEQA as they relate to the NBHCP EIR/EIS. This MMP is intended to be used by City of Sacramento and Sutter County staff and mitigation monitoring personnel to ensure compliance with mitigation measures during project implementation. Mitigation measures identified in this MMP were developed in the EIR/EIS.

The NBHCP EIR/EIS presents a detailed set of mitigation measures that will be implemented throughout the lifetime of the project. Mitigation is defined by CEQA as a measure that:

- Avoids the impact altogether by not taking a certain action or parts of an action.
- Minimizes impacts by limiting the degree or magnitude of the action and its implementation.
- Rectifies the impact by repairing, rehabilitating, or restoring the impacted environment.
- Reduces or eliminates the impact over time by preservation and maintenance operations during the life of the project.
- Compensates for the impact by replacing or providing substitute resources or environments.

The intent of the MMP is to ensure the effective implementation and enforcement of adopted mitigation measures and permit conditions. The MMP will provide for monitoring of construction activities as necessary and in-the-field identification and resolution of environmental concerns.

Monitoring and documenting the implementation of mitigation measures will be coordinated by the City, Sutter County, and TNBC. The table attached to this report identifies the mitigation measure, the monitoring action for the mitigation measure, the responsible party for the monitoring action, and timing of the monitoring action. The Applicants will be responsible for fully understanding and effectively implementing the mitigation measures contained within the MMP. The City of Sacramento and Sutter County, as Lead Agencies under CEQA, will be responsible for ensuring compliance.

During construction of the project, the City and/or County will assign an inspector who will be responsible for field monitoring of mitigation measure compliance. The inspector will report to the City's and/or County's Planning and Building Department and will be thoroughly familiar with the MMP. In addition, the inspector will be familiar with construction contract requirements, construction schedules, standard construction practices, and mitigation techniques. In order to track the status of mitigation measure implementation, field monitoring activities will be documented on compliance monitoring report worksheets. The time commitment of the inspector will vary depending on the intensity and location of implementation activities. Aided by the attached table, the inspector will be responsible for the following activities:

- On-site, day-to-day monitoring as needed.
- Reviewing construction plans and equipment staging/access plans to ensure conformance with adopted mitigation measures.
- Ensuring contractor knowledge of and compliance with the MMP.
- Verifying the accuracy and adequacy of contract wording.
- Having the authority to require correction of activities that violate mitigation measures. The inspector shall have the ability and authority to secure compliance with the MMP.
- Acting in the role of contact for property owners or any other affected persons who wish to register observations of violations of project permit conditions or mitigation. Upon

receiving any complaints, the inspector shall immediately contact the construction representative. The inspector shall be responsible for verifying any such observations and for developing any necessary corrective actions in consultation with the construction representative and the City of Sacramento and/or Sutter County.

- Obtaining assistance as necessary from technical experts in order to develop site- specific procedures for implementing the mitigation measures.
- Maintaining a log of all significant interactions, violations of permit conditions or mitigation measures, and necessary corrective measures.

TABLE 1
Mitigation Monitoring Plan Summary

Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Compliance Standards	Timing	Verification of Compliance (Initial & Date)
Water Resources					
<p>Reduce potential construction-related stormwater pollution during creation of habitat on the Mitigation Lands by:</p> <p>a. Adhering to requirements of SWRCB General Permit for Stormwater Discharge Associated with Construction Activity.</p> <p>b. Prepare a SWPPP that includes BMPs consistent with City's Administrative and Technical Procedures for Grading and Erosion and Sediment Control and Sacramento County's Erosion and Sediment Control Standards and Specifications (regardless of location of reserve in Sutter or Sacramento counties).</p> <p>c. Focus BMPs on control of sediment discharge into local drains (e.g., installation of silt fences, tracking controls) and release of hazardous materials from construction operations (e.g., designated staging areas).</p>	City and Sutter County	TNBC	As stated in the SWRCB General Permit for Stormwater Discharge Associated with Construction Activity, City of Sacramento Administrative and Technical Procedures for Grading and Erosion and Sediment Control, and Sacramento County's Erosion and Sediment Control Standards and Specifications.	<p>Measures shall be considered during the design of habitat improvements on the Mitigation Lands.</p> <p>Measures shall be fully implemented during active construction activities on Mitigation Lands.</p>	
Biological Resources					
As part of the process for development review, the City and Sutter County will include a provision that public or private development project that could support jurisdictional wetlands will result in no net loss of wetlands and will ensure that wetland functions and values will be maintained.	City and Sutter County	City and Sutter County	No net loss of wetlands.	The measure shall be fully implemented prior to approval of individual development projects with in the Permit Areas.	
Preconstruction surveys required pursuant to Section V.A.1 of the NBHCP shall encompass the habitat areas that could support dwarf downingia or rose mallow. If dwarf downingia or rose mallow are found during the habitat surveys, mitigation shall conform to the mitigation requirements for Delta tule pea and Sanford's arrowhead as described in the NBHCP and in accordance with the California Native Plant Protection Act.	City and Sutter County	City, Sutter County, and TNBC	Listed plant species are salvaged.	Measures shall be fully implemented prior to issuance of permits as described in the NBHCP.	

TABLE 1
Mitigation Monitoring Plan Summary

Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Compliance Standards	Timing	Verification of Compliance (Initial & Date)
<p>Preconstruction surveys required pursuant to Section V.A.1 of the NBHCP shall encompass the habitat areas where nesting birds could occur. In accordance with the requirements of the Migratory Bird Treaty Act, vegetation containing an occupied nest and an appropriate-sized buffer around the nest of Coopers's hawks, American bitterns, black terns, lark sparrows, white-tailed kites, Pacific-slope flycatchers, and Bewick's wrens shall not be removed until the nest has been abandoned by the nesting pair or the young have fledged.</p>	<p>City and Sutter County</p>	<p>City, Sutter County, and TNBC</p>	<p>Nest sites and local areas are preserved during the nesting season.</p>	<p>Measures shall be fully implemented prior to issuance of permits as described in the NBHCP.</p>	
<p>Cultural Resources</p>					
<p>Reduce potential cultural impacts by:</p> <p>a. Preconstruction literature review and/or field survey for parcels being considered for habitat reserves; completion of an archaeological report and site-specific mitigation measures if determined necessary by qualified archaeologist based on preconstruction review and survey.</p> <p>b. Immediate cessation of work within 100 feet of any historic or archaeological feature discovered during reserve development activities, consultation with qualified archaeologist and NAHC representative; development of further mitigation measures if determined to be necessary by the qualified archaeologist and NAHC representative.</p> <p>c. Immediate cessation of work within the vicinity of finding human bone of unknown origin and immediate contact of County Coroner; the Coroner will notify the NAHC if the remains are determined to be Native American and NAHC will notify the person it believes to be the most likely descendant who will work with the contractor to develop a program for reinterment of the human remains and any associated artifacts. No additional work is to take place in the immediate vicinity of the find until the appropriate actions have been carried out.</p>	<p>City and Sutter County</p>	<p>TNBC</p>	<p>1) Standard mitigation procedures for the City and Sutter County</p> <p>2) In the event of encountering Native American archeological, ethnographic or spiritual resources, all identification and treatment shall be conducted by qualified archaeologists, certified by SOPA or meeting 36 CFR 61 standards and Native American representatives approved through the local Native American community as scholars of their cultural traditions or if not available, persons who represent tribal governments and/or organizations in the locale where the resources will be affected.</p> <p>3) In the event of encountering historic archaeological sites or historic architectural features, all identification and treatment shall be carried out by historical archaeologists or architectural historians meeting either SOPA or 36 CFR 61 requirements</p>	<p>Measures shall be implemented concurrent with construction activities.</p>	

TABLE 1
Mitigation Monitoring Plan Summary

Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Compliance Standards	Timing	Verification of Compliance (Initial & Date)
Land Use					
Reduce land use impacts associated with loss of farmland by developing site-specific management plans that will incorporate provisions that consider farmlands and agricultural use to the extent practicable and to the extent that biological goals are not compromised.	City and Sutter County	TNBC	None specified.	Measures shall be identified and implemented concurrently with preparation of a Site Specific Management Plan.	
Traffic					
<p>Address the potential for traffic safety impacts and minimize the potential for impacts by:</p> <p>a. Identify potential traffic-safety impacts through evaluation of traffic levels on rural roadways providing construction access to locations of substantial habitat reserve development activities.</p> <p>b. Prepare and implement a Traffic Control Plan to include (but not be limited to):</p> <p> Provide adequate warning to users of roadway in vicinity of construction through signs or other visible means from roadway</p> <p> Provide adequate assistance to the public in navigating the construction site through the use of flagmen</p> <p> Install adequate signage for construction zones and detours</p> <p> If traffic and circulation would be interrupted for a period of time, provide for the opportunity for public input from affected residents</p>	City and Sutter County	TNBC	None specified.	Identification of potential safety impacts shall be identified prior to commencement of construction activities. Submittal and approval of the traffic management plan to the City of Sacramento and/or Sutter County (and Sacramento County based on whether location of construction is within unincorporated County boundaries) shall occur prior to the commencement of activities. Implementation of safety measures will be implemented prior and concurrently with construction.	

TABLE 1
Mitigation Monitoring Plan Summary

Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Compliance Standards	Timing	Verification of Compliance (Initial & Date)
Noise					
<p>4.9-1 Reduce potential noise impacts by:</p> <p>a. Determine if residences or other sensitive receptors are located within 1000 feet of a construction site associated with substantial habitat reserve development activities</p> <p>b. If it is determined that sensitive receptors exist, operation of the construction equipment and vehicles would occur between 7am and 6pm, Monday through Saturday and between 9am and 6pm on Sunday.</p>	City and Sutter County	TNBC	None specified.	Determination of proximity of sensitive receptors to construction area shall occur prior to commencement of construction; implementation of restricted work hours in the vicinity of these identified receptors shall be concurrent with construction activity.	
4.10 – Air Quality					
<p>4.10-1 Reduce or otherwise minimize ozone precursor air-pollution emissions by:</p> <p>a. To the extent feasible, use construction contractors that use low-NOx, heavy-duty construction vehicles</p> <p>b. Phase construction activities to reduce the simultaneous operation of construction equipment</p>	City and Sutter County	TNBC	Sacramento Area Regional Ozone Attainment Plan	Identification of contractors that can provide low NOx equipment and construction phasing schedule shall be determined prior to commencing construction	
<p>4.10-2 Reduce or otherwise minimize ozone precursor air-pollution emissions through the following activities implemented by the contractors:</p> <p>a. Perform routine maintenance/testing of construction equipment</p> <p>b. Use existing on-site electric power sources in place of diesel generators to the extent that these sources are available</p>	City and Sutter County	TNBC	Sacramento Area Regional Ozone Attainment Plan	Concurrent with construction activity	

TABLE 1
Mitigation Monitoring Plan Summary

Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Compliance Standards	Timing	Verification of Compliance (Initial & Date)
<p>4.10-3 Reduce or otherwise minimize PM10 air-pollution emissions through the following activities implemented by the contractors:</p> <ul style="list-style-type: none"> a. Reduce or suspend grading and excavation activity during windy periods (i.e., in excess of 15 miles per hour) b. Post and enforce speed limits on unpaved driving areas c. Treat completed sites with soil binders or vegetation d. Wash dirt off of trucks and other equipment before leaving construction site 	City and Sutter County	TNBC	Regional air quality attainment plans	Concurrent with construction activity	

APPENDIX E

2002 Giant Garter Snake Monitoring Report



Investigations of Giant Garter Snakes in The Natomas Basin: 2002 Field Season



Investigations of Giant Garter Snakes in The Natomas Basin: 2002 Field Season

By Glenn D. Wylie and Lisa L. Martin

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INTRODUCTION

The Dixon Field Station of the U.S. Geological Survey, Biological Resources Division, entered into an agreement with the Natomas Basin Conservancy to study giant garter snakes (*Thamnophis gigas*) in the Natomas Basin area of northern Sacramento County during the 2002 field season. Giant garter snakes are federally and state listed as threatened and, with Swainson's hawks, are the subject of a habitat conservation plan for the Natomas Basin. Our purpose is to develop information on distribution and abundance, habitat use, and demography of giant garter snakes in the Natomas Basin and to help develop strategies to properly manage and conserve giant garter snakes in this part of Sacramento County. We specifically surveyed property recently acquired by the Conservancy for giant garter snakes as well as continuing our assessment of giant garter snakes in other areas of the Natomas Basin. This agreement is a continuation of the giant garter snake project conducted at the Station since 1995. This document is a summary report of our findings for the 2002 field season.

METHODS

Study Sites

Because most lands in the Natomas Basin are privately owned, areas in which we could search for giant garter snakes were limited by specific permission to enter these properties. In addition to properties owned by the Conservancy, various landowners allowed us access to their lands.

Capture

We began the field season in late April using as our primary source of capture floating modified minnow traps deployed along edges of ditches, canals, and wetland vegetation (Casazza et al., 2000). We also searched on foot for snakes along the trap locations. We moved traps to new locations if we caught no snakes in a three to four week period. We used global positioning system (GPS) units to determine the geo-coordinates of capture locations with an error of about 5 meters. We also recorded environmental characteristics of the sites of snake captures, such as vegetation and substrate types and ambient temperature.

Measuring and Marking

Each snake was processed as soon as possible after capture to determine weight, total length, snout to vent length, and sex. Taxonomic features were also quantified such as labial scale counts on the head and dorsal scale counts at mid-body. Individuals were implanted with passively induced transponder (PIT) tags for permanent identification. All snakes were released at the point of capture as soon as possible after they were processed. Density estimates to giant garter snakes were made using the program CAPTURE for two week sampling intervals when recaptures warranted a density estimates for a sampling area.

Results

From late April into September we captured 76 female giant garter snakes and 64 male snakes, for a total of 140 individual captures; we captured 58 snakes multiple times. The size frequency distributions for the snakes caught in 2002 are shown in Figure 1 and Figure 2, and are consistent with results from previous years. Size frequencies indicate recruitment of young giant garter snakes into the population.

Our mark and recapture information for each of the ten trapping sites is shown in Tables 1-10. The total number of technician hours for the 2002 field season was 2814, which includes trap assembly, data entry and analysis, trap checking, and searching on foot. The effort we spent on trapping and searching is broken out by site in Table 11. Total captures ranged from 35 to 0 for the sites.

Development of giant garter snake habitat on Conservancy lands should proceed as quickly as practical. In the Sacramento Valley, water is being purchased from rice growers and the water exported to the south, and rice fields fallowed by water sales may increase. If land fallowed by water sales increases in the basin, the habitat managed by the Conservancy becomes all the more important to protecting snake populations. Also, development projects in the southern end of the Basin will destroy local snake populations, particularly when there is no avenue of escape from construction activity. In these cases the U.S. Fish and Wildlife Service should consider if snakes in these areas of imminent development should be captured in a salvage effort and relocated to TNBC property with suitable habitat. We could do a radio telemetry study to examine how these transplanted snakes adapt to their new locations and determine if transplanting within the Basin is a viable conservation measure.

Literature Cited

- Casazza, M. L., G. D. Wylie, and C. J. Gregory. 2000. A funnel trap modification for surface collection of aquatic amphibians and reptiles. *Herpetological Review* 31(2), 91-92.
- Wylie, G. D., M. L. Casazza, L. Martin, and E. Hansen. 2000. Investigations of giant garter snakes in the Natomas Basin: 2000 field season. Progress report to The Natomas Basin Conservancy. USGS-BRD, Dixon, CA.



Ditch on Sills Ranch property.

Table 1. Snake and trapping statistics associated with the Sills Ranch Property trapping effort.

Trapline Name	Population Estimate	Density Estimate (snakes/km)	Total number of captures	Total number of recaptures	Total number of traps	Trap Dates
Sills Ranch	*	*	6	0	55	7/11/02-8/26/02



Ditch located on Airport property, adjoining Miester Road.

Table 2. Snake and trapping statistics associated with trapping effort at Miester Road ditch.

Trapline Name	Population Estimate	Density Estimate (snakes/km)	Total number of captures	Total number of recaptures	Total number of traps	Trap Dates
Miester Road	*	*	1	0	28	8/8/02-9/10/02



Ditch off of Elkhorn Road.

Table 3. Snake and trapping statistics associated with trapping effort at Elkhorn ditch.

Trapline Name	Population Estimate	Density Estimate (snakes/km)	Total number of captures	Total number of recaptures	Total number of traps	Trap Dates
Elkhorn	*	*	0	0	59	7/18/02-8/23/02



Ditch on Bennett South property.

Table 4. Snake and trapping statistics associated with the trapping effort at Bennett South property ditch.

Trapline Name	Population Estimate	Density Estimate (snakes/km)	Total number of captures	Total number of recaptures	Total number of traps	Trap Dates
Bennett S.	27	45 ± 5.99 (95% C.I. 20-47)	20	6	30	6/11/02- 8/8/02



Ditch on Lucich North property

Table 5. Snake and trapping statistics associated with the trapping effort at the Lucich North property.

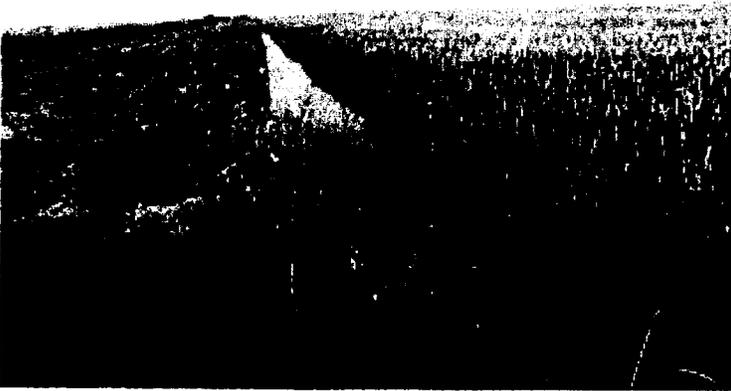
Trapline Name	Population Estimate	Density Estimate (snakes/km)	Total number of captures	Total number of recaptures	Total number of traps	Trap Dates
Lucich N.	41	31.8 ± 7.5 (95% C.I. 37-64)	35	13	62	4/23/02- 6/7/02



Ditch on east side of Ayala property



Ditch at south end of property



Edge of rice located at west side of Ayala property

Table 6. Snake and trapping statistics associated with the trapping effort at the Ayala property.

Trapline Name	Population Estimate	Density Estimate (snakes/km)	Total number of captures	Total number of recaptures	Total number of traps	Trap Dates
Ayala	*	*	0	0	73	7/3/02-8/22/02



Ditch commonly referred to as Snake Alley.

Table 7. Snake and trapping statistics associated with the trapping effort at Snake Alley.

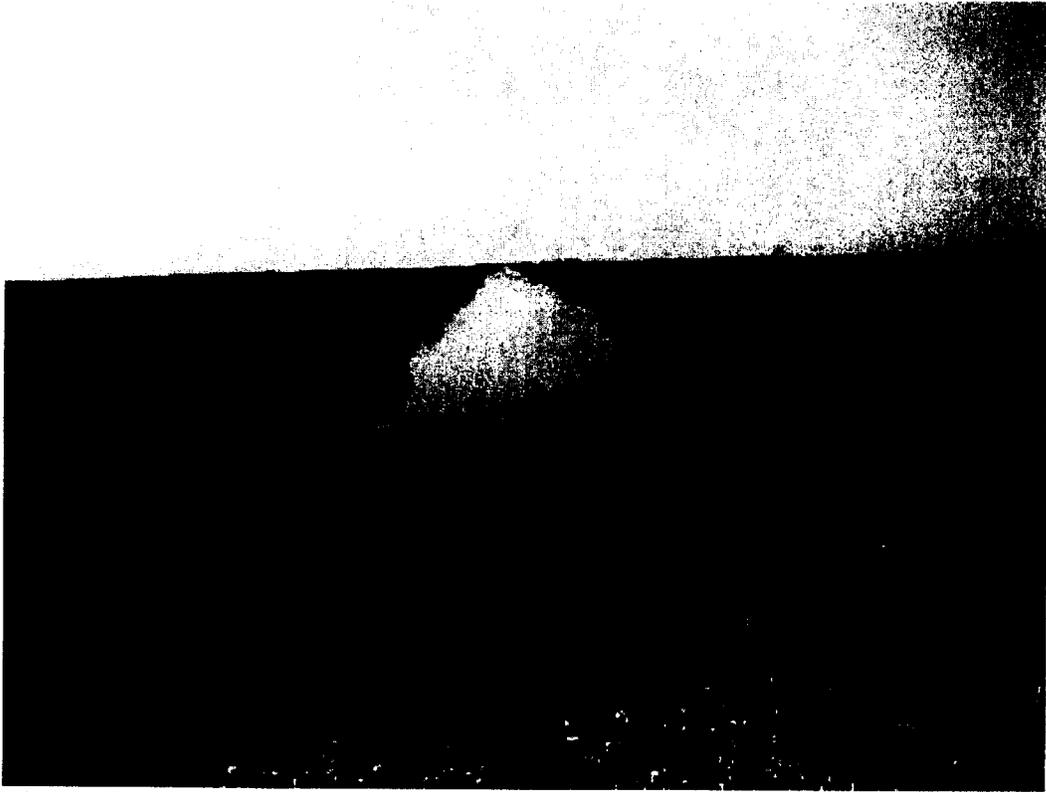
Trapline Name	Population Estimate	Density Estimate (snakes/km)	Total number of captures	Total number of recaptures	Total number of traps	Trap Dates
Snake Alley	38	20 ± 8.3 (95% C.I. 28-64)	24	10	59	5/17/02-7/18/02



Ditch on NTI property near I-99 and an airstrip.

Table 8. Snake and trapping statistics associated with trapping effort at canal known as Airstrip.

Trapline Name	Population Estimate	Density Estimate (snakes/km)	Total number of captures	Total number of recaptures	Total number of traps	Trap Dates
Airstrip	*	*	23	1	55	5/13/02-7/11/02



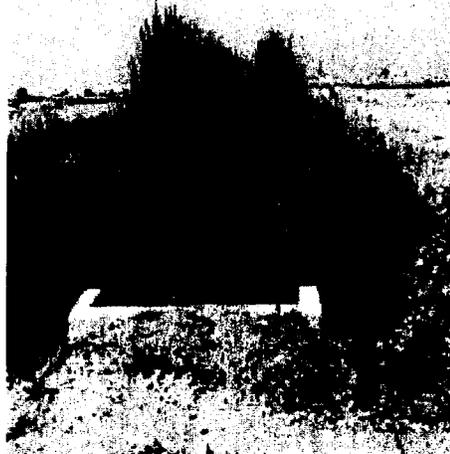
Ditch on Lucich South property.

Table 9. Snake and trapping statistics associated with trapping effort at Lucich South property.

Trapline Name	Population Estimate	Density Estimate (snakes/km)	Total number of captures	Total number of recaptures	Total number of traps	Trap Dates
Lucich S.	55	55 ± 12.5 (95% C.I. 38-89)	23	3	60	5/10/02- 7/3/02



Pond at east side of BKS



BKS E-W canal adjacent to pond



Pond at west end of BKSE-W canal



Canal middle of BKS property near house



Marsh S-W side of BKS



Ditch at west edge of BKS property

Table 10. Snake and trapping statistics associated with trapping effort at the BKS property.

Trapline Name	Population Estimate	Density Estimate (snakes/km)	Total number of captures	Total number of recaptures	Total number of traps	Trap Dates
BKS	*	*	2	1	63	6/7/02-9/10/02

Table 11. Trapping effort and technician hours involved in giant garter snake surveys in the Natomas Basin for the 2002 field season.

Trapline Name	Population Estimate	Density Estimate (snakes/km)	Total number of captures	Total number of recaptures	Total number of traps	Trap Dates	Tech Hours
Airstrip	*	*	23	1	55	5/13/02-7/11/02	264
Ayala	*	*	0	0	73	7/3/02-8/22/02	227
Bennett South	27	45 ± 5.99 (95% C.I. 20-47)	20	6	30	6/11/02-8/8/02	264
BKS	*	*	2	1	63	6/7/02-9/10/02	417
Elkhorn	*	*	0	0	59	7/18/02-8/23/02	170
Lucich North	41	31.8 ± 7.5 (95% C.I. 37-64)	35	13	62	4/23/02-6/7/02	207
Lucich South	55	55 ± 12.5 (95% C.I. 38-89)	23	3	60	5/10/02-7/3/02	240
Miester Road	*	*	1	0	28	8/8/02-9/10/02	146
Sills Ranch	*	*	6	0	55	7/11/02-8/26/02	209
Snake Alley	38	20 ± 8.3 (95% C.I. 28-64)	24	10	59	5/17/02-7/18/02	272

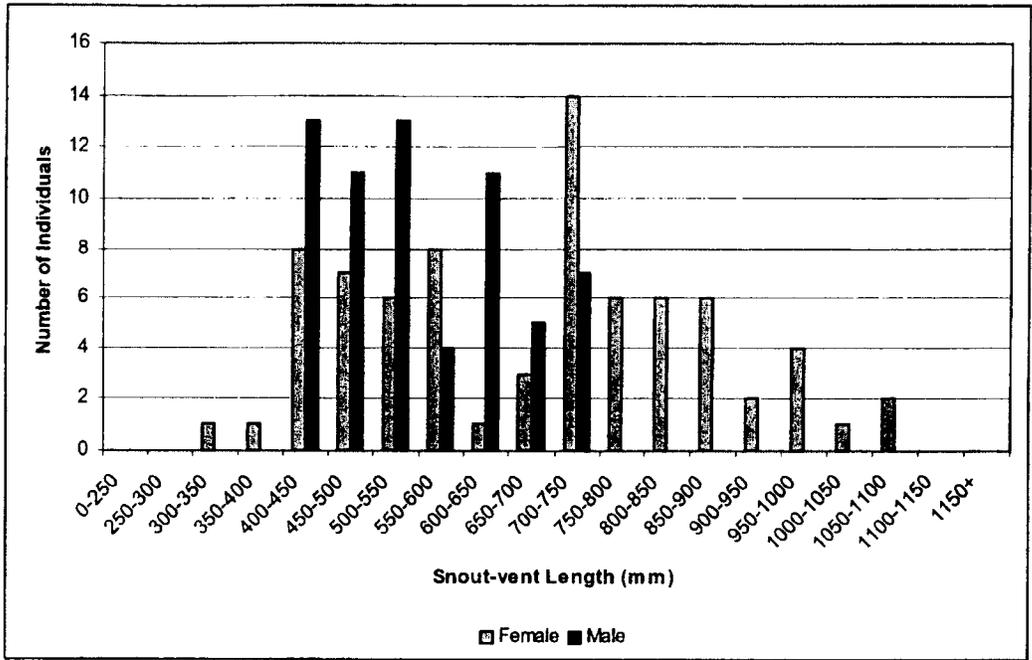


Figure 1. Length frequency distribution of giant garter snakes caught in 2002.

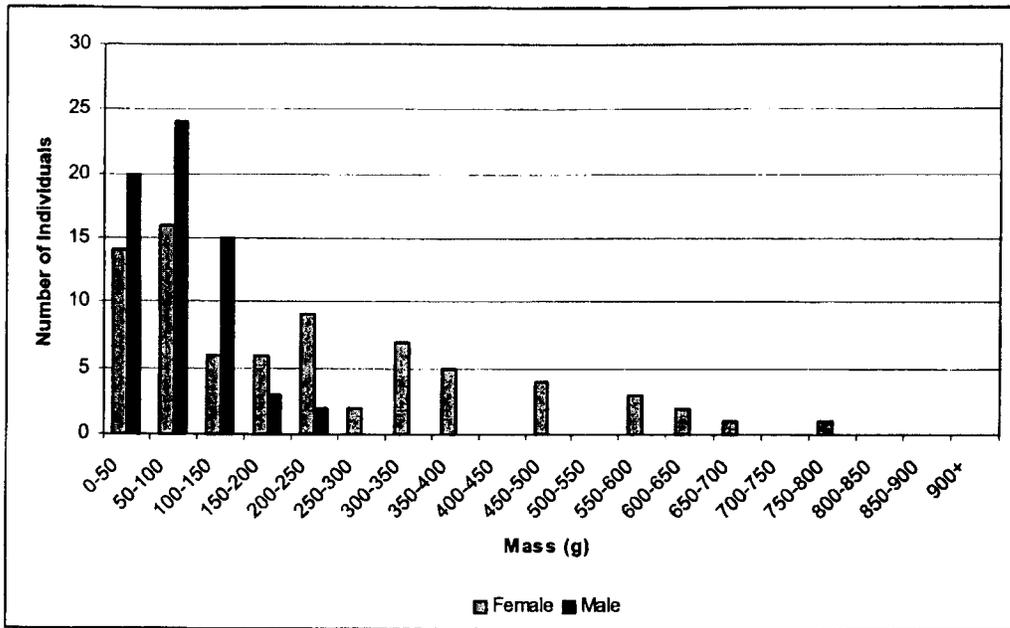


Figure2. Weight frequency distribution of giant garter snakes caught in 2002.

APPENDIX F

2002 Swainson's Hawk Monitoring Report

Nesting Swainson's Hawks (*Buteo swainsoni*) in the
Natomas Basin Habitat Conservation Plan Area

2002 Annual Survey Results

September 2002



Illustration by Brian Woodruff © 1988

Prepared for:

t h e
NATOMAS
BASIN
c o n s e r v a n c y

**Nesting Swainson's Hawks (*Buteo swainsoni*)
in the Natomas Basin Habitat Conservation Plan Area
2002 Annual Survey Results**

Prepared for:

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September 2002

Background

In November 1997, the Natomas Basin Habitat Conservation Plan (NBHCP) (City of Sacramento 1997) was submitted to the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (DFG) in support of an application for a federal permit under Section 10(a)(1)(B) of the Endangered Species Act and a state permit under Section 2081 of the California Fish and Game Code. The USFWS and DFG subsequently approved the plan and issued permits.

Among the 26 species covered in the NBHCP is the Swainson's hawk (*Buteo swainsoni*), a state-threatened species in California. The Swainson's hawk is known to occur throughout portions of the Natomas Basin, and along with the giant garter snake (*Thamnophis gigas*), is one of two focus species covered in the NBHCP.

The NBHCP and its Implementing Agreement specify the agreed-upon conditions upon which the permits are granted. Among these conditions is the requirement to conduct an annual survey of nesting Swainson's hawks (Chapter IV, Section C.2.c of the NBHCP). In compliance with the conditions as described in the NBHCP, this report summarizes the results of 2002 surveys for the Swainson's hawk in the NBHCP area.

On August 15, 2000, Federal Judge David Levi made a ruling related to a federal lawsuit (National Wildlife Federation vs. Bruce Babbitt, Secretary of the Interior) related to the NBHCP that invalidated the Section 10(a)(1)(B) permit issued by the USFWS. One result of the lawsuit is that a revised HCP would be required, which would subsequently result in a new Section 10(a)(1)(B) permit. The revised draft NBHCP, dated July 2002, is expected to be finalized by the end of 2002 and a new 10(a)(1)(B) permit is expected by spring 2003. The revised draft NBHCP also specifies basin-wide annual monitoring for Swainson's hawk. However, until the new permit is issued, the monitoring requirements specified in the original NBHCP, including conducting annual surveys for nesting Swainson's hawk, remain in effect.



Location

The Natomas Basin is a 53,341-acre low-lying area of the Sacramento Valley located in the northern portion of Sacramento County and the southern portion of Sutter County (Figure 1). The Natomas Basin is bounded on the west by the Sacramento River, on the east and south by the Natomas East Main Drain Canal, and on the north by the Natomas Cross Canal (Figure 2). The NBHCP area includes the interior of the Basin, inside the inner peripheral levees of Sacramento River, Natomas Cross Canal, and Natomas East Main Drain Canal.

Setting

The Natomas Basin is within the historical floodplain of the Sacramento and American Rivers. Prior to agricultural conversion, the Basin consisted of wetlands, narrow streams with associated riparian vegetation, shallow lakes, and grasslands on the higher terraces along the eastern edge of the Basin. During the late 1800's and early 1900s, most of Basin was converted to agriculture. Most native habitats were removed and channelized water delivery systems replaced the natural stream corridors.

The central and northern portions of the Basin are the lowest elevation areas within the Basin. With deep clay soils the flat, largely treeless terrain is characterized primarily by rice farming (Plate 1). Very few trees or other vegetation types are present with the exception of the Cross Canal along the northern border of the basin. This area consists of a mature riparian forest and wetland complex throughout its length (Plate 2).

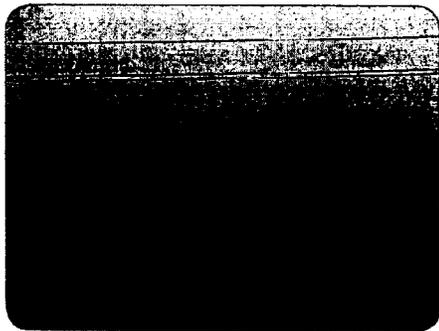


Plate 1. Typical Habitat of the North and Central Basin.

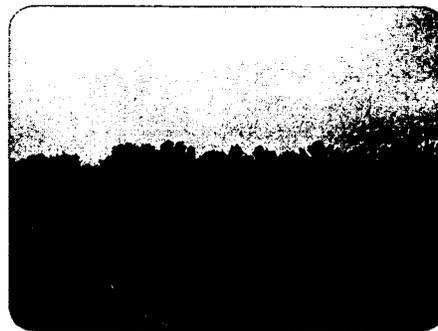


Plate 2. Natomas Cross Canal.

Situated primarily on alluvial soils, the southern and western portions of the basin are characterized by a mixture of row, grain, and hay crops. Throughout this area, small remnant stands of valley oak woodland and remnant patches of riparian woodland, such as along Fisherman's Lake, persist in an otherwise entirely agricultural area (Plate 3). The southern portion of this area is also rapidly converting to urbanization, primarily residential developments (Plate 4). Along the western edge is the Sacramento River, consisting of mature cottonwood-dominated riparian forest (Plate 5).

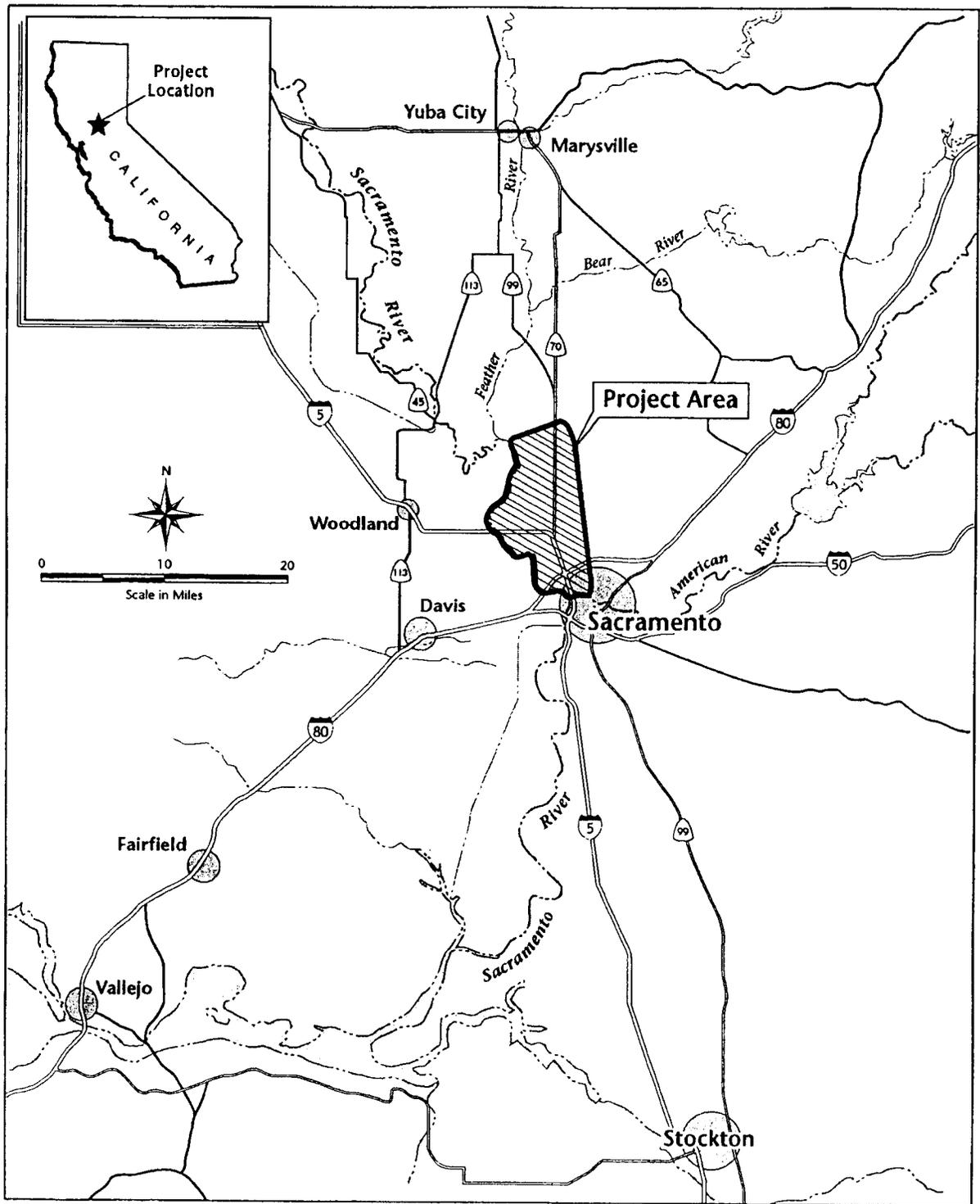


Figure 1. Natomas Basin Regional Location Map

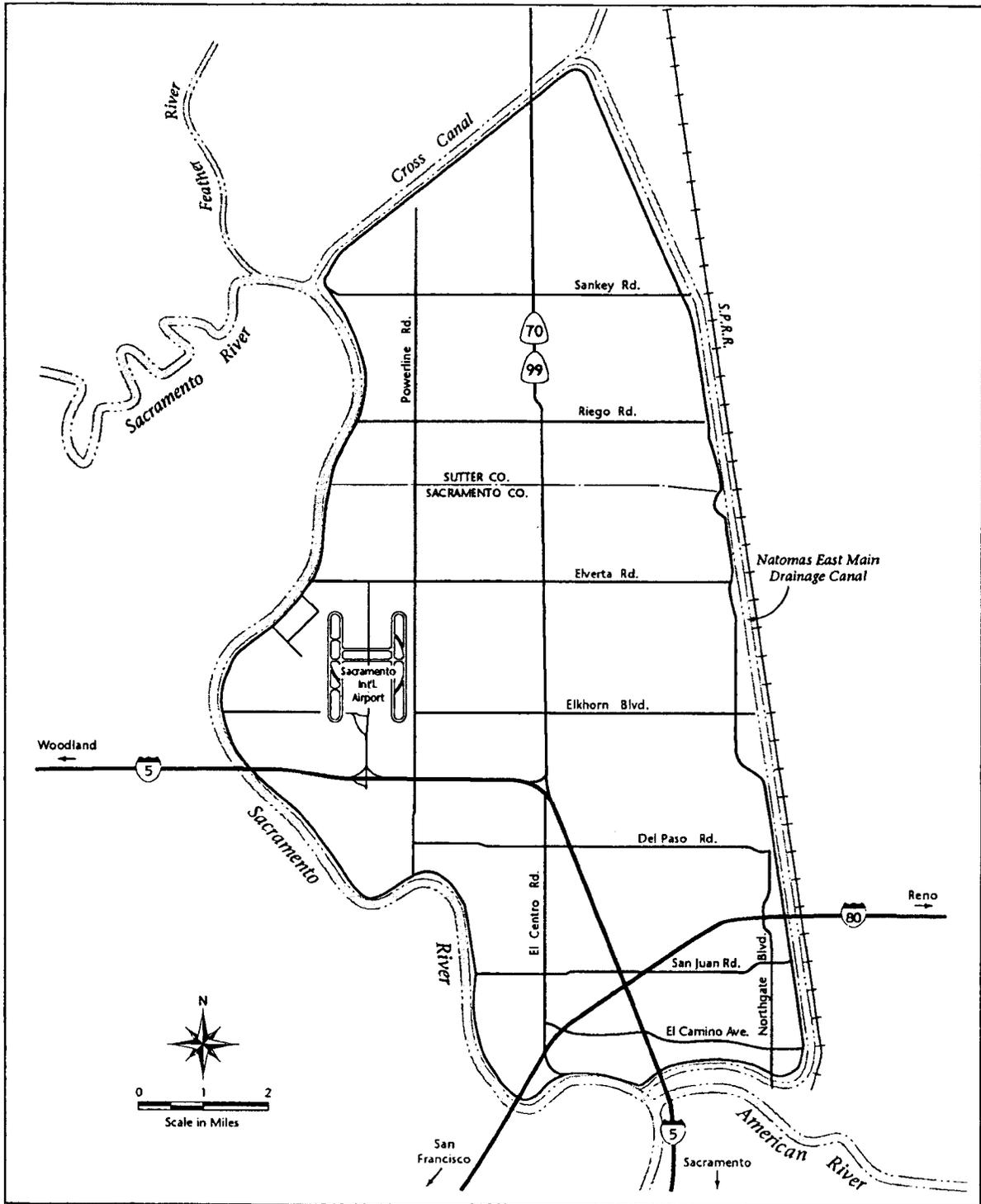


Figure 2. Natomas Basin

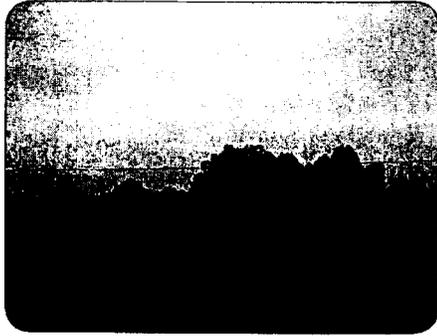


Plate 3. Typical Habitat of the West and South Basin.

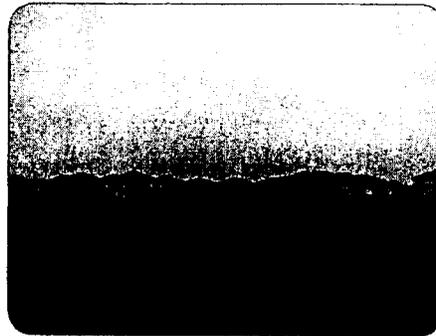


Plate 4. Residential Development in the South Basin.

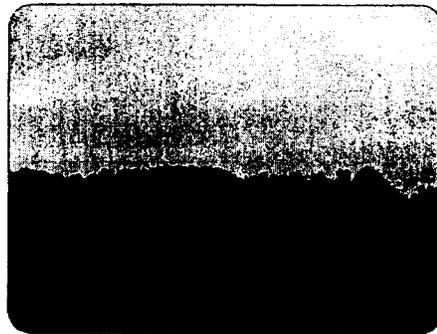


Plate 5. Riparian Forest along the Sacramento River.

The eastern edge of the Basin occurs on a slightly higher terrace than the rest of the Basin. This area, consisting primarily of loam and clay-loam soils and gently rolling topography is characterized by annual grasslands and grazed dry and irrigated pastures (Plate 6). This area is bordered on the east by the Natomas East Main Drain, a channelized drainage that supports an extensive wetland complex and sparse riparian vegetation along its length (Plate 7).

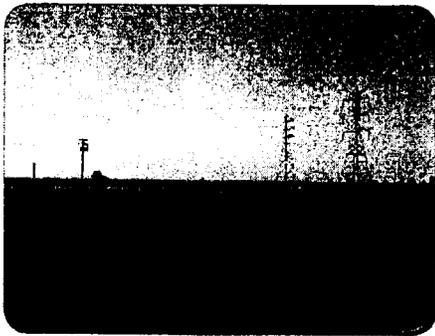


Plate 6. Typical Habitat of the East Basin.



Plate 7. Natomas East Main Drain.

Life History and Habitat Associations

Status and Range. The Swainson's hawk (Plate 8) inhabits grassland plains and agricultural regions of western North America during the breeding season and winters in grassland and agricultural regions extending from Central Mexico to southern South America (England et.al 1997, Bradbury et al. *in preparation*). Early accounts described the Swainson's hawk as one of the most common raptors in California, occurring throughout much of lowland California (Sharp 1902). Since the mid-1800s, these native habi-



Plate 8. Adult Swainson's Hawk.

tats have undergone a gradual conversion to agricultural uses. Today, native grassland habitats are virtually nonexistent in the state, and only remnants of the once vast riparian forests and oak woodlands still exist (Katibah 1983). This habitat loss has caused a substantial reduction in the breeding range and the size of the breeding population in California (Bloom 1980, England et al. 1997). Swainson's hawks are also sensitive to habitat fragmentation and will avoid low-density development (e.g., parcels with improvements subdivided to <10 acres) even though suitable prey conditions may exist (Estep and Teresa 1992) (However, Swainson's hawks are known to re-inhabit dense urban areas to nest if suitable nesting trees are present and suitable foraging habitat exists within 2 miles of the nest (England et al. 1995). The state currently supports between 700 and 1,000 Swainson's hawk breeding pairs (Swainson's Hawk Technical Advisory Committee file data), which represents less than 10% of the historic population (Bloom 1979).

The Central Valley population (between 600 and 900 breeding pairs) extends from Tehama County southward to Tulare and Kings Counties. The Central Valley is surrounded by mountains, including the Sierra Nevada on the east and the Cascade Range on the north, and is thus geographically isolated from the rest of the species' range. Extensive banding (Estep 1989, *unpublished data*, P. Bloom *unpublished data*, B. Woodbridge *unpublished data*) suggests that no movement occurs between the Central Valley breeding population and other populations. Results of satellite radio-telemetry studies of migratory patterns

further indicates little to no interaction between the Central Valley population and other populations of Swainson's hawks (Bradbury et al. *In preparation*).

Despite the loss of native habitats in the Central Valley, the Swainson's hawk appears to have adapted relatively well to certain types of agricultural patterns in areas where suitable nesting habitat remains (Plate 9).

The optimal foraging and nesting habitat conditions in Yolo and portions of Sacramento and San Joaquin Counties support the bulk of the Central Valley Swainson's hawk population (Estep 1989, Estep *In preparation*) (Figure 3).

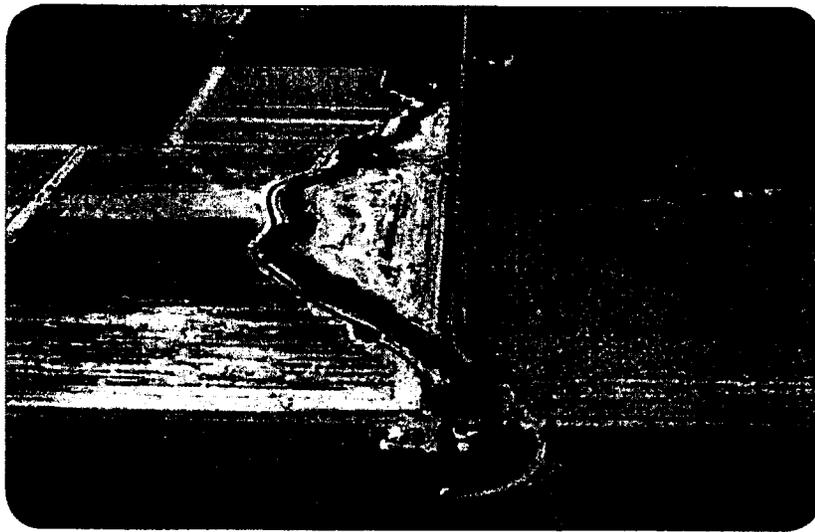


Plate 9. Typical Swainson's Hawk Nesting and Foraging Habitat in the Central Valley.

Habitat Use. Swainson's hawks usually nest in large native trees such as Valley Oak (*Quercus lobata*), cottonwood (*Populus fremontia*), willow (*Salix* sp.) (or occasionally in non-native trees, such as eucalyptus [(*Eucalyptus* sp.)]). Nests occur in riparian woodlands, roadside trees, trees along field borders, isolated trees, small groves, and on the edges of remnant oak woodlands. Stringers of remnant riparian forest along drainages contain the majority (87%) of known nests in the Central Valley (England et al. 1997, Estep 1984, Schlorff and Bloom 1984). Nests are usually constructed as high as possible in the tree, providing optimal protection and visibility from the nest (Plate 10).

Nesting pairs are highly traditional in their use of nesting territories and nesting trees. Many nest sites in the Central Valley have been occupied annually since 1979 (Estep *unpublished data*), and banding studies conducted since 1986 confirm a high degree of nest and mate fidelity (Estep *in preparation*). Nesting habitat for Swainson's hawks continues to decline in the Central Valley because of flood control projects, agricultural practices, and urban expansion.

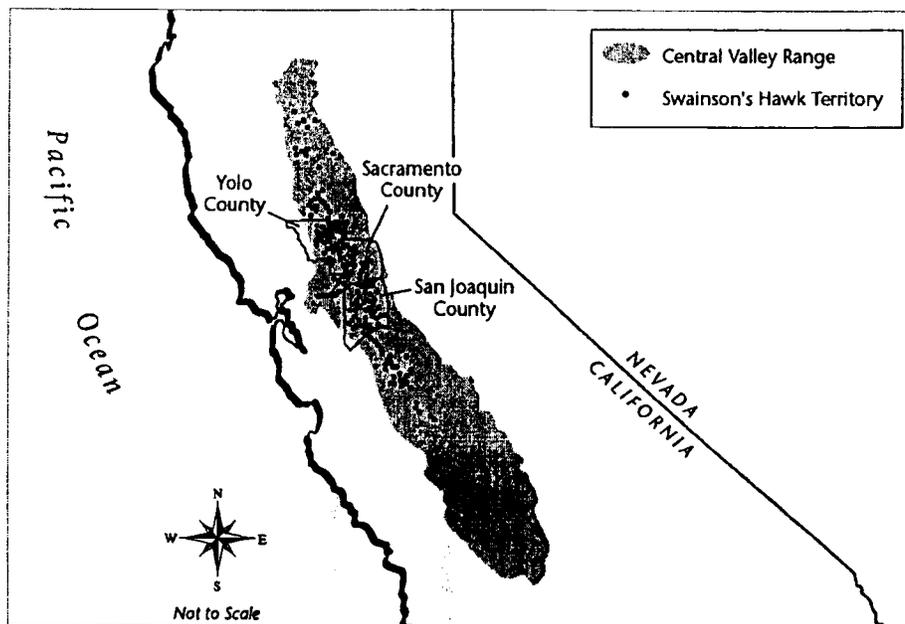


Figure 3. Distribution of the Swainson's Hawk in the Central Valley of California

In the Central Valley, Swainson's hawks feed primarily on small rodents, usually in large fields that support low vegetative cover (to provide access to the ground), and provide the highest densities of prey (Bechard 1982, Estep 1989). These habitats include fields of hay and grain crops and certain row crops, such as tomatoes and sugar beets, and lightly grazed pasturelands. Fields lacking adequate prey populations (e.g., flooded rice fields) or those that are inaccessible to foraging birds (e.g., vineyards and orchards) are rarely used (Estep 1989, Babcock 1995). Urban expansion and conversion to unsuitable crop types (e.g., vineyards and orchards) are responsible for a continuing reduction of available Swainson's hawk foraging habitat in the Central Valley.

Breeding Season Phenology. Swainson's hawks arrive onto the breeding grounds from early March to early April. Breeding pairs immediately begin constructing new nests or repairing old nests. Eggs are usually laid in mid-to late-April, and incubation continues until mid-May when young begin to hatch. The brooding period typically continues through early- to mid-July when young begin to fledge (England et al. 1997). Studies conducted in the Sacramento Valley indicate that 1 or 2 young and occasionally 3 young typically fledge from successful nests, with an average of 1.4 to 1.8 young per successful nest (Estep *in preparation*) (Plate 11). After fledging, young remain near the nest and are dependent on the adults for about 4 weeks, after which they permanently leave the breeding territory (Anderson et al. *in progress*). By mid-August, breeding territories are no longer defended and Swainson's hawks begin to form communal groups. These groups begin their fall migration from late August to late-September. Unlike the rest of the species, which migrates to southern Argentina for the winter, the Central Valley population winters primarily in Central Mexico, and to a lesser extent throughout portions of Central and South America (Bradbury et al. *in preparation*).



Plate 10. Typical Swainson's Hawk Nest.

Methods

Surveys were conducted by systematically driving all available roads within the NBHCP area. Where roads were not available to drive (e.g., levee road along the Cross Canal), or where there were no roads to access potential nest trees, the survey was conducted on foot. All potential nesting trees were searched for nests and adult Swainson's hawks using binoculars and/or a spotting scope.

Surveys were conducted in three phases. Phase one was conducted early in the breeding season (late March to mid-April) to detect Swainson's hawk activity at previously known nest sites and in all other suitable nesting habitat. All suitable nesting habitat was checked for the presence of adult Swainson's hawks and to note all nesting activity and behavior (e.g., nest construction, courtship flights, defensive behavior). Activity was noted and mapped on field maps.

Phase two surveys were conducted in mid-May through June to determine if breeding pairs detected during phase one surveys were actively nesting and to resurvey all previously unoccupied potential nesting habitat for active nests.

Phase three surveys were conducted in July to determine nesting success and record the number of fledged young per nest.

Incidental observations were also noted, including foraging and roosting, and other observations of adult Swainson's hawks to determine nesting status.

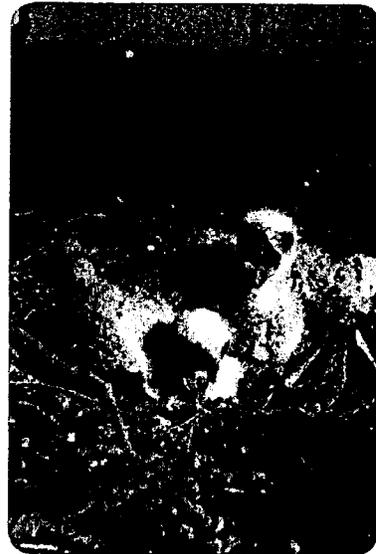


Plate 11. Nestling Swainson's Hawks.

Results

Nest sites occur primarily in the southern portion of the Basin, or along the far western and northern edges of the Basin. These are areas that support both suitable nesting and foraging habitat. Crop patterns include a mixture of hay, row, and grain crops. Suitable nesting trees occur along roadsides, remnant riparian and oak woodlands, and isolated trees. Most of the Basin north of Elkhorn Boulevard and east of Powerline Road is unsuitable or marginally suitable for nesting or foraging Swainson's hawks, and thus most of the area does not support nesting pairs. The agricultural land use is dominated by rice, which provides limited foraging value to Swainson's hawks; and very few trees exist in the region, limiting potential nesting sites.

A total of 70 Swainson's hawk nesting territories were monitored in 2002 (Table 1). Among these are 4 new sites in the interior of the basin (NB-63, NB-64, NB-65, and NB-69) and 3 new territories along the Sacramento River (NB-66, NB-67, and NB-70).

During 1999 and 2000 surveys, Sacramento River data were separated from the rest of the NBHCP Swainson's hawk data because of inconsistent coverage. 2001 and 2002 surveys included the Sacramento River nesting pairs during all phases of monitoring, and thus all known nest sites within the NBHCP boundaries and peripheral areas (i.e., Sacramento River, Natomas Cross Canal, and Natomas East Main Drain) are now combined into one data base. This area, the NBHCP area and peripheral drainages, is heretofore referred to as the survey area.

Of the 70 known nesting territories in the survey area, 43 were active (i.e., at least one adult was present on the nesting territory) and 27 were inactive (i.e., neither adult was observed on the nesting territory) in 2002. Of the 43 active sites, 24 were occupied by breeding pairs that successfully nested (i.e., reared young to fledging), producing a total of 38 fledglings. Eighteen of the remaining 19 active sites did not successfully reproduce; and the reproductive outcome of 1 site was undetermined. Eleven of these nested but failed to rear young to fledging and 7 were occupied by the adult breeding pair but they did not attempt nesting. Table 2 presents the activity and reproductive data available for all 70 known nesting territories in the survey area between 1998 and 2002.

Overall reproductive performance was similar to 2001 but low compared with 1999 and 2000 results (Swainson's Hawk Technical Advisory Committee 1999, 2000, 2001) (Table 3). While the total number of known nests and active nests has increased each year since 1999, the proportion of these successfully reproducing has declined. However, the number of young per successful nest has remained relatively stable between these years (Table 3), and is generally consistent with the Sacramento Valley population as a whole since the mid-1980s (Estep *in preparation*).

Table 1. Results of 2002 Swainson's Hawk Survey,
Natomas Basin Habitat Conservation Plan Area

Nest Site Number	Status	Number of Young	Nesting Habitat	Nest Tree Species
NB-1	inactive at farmstead	0	remnant grove	walnut
NB-2	inactive	0	ornamental	cottonwood
NB-3	inactive	0	two isolated cottonwood trees	cottonwood
NB-4	inactive	0	riparian	cottonwood
NB-5	inactive	0	riparian	willow
NB-6	active/not nesting	0	ornamental	eucalyptus
NB-7	inactive	0	nest trees removed in 2002	none
NB-8	active/successful	1	ornamental landscaping	cottonwood
NB-9	inactive	0	riparian along irrigation channel	cottonwood
NB-10	inactive	0	isolated tree	cottonwood
NB-11	active/failed	0	riparian	cottonwood
NB-12	active/did not nest	0	riparian	cottonwood
NB-13	active/successful	2	riparian	cottonwood
NB-14	active/successful	2	ornamental	eucalyptus
NB-15	inactive	0	nesting habitat removed in 2002	none
NB-16	inactive	0	remnant oak grove	valley oak

Table 1, Continued

Nest Site Number	Status	Number of Young	Nesting Habitat	Nest Tree Species
NB-17	inactive	0	lone tree, removed in 1998	ornamental mulberry
NB-18	active/successful	2	lone tree, just south of former site	cottonwood
NB-19	active/failed	0	tree along irrigation channel	willow
NB-20	inactive	0	nest tree removed in 2002	none
NB-21	active/did not nest	0	riparian	cottonwood
NB-22	active/did not nest	0	tree along irrigation channel	cottonwood
NB-23	active/successful	2	riparian	cottonwood
NB-24	active/successful	2	riparian	valley oak
NB-25	active/did not nest	0	riparian	walnut
NB-26	inactive	0	nesting habitat removed in 2002	none
NB-27	active/successful	2	riparian	cottonwood
NB-28	active/successful	2	riparian	cottonwood
NB-29	inactive	0	riparian	cottonwood
NB-30	inactive	0	riparian	cottonwood
NB-31	active/successful	1	riparian	cottonwood
NB-32	inactive	0	riparian	cottonwood
NB-33	active/successful	1	riparian	willow

Table 1, Continued

Nest Site Number	Status	Number of Young	Nesting Habitat	Nest Tree Species
NB-34	active/did not nest	0	riparian	cottonwood
NB-35	active/successful	2	riparian	cottonwood
NB-36	active/failed	0	riparian	cottonwood
NB-37	inactive	0	riparian	cottonwood
NB-38	active/failed	0	riparian	cottonwood
NB-39	active/failed	0	riparian	cottonwood
NB-40	active/failed	0	riparian	cottonwood
NB-41	active/successful	1	riparian	cottonwood
NB-42	inactive	0	riparian	cottonwood
NB-43	active/successful	2	riparian	cottonwood
NB-44	active/failed	0	riparian	cottonwood
NB-45	active/did not nest	0	riparian	valley oak
NB-46	inactive	0	riparian	cottonwood
NB-47	active/successful	2	riparian	cottonwood
NB-48	inactive	0	riparian	valley oak
NB-49	active/successful	1	riparian	cottonwood
NB-50	inactive	0	riparian	sycamore

Table 1, Continued

Nest Site Number	Status	Number of Young	Nesting Habitat	Nest Tree Species
NB-51	active/successful	1	riparian	cottonwood
NB-52	active/successful	2	riparian	cottonwood
NB-53	inactive	0	riparian	cottonwood
NB-54	inactive	0	riparian	cottonwood
NB-55	active/successful	2	riparian	cottonwood
NB-56	inactive	0	riparian	cottonwood
NB-57	inactive	0	riparian	cottonwood
NB-58	inactive	0	riparian	cottonwood
NB-59	inactive	0	riparian	cottonwood
NB-60	inactive	0	riparian	cottonwood
NB-61	active/failed	0	riparian	cottonwood
NB-62	active/failed	0	riparian	cottonwood
NB-63	active/successful	2	lone tree	willow
NB-64	active/successful	2	riparian	cottonwood
NB-65	active/failed	0	riparian	cottonwood
NB-66	active/successful	1	riparian	cottonwood

Table 1, Continued

Nest Site Number	Status	Number of Young	Nesting Habitat	Nest Tree Species
NB-67	active/successful	1	riparian	cottonwood
NB-68	active/successful	1	riparian	cottonwood
NB-69	active/successful	1	freeway	willow landscape tree
NB-70	active/unknown outcome	unknown	riparian	valley oak
<p>Active = at least one adult observed on the nesting territory Inactive = neither adult observed on the nesting territory Successful = young reared to fledging Failed = nesting attempted with no young reared to fledging Unknown Outcome = nesting attempted, but unknown if young reared to fledging Did not nest = adults present on the nesting territory but not nesting</p>				

Table 2. Swainson's Hawk Nesting Status and Reproductive Data, 1998 through 2002, Natomas Basin Habitat Conservation Plan Area

Nest Site	1998	1999	2000	2001	2002
NB-1	no data successful;	active; successful;	active; successful; 2 young	active; 2 young	inactive 1 young
NB-2	active; unknown outcome	active; successful; 2 young	active; did not nest; 0 young	inactive	inactive
NB-3	no data successful; 1 young	active; successful; 3 young	active; did not nest; 0 young	active;	inactive
NB-4	no data successful; 2 young	active; did not nest; 0 young	active;	inactive	inactive
NB-5	no data	active; successful; 1 young	inactive	active; failed; 0 young	inactive
NB-6	active; unknown outcome	active; successful; 2 young	inactive	inactive	active; did not nest 0 young
NB-7	active; unknown outcome	active; successful; 2 young	active; successful; 3 young	active; successful; 2 young	inactive
NB-8	active; unknown outcome	active; successful; 3 young	active did not nest; 0 young	active; successful; 2 young	active; successful; 1 young
NB-9	active; unknown outcome	active; successful; 2 young	active; successful; 2 young	active did not nest; 0 young	inactive
NB-10	no data	active; successful; 1 young	active; failed; 0 young	inactive	inactive
NB-11	active; unknown outcome	active; successful; 2 young	active; failed; 0 young	active; failed; 0 young	active; failed; 0 young
NB-12	active; failed; 0 young	active; successful; 1 young	active; did not nest; 0 young	active; did not nest; 0 young	active; did not nest; 0 young
NB-13	active; unknown outcome	active; successful; 2 young	active; successful; 2 young	active; successful; 2 young	active; successful; 2 young
NB-14	active; unknown outcome	active; successful; 2 young	active; successful; 2 young	active; successful; 2 young	active; successful; 2 young

Table 2, Continued

Nest Site	1998	1999	2000	2001	2002
NB-15	active; failed; 0 young	active; failed; 0 young	inactive	inactive	inactive
NB-16	active; unknown outcome	inactive	inactive	inactive	inactive
NB-17	active failed; 0 young	inactive	inactive	inactive	inactive
NB-18	active; failed; 0 young	inactive	inactive	inactive	active; successful; 2 young
NB-19	no data	no data	active; failed; 0 young	active; successful; 2 young	active; failed; 0 young
NB-20	no data	no data	active; successful; 1 young	active; failed; 0 young	inactive
NB-21	no data	no data	active; failed; 0 young	active; failed; 0 young	active; did not nest; 0 young
NB-22	no data	no data	active; successful; 1 young	active; failed; 0 young	active; did not nest; 0 young
NB-23	no data	no data	active; successful; 2 young	active; successful; 2 young	active; successful; 2 young
NB-24	no data	no data	active; successful; 2 young	active; successful; 1 young	active; successful; 2 young
NB-25	no data	no data	no data	active; failed; 0 young	active; did not nest; 0 young
NB-26	no data	no data	no data	active; successful; 2 young	inactive
NB-27	no data	no data	no data	active; successful; 2 young	active; successful; 2 young

Table 2, Continued

Nest Site	1998	1999	2000	2001	2002
NB-28	no data	no data	active; unknown outcome	active; successful; 1 young	active; successful; 2 young
NB-29	no data	no data	active; unknown outcome	inactive	inactive
NB-30	no data	no data	no data	active; failed; 0 young	inactive
NB-31	no data	no data	active; unknown outcome	active; did not nest; 0 young	active; successful; 1 young
NB-32	no data	no data	active; unknown outcome	active did not nest; 0 young	inactive
NB-33	no data	no data	no data	active; successful; 1 young	active; successful; 1 young
NB-34	no data	no data	active; unknown outcome	active; did not nest; 0 young	active; did not nest; 0 young
NB-35	no data	no data	active; unknown outcome	inactive	active; successful; 2 young
NB-36	no data	no data	active; unknown outcome	active; failed; 0 young	active; failed; 0 young
NB-37	no data	no data	active; unknown outcome	active; did not nest; 0 young	inactive
NB-38	no data	no data	no data	active; failed; 0 young	active; failed; 0 young
NB-39	no data	no data	no data	active; failed; 0 young	active; failed; 0 young
NB-40	no data	no data	active; unknown outcome	active; failed; 0 young	active; failed; 0 young

Table 2, Continued

Nest Site	1998	1999	2000	2001	2002
NB-41	no data	no data	no data	active; successful; 2 young	active; successful; 1 young
NB-42	no data	no data	no data	active; failed; 0 young	inactive
NB-43	no data	no data	active; unknown outcome	active; failed; 0 young	active; successful; 2 young
NB-44	no data	no data	active; unknown outcome	active; successful; 1 young	active; failed 0 young
NB-45	no data	no data	no data	active; successful; 2 young	active; did not nest; 0 young
NB-46	no data	no data	no data	active; successful; 2 young	inactive
NB-47	no data	no data	active; unknown outcome	active; successful; 2 young	active; successful; 2 young
NB-48	no data	no data	active; unknown outcome	inactive	inactive
NB-49	no data	no data	no data	active; successful; 2 young	active; successful; 1 young
NB-50	no data	no data	active; unknown outcome	inactive	inactive
NB-51	no data	no data	active; unknown outcome	active; successful; 2 young	active; successful; 1 young
NB-52	no data	no data	active; unknown outcome	active; successful; 2 young	active; successful; 2 young
NB-53	no data	no data	active; unknown outcome	active; failed; 0 young	inactive

Table 2, Continued

Nest Site	1998	1999	2000	2001	2002
NB-54	no data	no data	no data	active; successful; 1 young	inactive
NB-55	no data	no data	no data	active; successful; 1 young	active; successful; 2 young
NB-56	no data	no data	active; unknown outcome	inactive	inactive
NB-57	no data	no data	active; unknown outcome	inactive	inactive
NB-58	no data	no data	no data	active; failed; 0 young	inactive
NB-59	no data	no data	active; unknown outcome	inactive	inactive
NB-60	no data	no data	active; unknown outcome	inactive	inactive
NB-61	no data	no data	no data	active; successful; 1 young	active; failed; 0 young
NB-62	no data	no data	active; unknown outcome	active; successful; 2 young	active; failed; 0 young
NB-63	no data	no data	no data	no data	active; successful; 2 young
NB-64	no data	no data	no data	no data	active; successful; 2 young
NB-65	no data	no data	no data	no data	active; failed; 0 young
NB-66	no data	no data	no data	no data	active; successful; 1 young

Table 2, Continued

Nest Site	1998	1999	2000	2001	2002
NB-67	no data	no data	no data	no data	active; successful; 1 young
NB-68	no data	no data	no data	no data	active; successful; 1 young
NB-69	no data	no data	no data	no data	active; successful; 1 young
NB-70	no data	no data	no data	no data	active; unknown outcome
<p>Active = at least one adult observed on the nesting territory Inactive = neither adult observed on the nesting territory Successful = young reared to fledging Failed = nesting attempted with no young reared to fledging Unknown Outcome = nesting attempted, but unknown if young reared to fledging Did not nest = adults present on the nesting territory but not nesting No Data = Survey not conducted or no activity detected during the year indicated</p>					

Table 3. Reproductive Data for Active Swainson's Hawk Territories in the Natomas Basin Habitat Conservation Plan Area, from 1999 to 2002

Year	Number Active Territories	Number Successful Nests	Number Failed Nests	Number Active but not Nesting	Number Young Reared to Fledging	Number Young per Active Territory	Number Young per Occupied Nest	Number Young per Successful Nest
Excluding Sacramento River¹								
1999	15	14	1	0	25	1.67	1.67	1.79
2000	18	10	4	4	20	1.11	1.43	2.00
2001	19	10	6	3	18	0.95	1.13	1.80
Including Sacramento River								
2001	46	24	15	7	40	0.87	1.03	1.67
2002	42 ²	24	11	7	38	0.90	1.09	1.58

1) The Sacramento River territories are excluded here because only two years (2001 and 2002) of reproductive data are available.

2) NB-70 is excluded because reproductive outcome at that active site was undetermined. The actual number of active territories in 2002 was 43.

Development and Acquisition

To date, acquisition of conservation lands (Table 4) has kept pace with the number of acres of development permitted under the HCP, using the 0.5:1 ratio required under the HCP. Figure 4 illustrates the approximate locations of lands permitted for development under the HCP and lands acquired as conservation lands by the Natomas Basin Conservancy. As of September 1, 2002, a total of 4,061.84 acres of land has been permitted for development under the HCP, and (with the addition of two parcels for which the sale has not closed as of this report [Table 4]) a total of 2,782 acres on 15 parcels will have been acquired and will be managed as conservancy lands. Site-specific management plans have been prepared and approved by the Natomas Basin Conservancy for 11 of the 15 conservation land parcels (Wildlands, Inc. 2001, 2002).

Recommendations

1. Rely on survey results to strategize acquisition efforts with the goal of sustaining the existing Swainson's hawk population. Many of the pairs are within or near areas that will be impacted by current or planned development. Thus, a net loss of suitable nesting and foraging habitat, and breeding pairs, is expected. To sustain the population in the basin and to offset this loss, efforts should be made to create new nesting and foraging habitat in protected areas.
2. Focus acquisition efforts within 1 mile of the Sacramento River. This is the area that is currently most critical to sustaining the existing population because it supports suitable nesting and foraging habitat, and the majority of breeding pairs that use the basin. Enhancement efforts (i.e., converting unsuitable habitat to suitable habitat) within this area will help to offset the loss described in number 1 above.
3. Focus acquisition and restoration efforts on upland habitats. While seasonal wetlands can provide some foraging value to Swainson's hawks, permanent uplands provide the highest value foraging habitat. Permanent uplands include non-rice agricultural fields, grasslands, and pastures.
4. Develop a Basin-wide strategy for acquisition and management of Swainson's hawk habitat. Identify areas throughout the Basin that could contribute to sustaining and/or expanding the Swainson's hawk population through management, enhancement, or creation of suitable habitat.
5. Carefully select and give preference to conservation sites that provide potential for additional acquisition of neighboring properties.
6. Preference should be given to utilizing simple management techniques and existing farm resources for the Swainson's hawk components of the reserve lands. Efforts should be made to integrate surrounding farmlands with reserve lands.

**Table 4. Natomas Basin Habitat Conservation Plan
Mitigation Land Acquisition as of August, 2002**

Property	Date Acquired	Acres
Silva	1-7-99	159.200
Betts	4-5-99	138.992
Kismat	4-16-99	40.293
Bennett (North)	5-17-99	226.675
Bennett (South)	5-17-99	132.486
Lucich North*	5-18-99	247.31
Lucich South	5-18-99	351.889
Brennan	6-15-00	241.376
Frazer	7-31-00	92.600
Souza**	7-02-01	44.68
Natomas Farms	7-09-01	96.46
Ayala	2-20-02	317.3674
Sills***	7-15-02	575.5559
Alleghany 50	Not Closed	50.2601
Cummings	Not Closed	66.8307
Total		2,781.9751

* Lucich reduced from records reflecting up to 20.68 acres conveyed to SAFCA (pending).

** Agreement of Purchase and Sale provides that seller can partition 3.68 acres during a 24-month period following sale.

*** Partially donated in lieu of Acquisition Fund portion of fee, partially paid for by TNBC.

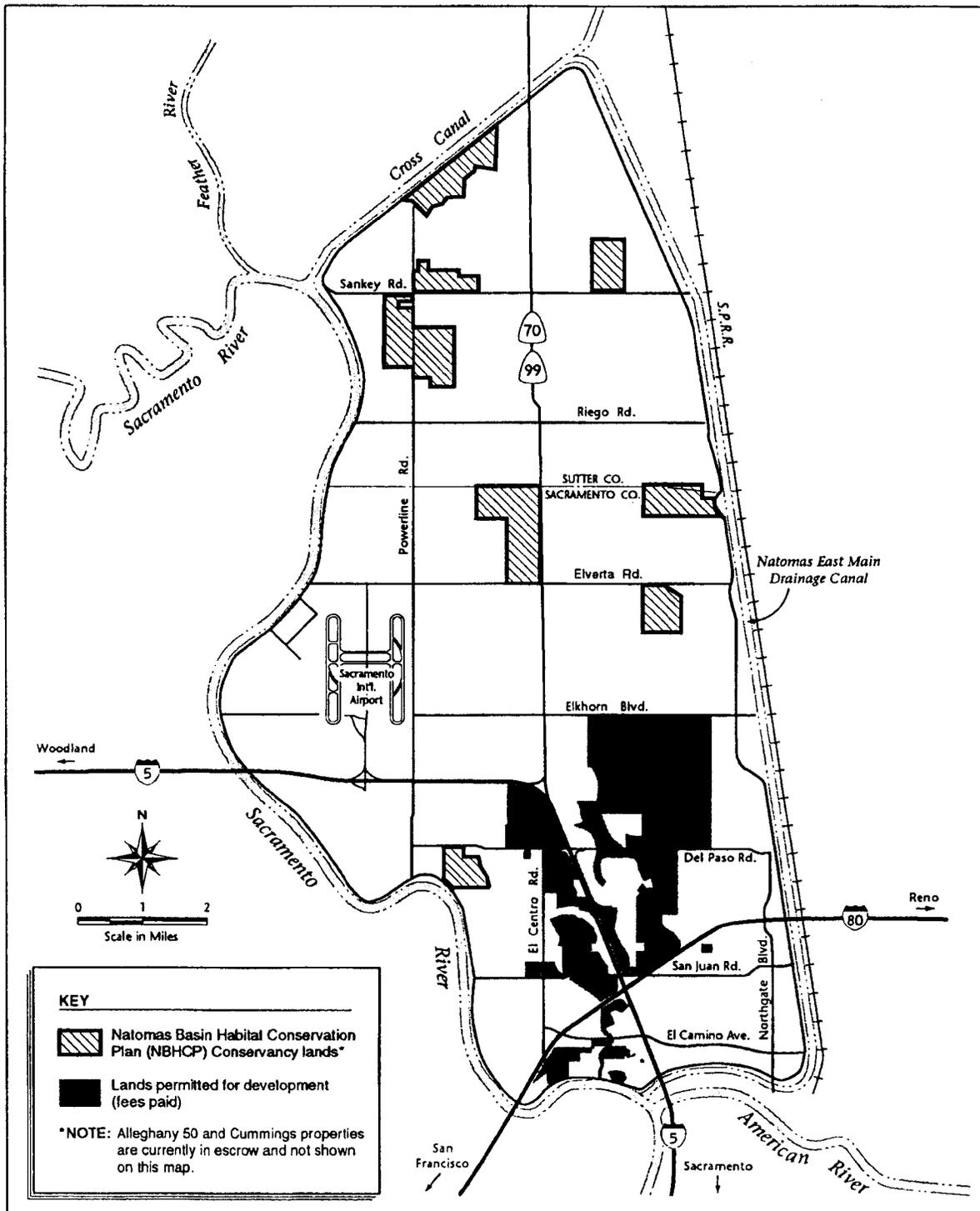


Figure 4. Conservancy Lands and Lands Permitted for Development within the Natomas Basin Habitat Conservation Plan Area as of September 30, 2002.

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APPENDIX G

Joint Vision MOU

MAR-28-2003 FRI 02:39 PM

FAX NO.

P. 02/17

The foregoing is a correct copy of a resolution adopted by the Board of Supervisors, Sacramento County, California

on 12-10-2002

Dated 1-14-2002

Clerk of said Board of Supervisors

RESOLUTION NO. 2002-1566

By Kay F. Johnson Deputy

WHEREAS, the County and the City have mutual policy and economic interests in the long term development and permanent preservation of open space within that area of the County known as Natomas, which area is generally depicted on Exhibit A of the Memorandum of Understanding (MOU); and

WHEREAS, cooperation between the County and the City is an opportunity to develop a vision for Natomas which reflects areas of collective interest. This Shared Policy Vision is contained in Exhibit B to this memo; and

WHEREAS, the County and City desire to establish principles to form the parameters of a future agreement or agreements encompassing the manner in which the County and City share revenue and land use decisions within the Natomas area.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors Authorizes the County Executive to execute on behalf of the County the Memorandum of Understanding between the City and County of Sacramento regarding principles of land use and revenue sharing for the Natomas area (Joint Vision) on file with the City Clerk.

On a motion by Supervisor Dickinson, Seconded by Supervisor Collin, the foregoing resolution was passed and adopted by the Board of Supervisors of the County of Sacramento, State of California, at a regular meeting thereof this 10th day of December, 2002 by the following vote, to wit:

- AYES: Supervisors: Collin, Dickinson, Johnson, Niello, Nottoli
- NOES: Supervisors: None
- ABSENT: Supervisors: None
- ABSTAIN: Supervisors: None

Don Nottoli
Chair, Board of Supervisors

In accordance with Section 25109 of the Government Code of the State of California a copy of the document has been delivered to the Chairman of the Board of Supervisors, County of Sacramento on

By Kay F. Johnson
Deputy Clerk, Board of Supervisors



FILED

DEC 10 2002

BOARD OF SUPERVISORS

Attachment A
**MEMORANDUM OF UNDERSTANDING BETWEEN
 THE COUNTY OF SACRAMENTO AND
 THE CITY OF SACRAMENTO
 REGARDING PRINCIPLES OF LAND USE AND REVENUE SHARING
 FOR NATOMAS AREA**

This Memorandum of Understanding (MOU) is entered into this 10th day of December 2002, by and between the County of Sacramento, a political subdivision of the State of California (hereinafter referred to as "County") and the City of Sacramento, a chartered, California municipal corporation (hereinafter referred to as "City");

WHEREAS, the intent of the MOU and Joint City and County Natomas Vision is to reach a formal conceptual agreement for broad collaboration between the City and County regarding principles for growth, revenue sharing, and permanent open space preservation in the unincorporated portion of the Natomas Basin within Sacramento County.

WHEREAS, the County and the City have mutual policy and economic interests in accommodating long term development while securing permanent preservation of open space within that area of the County known as Natomas, which area is generally depicted on Exhibit A to this MOU; and

WHEREAS, cooperation between the County and the City is an opportunity to develop a vision for Natomas which reflects areas of collective interest. Protecting and maximizing existing, and future, airport operations, open space preservation, and fair distribution of revenue are shared core values. There is a common stake in pro-actively influencing the emerging urban form, by guiding inevitable growth to provide for residential and employment opportunities close to the region's urban core. This promotes improved air quality through trip reductions, and distance traveled, and maximizes the return on existing and future public infrastructure investment in Natomas, this Shared Policy Vision is contained in Exhibit B to this memo; and

WHEREAS, together, the City and County can forge a leadership role on a regional scale for growth management. Such a cooperative effort can address land use, economic development, and environmental opportunities and challenges in Natomas. The result can be quality development balanced with permanent open space preservation systems; and

WHEREAS, Cities and counties are dependent upon tax revenues generated by continued commercial and industrial growth. The tax system creates intense competition between jurisdictions and can lead to economic development at the expense of good land use planning. Such competition between the City and County can be reduced or eliminated by establishing a revenue sharing agreement. In this way, each jurisdiction can benefit from economic development through cooperation rather than competition; and

WHEREAS, the County and City desire to establish principles to form the parameters of a future agreement or agreements encompassing the manner in which the County and City share revenue and land use decisions within the Natomas area; and

CITY AGREEMENT NO. 2002-224

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WHEREAS, the County and the City desire to pursue jointly proposed common principles to define the parameters of a future agreement or agreements encompassing the manner in which the County and City share revenue and land use decisions within the Natomas area; and

WHEREAS, should the County and the City wish to adopt and implement the proposed common principles set forth in the MOU, each will be required to undertake a series of discretionary legislative actions, including but not limited to amendments of their respective general plans and agreements concerning revenue sharing, all of which will require the exercise of legislative discretion, and all of which will require compliance with CEQA, notice and public hearings, and satisfaction of all other applicable requirements of federal, state and local law.

WHEREAS, the County and the City recognize that, pursuant to the California Environmental Quality Act (CEQA) and other state and federal statutes, additional environmental analysis will be required for any development beyond that contemplated by the current land use plans of the jurisdictions, including the current North Natomas Community Plan (NNCP) of the City of Sacramento; and

WHEREAS, the County and City recognize that, should the governmental entities interested in, or involved with, any further development of the North Natomas Basin wish to pursue such development, they will necessarily have to propose and consider a new, separate or enhanced Habitat Conservation Plan (HCP) to address development impacts to protected species under federal and state endangered species laws; and

WHEREAS, the County and City recognize that, the proposed HCP currently under consideration by the City, Sutter county and the relevant federal (U.S. Fish & Wildlife Service) and state (Department of Fish and Game) agencies deals solely with the mitigation requirements for development under the current land use plans for those jurisdictions, including the current NNCP of the City, and that any further Natomas Basin development plans for these jurisdictions and the County, including future development pursuant to the proposed principles set forth in this MOU, will require additional or alternative mitigation, and additional environmental analysis.

WHEREAS, the County and the City acknowledge that approval of this MOU changes no existing land uses approved by either the County or the City nor commits the County or the City to specific land uses or to agreement on any specific annexations to the City. Approvals necessary for such commitments have not been considered by either the County, the City or any other appropriate authority.

NOW, THEREFORE, the County and City agree as follows:

Purpose of MOU: The purpose of this MOU is to define a mutually acceptable set of proposed principles that the City and the County are prepared to consider when considering the future land use planning and revenue sharing in the Natomas area. This MOU reflects the parties' definition of a proposed set of principles to govern future development in the Natomas areas that they are interested in studying and analyzing for possible future adoption and implementation upon completion of all necessary studies and work, including but not limited to the completion of all necessary environmental analyses under CEQA and other federal and state statutes.

I. Land use and revenue sharing within the Natomas areas should be guided as follows:

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A. Open Space.

- (1) Open space planning will rely on, and coordinate with, existing open space programs, and will address linkage issues. Some specific areas will be designated for preservation as permanent open space to provide assurance that community separators are implemented. Other areas may not require active preservation.
- (2) Open space mitigation may be in conjunction with or distinct from any applicable criteria of the Natomas Basin Habitat Conservation Plan (HCP) and may, depending upon circumstances, exceed that of the HCP. Any new development beyond that analyzed in the Natomas Basin HCP shall be required, subject to state and federal laws and regulations, adequate habitat and buffer areas sufficient to protect impacted endangered species. A joint funding mechanism will provide funding for land and easement acquisitions.
- (3) Land to be preserved as farmland must not be restricted by nearby development and needs to have a secure supply of affordable water. Buffer areas will be derived from developing lands.
- (4) An airport protection plan will protect the airport by preserving open space around it and keeping noise-sensitive development and waterfowl attractors in relatively distant areas. An emphasis on open space will also lend permanence to any buffers that are established. Such a plan may be achieved through a multi-jurisdictional agreement as to land uses designed to maximize airport protection.

B. Future Growth.

- (1) Consideration of new growth should be done in partnership with the preservation of open space. The urban form should include a well integrated mixture of residential, employment, commercial, and civic uses, interdependent on quality transit service with connections linking activity centers with streets, transit routes, and linear parkways with ped/bike trails.
- (2) The City, rather than the County, is the appropriate agent for planning new growth in Natomas and can better provide a full range of municipal services. The County is the appropriate agent for preserving open space, agricultural and rural land uses.
- (3) The County will preserve its interest in the planning and development of Sacramento International Airport and Metro AirPark.
- (4) New growth will be supportive of the City's Infill Strategy. It will contribute to the sustainability of established neighborhoods/ commercial corridors/business districts.
- (5) Development in Natomas will build on the vision of the currently planned growth in North Natomas, including the application of the City Council adopted (Resolution No. 2001-805) Smart Growth Principles.
- (6) Future Growth areas shall foster development patterns which achieve a whole and complete, mixed-use community.
- (7) The City, as the agent of development, will apply the adopted Smart Growth Principles to any new development in Natomas. Smart Growth Principles emphasize pedestrian and

transit orientation by addressing density, efficient design, and urban open space to provide sustainable, livable communities with fewer impacts than standard development.

- (8) The City and County will develop a joint planning process for major uses in Natomas that are likely to have important economic impacts to existing commercial facilities in the city or county. Among the goals of that process will be to avoid competition for tax revenues, in favor of balanced regional planning.

C. Economic Development.

- (1) The area subject to revenue sharing between the County and the City shall include all that area depicted on Exhibit A except for those areas designated as Metro Air Park and the grounds of Sacramento International Airport, excepting those Airport properties currently used as buffer lands for Airport operations. If retail or commercial development other than Airport-related operations is permitted on such buffer lands, revenues derived from such development shall be subject to this MOU. For purposes of this section, airport-related operations are defined as airport support services such as terminal expansion, aviation fuel sales, aircraft maintenance and support; and hotel motel uses, to the extent such uses are existing or are relocated from existing premises.
- (2) The one percent, general ad valorem tax levy on all property within defined area, which is annexed to the City, shall be distributed, from the effective date of annexation, equally between the County and the City prior to accounting for the impact of distribution of such taxes to the Education Revenue Augmentation Fund.
- (3) It is generally intended that all other revenues from the area be shared as follows subject to an agreed upon projection of need for County or City services:
- (a) Upon the effective date of the annexation of undeveloped property for single-purpose/regional tax generating land use the County and City will share the 1% Bradley-Burns sales tax and City General Fund share of transient occupancy tax equally.
- (b) Upon issuance of certificates of occupancy, or their equivalent, property within the unincorporated area, except as excluded in Section C (1), which is approved for single-purpose/regional tax generating land use by County, the County and City will share the 1% Bradley-Burns sales tax and County General Fund share of transient occupancy tax equally.
- (c) Upon the effective date of the annexation of undeveloped property for a Multi-Purpose/Master Planned Community Area but prior to commencement of development beginning, revenues (including the general ad valorem property tax but excluding special taxes, fees or assessment(s)) shall be shared by comparing the projected City municipal revenues to projected City municipal expenses including capital/development costs funded by the City.

In the event of a projected City surplus (revenues exceed expenses), 50% of such surplus shall be allocated to the County by adjusting the County's property tax share for the area.

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- (d) Upon the effective date of Annexation of any area developed for urban purposes as of the date of this MOU, the County municipal revenues transferred with the area shall be calculated against the costs of municipal services being transferred. The County's property tax share will be increased in the case of a surplus (i.e. County revenues transferred exceed County expenses transferred), and the City's share will be increased in case of a deficit (i.e. County revenues transferred are less than County expenses transferred). The County will consider a one-time contribution to the City upon annexation of any such area calculated on the basis of avoided, near-term capital maintenance costs together with a one-time contribution for the costs of necessary, significant infrastructure repairs which are identified prior to completion of annexation.
- (e) In the event either the County or the City approve development in a fashion which would require payment pursuant to Government Code Section 53084, the County or the City, as the case may be, should be entitled to the greater of the revenue calculated pursuant to either that section or the ultimate provisions of a revenue sharing agreement.
- (f) Should legislation be enacted which alters the manner in which local agencies are allocated revenue derived from property or sales taxes, any agreement shall be subject to good faith renegotiations.

II. The principles set forth are intended to guide further discussions and the ultimate negotiation of an agreement between the County and the City. It is recognized that certain of the terms used are subject to further definition and refined during the process of negotiation. It is the intent of the County and the City to work cooperatively to establish a review process, by agreement, to evaluate the likely impacts of large-scale commercial uses in Natomas on competing uses in the County and City. The goals of such a process will be to avoid competition for tax revenues, in favor of balanced regional planning and to assure that proposed land uses conform to the principles articulated in this MOU. It is further the intent of the County and the City that the revenue sharing principles set forth in this MOU shall govern the adoption of a Master Tax Sharing and Land Use Agreement for annexations.

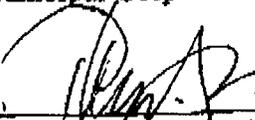
Nevertheless, this Memorandum of Understanding is a good faith expression of the intent of the County and the City to cooperatively approach development and revenue within the Natomas area of our regional community.

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CITY OF SACRAMENTO
A Municipal Corporation

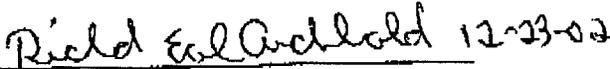
COUNTY OF SACRAMENTO

By  Thomas V. Lee
Deputy City Manager
For: Robert P. Thomas, City Manager

By 
Terry Schutzen, County Executive

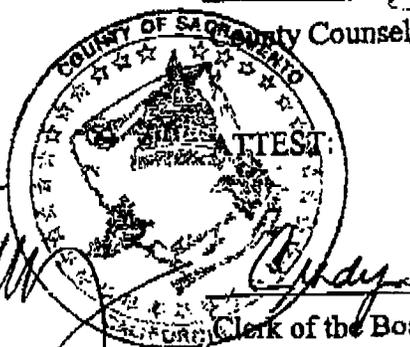
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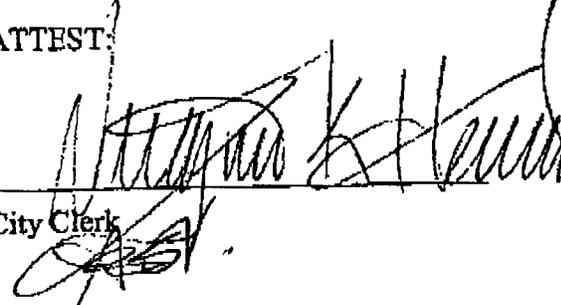
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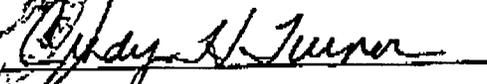
 12-23-02
City Attorney



ATTEST:




City Clerk


Clerk of the Board

CITY
AGREEMENT NO. 2002-224

EXHIBIT B
Joint City-County Shared Policy Vision in Natomas

I. Statement of Intent

The intent of this joint City and County Planning exercise is that both the City Council and Board of Supervisors will reach a formal agreement regarding growth, economic development and permanent open space preservation in the unincorporated portion of the Natomas Basin within Sacramento County. The agreement will be adopted by Sacramento County and the City of Sacramento.

1. Introduction

A. Background

A preliminary set of planning principles for Natomas was presented to the Board of Supervisors at a public workshop in May 2001. Before that, in June 2000, the City Council held a public hearing to consider goals and policies to modify the City Sphere of Influence for several study areas, including Natomas.

Subsequent discussions among City and County management and staff have fostered a spirit of mutual gain. There is opportunity to develop a vision for Natomas, which reflects areas of collective interest. Protecting and maximizing existing, and future, airport operations, open space preservation, and fair distribution of revenue are shared core values. There is a common stake in pro-actively influencing the emerging urban form, by guiding inevitable growth to provide for residential and employment opportunities in close to the regions urban core. This promotes air quality measures through trip reductions, and distance traveled, and maximizes the return on existing and future public infrastructure investment.

Together, the City and County will forge a leadership role on a regional scale for growth management. The cooperative effort addresses land use, economic development, and environmental opportunities and challenges in Natomas. The result will be quality development balanced with permanent open space preservation systems.

B. Vision - Cooperative Land Use Planning

The best way to insure sustainable community building in Natomas is for the City and County to plan jointly. Such an effort will provide opportunity to focus more on sound long-term planning principles, and less on quick return revenue generation. Such a planning policy foundation may be without precedent, however, the highly regarded American River Parkway Plan (ARP) stands as an excellent result of City-County cooperation. That plan also provides an example of an administrative structure that involves third-party ratification of any amendments to the plan.

II. Basic Issues

There are three main areas where the City and County will come to agreement, each comprised of several sub-issues.

1. Open Space

The planning principles offer agreement regarding the size, location, and nature of open space preservation areas in the Natomas area. The location of open space areas will be based in part on the natural value of the land (e.g. habitat value, community separators), but also on constraints to development (e.g. airport protection or flood-prone areas). This agreement will ultimately designate the location of open space and provide principles for its permanent preservation. Ideally, the County will be the agent for maintaining rural and agricultural land uses, and permanent open space preservation.

Open Space systems provide multiple values/ benefits for human needs (health, public safety, cultural, recreational, economic prosperity, and civic identity), for wildlife, for productive agriculture, and for a healthy, sustainable built environment. Open Space also contributes to the provision of clean air and water for the region. Open Space systems must be of adequate size to support their intended purpose, e.g., agricultural areas must be large enough to maintain the agricultural economy; regional recreation facilities must be diverse enough to accommodate multiple passive and active uses; habitat areas must be large enough to support the requirements of native species; vistas/viewsheds should be sufficient to provide a sense of place. Open Space systems should be linked by trails, act as community separators, and accommodate habitat conservation plan requirements.

2. Economic Development

Cities and counties are dependent upon tax revenues generated by continued commercial and industrial growth. The tax system creates intense competition between jurisdictions and can lead to economic development at the expense of good land use planning. This joint agreement will lessen competition between the City and County by establishing a revenue sharing agreement. In this way, each jurisdiction stands to benefit from economic development, without becoming subject to the forces of competition.

New development will be consistent with the City's Smart Growth Principles, by supporting reinvestment in existing communities, particularly designated infill areas, as an alternative to greenfield development. New growth will not detract from the sustainability of established neighborhoods, commercial corridors, and business districts in the city and county.

Sacramento International Airport is recognized as a regional asset for economic development. The vision will incorporate effective measures for protection of airport operations and expansion, such as where residential development will not be considered.

The Natomas Mutual Water District and Rio Linda/Elverta Parks and Recreation District currently provide services to the Natomas area and are, therefore, stakeholders in the economic development of the area. The City and County will cooperate with the districts to address their unique circumstances prior to the LAFCo process. The LAFCo process required for consideration of amendments to spheres of influence and annexation proposals will determine the appropriate roles for these districts.

3. Future Growth

The vision will provide the acreage and location for future growth, and identify principles to define the nature of growth appropriate for Natomas. Constraints and opportunities inherent in the land (e.g. habitat values) or its location (e.g. proximity to existing urbanization) will help define where growth is desired. The City will be the agent for growth, by planning areas to be developed.

Conclusion. Now is the time to seize the opportunity to craft the common vision for Natomas. This is best addressed through a cooperative planning effort between Sacramento City and County. This will curb land speculation, competition between jurisdictions and establish planning principles to guide growth in concert with permanent open space preservation.

III. Planning Issues and Principles

The City and County discussions regarding Natomas identified seven primary issues areas related to possible development in Natomas. Those issues areas are listed below along with principles that address the general concerns of the City or County. These principles will constitute the basis of an agreement between the City and County for making decisions regarding land uses.

1. Open Space
 - A. Open Space Preservation
 - B. Farmland Preservation
 - C. Airport Protection
2. Economic Development
 - A. Fiscal Collaboration
3. Future Growth
 - A. Jurisdictional Roles
 - B. Infill Linkages

1. Open Space

A. Open Space Preservation

1. **Permanent Protection of Open Space.** Achieve a permanent open space by acquiring land or easements. A variety of funding sources will be used to make land and easement acquisitions. Open Space encompasses lands that essentially are unimproved and that have limited development potential due to the physical characteristics of the land, due to value as a drainage or habitat corridor, due to land being restricted to agricultural production, due to location of the land as a community separator/ buffer between developed areas, or due to the scenic value of the land and its role in maintaining a community's sense of place or heritage.

2. **Community Separators.** Provide community separators at the Sutter/ Sacramento County line, by using open space that defines urban shape by providing gateways, landscaped freeway corridors, defined edges and view sheds. The community separator is land designated as permanent open space, by both the City and County General Plans, in order to avoid an uninterrupted pattern of urbanization, and to retain the character of distinct communities.

3. **Open Space Linkages.** Coordinate and connect permanent open space in Natomas with the larger open space systems to provide linkages for trail extensions and biological connectivity.

4. **Mitigation Ratio.** Require development to provide permanent open space, preserved in the Natomas area, at a mitigation ratio of at least one-to-one.

Implementation. The agreement will establish a policy framework for open space planning in Natomas which will rely on, and coordinate with, existing open space programs, and will address linkage issues. Some specific areas will be designated for preservation as permanent open space to provide assurance that community separators are implemented. Other areas, such as west of Sacramento International Airport, may not require active preservation because of specific constraints related to inadequate infrastructure or public ownership.

This mitigation may be in conjunction with or distinct from any applicable criteria of the Natomas Basin Habitat Conservation Plan (HCP). A minimum one-to-one mitigation ratio within the Sacramento unincorporated area of Natomas will exceed that of the HCP by one-half acre of mitigation per acre of development. A joint funding mechanism will provide funding for land and easement acquisitions.

B. Farmland Preservation

1. **Require Mitigation for Losses.** Plan land use in Natomas in a manner that minimizes and mitigates loss of overall agricultural productivity.

Implementation. Identify areas of Natomas that are to be developed or remain in general agriculture. Land to be preserved as farmland must not be restricted by nearby development and needs to have a secure supply of affordable water. Buffer areas will be derived from developing lands. The City and County shall work jointly with agricultural interests to develop a comprehensive program to assist in farmland viability.

C. Airport Protection

1. **Protect Future Airport Operations.** Plan land use in Natomas in a manner that will protect Sacramento International Airport from complaints originating from encroaching uses that might eventually limit its operations or future expansion.

2. **Coordinate long range land use planning.** The various affected jurisdictions will coordinate planning efforts to ensure the continued viable operations and expansion of Sacramento International Airport

3. **Maintain Airport Safety Related to Habitat.** Avoid compromising airplane safety when establishing open space by keeping waterfowl habitat at safe distances from the airport.

Implementation. A multi-jurisdictional airport protection plan will protect the airport by preserving open space around it and keeping noise-sensitive development and waterfowl attractors in relatively distant areas. An emphasis on open space will also lend permanence to any buffers that are established.

2. Economic Development

A. Fiscal Collaboration

1. Revenue Agreement. Adopt a Revenue Exchange Agreement.

Implementation. The City and County will negotiate an agreement that defines, and provides for, revenue exchange for development that occurs within the agreement area.

3. Future Growth

A. Jurisdictional Roles

1. City and County Roles. The City is the appropriate agent for planning new growth in Natomas. The County is the appropriate agent for preserving open space, agricultural and rural land uses.

2. Maintain County Interests. The County will preserve its interest in the planning and development of Sacramento International Airport and Metro AirPark.

Implementation. Define the roles of each jurisdiction in the agreement.

B. Infill Linkage

1. Support City Infill Strategy. New growth will be supportive of the City's Infill Strategy. It will contribute to the sustainability of established neighborhoods/ commercial corridors/ business districts.

Implementation. Create a linkage program between new growth and the City's Infill Strategy, extension of the Downtown/Natomas/Airport transit line and implementation of the North Natomas Community Plan goals and objectives as a part of the General Plan amendment process.

4. Urban Growth Principles

1. Smart Growth. Development in Natomas will build on the vision of the currently planned growth in North Natomas, including the application of Smart Growth Principles.

2. Regionally Significant Land Uses. The City and County will develop a joint planning process for major uses in Natomas that are likely to have important economic impacts to existing commercial facilities in the city or county.

3. Balanced Communities. Undeveloped areas shall foster development patterns which achieve a whole and complete, mixed-use community.

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P. 15/17

Implementation. The City, as the agent of development, will apply Smart Growth Principles to any new development in Natomas. Smart Growth Principles emphasize pedestrian and transit orientation by addressing density, efficient design, and urban open space to provide sustainable, livable communities with fewer impacts than standard development.

Establish a review committee, by agreement, to evaluate the likely impacts of large scale commercial uses in Natomas on competing uses in the county and city. The committee's goal will be to avoid competition for tax revenues, in favor of balanced regional planning.

IV. Identify Areas for Growth and Permanent Open Space Preservation

Consideration of new growth should be done in partnership with the preservation of open space. The urban form should include a well integrated mixture of residential, employment, commercial, and civic uses, interdependent on quality transit service with connections linking activity centers with streets, transit routes, and linear parkways with ped/bike trails.

V. Plan Administration and Agreement

The agreement will be adopted by Sacramento County and the City of Sacramento. It may also be desirable to have the agreement adopted by an outside party, e.g. the State Legislature (similar to the American River Parkway Plan) to provide additional strength to the agreement, and to require inter-jurisdictional coordination on agreement implementation.

The means to implement this common vision is yet to be defined. There are various instruments available for the legislative bodies of the City and County, such as a Joint Resolution, or a Memorandum of Understanding.

The agreement will consist of:

- A map clearly delineating the areas for growth and for permanent open space and agricultural preservation.
- The Planning Principles.
- The implementation program including adoption of permanent open space and agricultural preservation strategies.

The implementation includes:

- A third party agreement
- Amendments to both General Plans to incorporate the common vision
- Adoption of a Revenue Sharing Agreement
- Define Goals, Roles and Responsibilities for the respective jurisdictions, and a mechanism for future, regional scale participation.

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P. 16/17

- **Benchmarks for performance**
- **A funding program for permanent open space and agricultural preservation.**

This cooperative planning effort is consistent with the Capitol Regional Compact, endorsed by both jurisdictions recently. Developed by Valley Vision, it promotes regional coordination, cooperation and collaboration. The compact defines four goals for future collaboration:

- **Create Regional Growth and Development Patterns**
- **Coordinate Land Use, Infrastructure, Public Services and Transportation**
- **Reinforce our Community Identities and Sense of Place**
- **Protect and Enhance Open Space and Recreational Opportunities.**

RESOLUTION NO. 2002-830

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON THE DATE OF DEC 10 2002

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND COUNTY OF SACRAMENTO REGARDING PRINCIPLES OF LAND USE AND REVENUE SHARING FOR THE NATOMAS AREA (JOINT VISION). (M02-014)

CERTIFIED AS TRUE COPY

OF Resolution 2002-830

DATE CERTIFIED January 13, 2003

Valerie Burrowes

Valerie Burrowes
CITY CLERK

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO THAT:

WHEREAS, the County and the City have mutual policy and economic interests in the long term development and permanent preservation of open space within that area of the County known as Natomas, which area is generally depicted on Exhibit A of the Memorandum of Understanding (MOU); and

WHEREAS, cooperation between the County and the City is an opportunity to develop a vision for Natomas which reflects areas of collective interest. This Shared Policy Vision is contained in Exhibit B to this memo; and

WHEREAS, the County and City desire to establish principles to form the parameters of a future agreement or agreements encompassing the manner in which the County and City share revenue and land use decisions within the Natomas area.

NOW THEREFORE, be it resolved by the City Council of the City of Sacramento, as follows:

The City Manager is authorized to execute on behalf of the City the Memorandum of Understanding between the City and County of Sacramento regarding principles of land use and revenue sharing for the Natomas area (Joint Vision) on file with the City Clerk.

HEATHER FARGO

MAYOR

ATTEST:

VALERIE BURROWES
CITY CLERK

FOR CITY CLERK USE ONLY

RESOLUTION NO.: **2002-830**
DATE ADOPTED: **DEC 10 2002**

APPENDIX H

City of Sacramento Resolution 2001-518

RESOLUTION NO. 2001-518

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF JUL 24 2001

A RESOLUTION ESTABLISHING RESTRICTIONS ON APPROVAL OF FIRST-STAGE LEGISLATIVE ENTITLEMENTS FOR CERTAIN PROPERTY LOCATED OUTSIDE OF THE BOUNDARY OF THE CITY OF SACRAMENTO

WHEREAS:

- A. The City, intervening developers, and certain environmental organizations have heretofore entered into an agreement entitled "Agreement to Settle Litigation" ("Agreement") with respect to litigation filed in the United States District Court (National Wildlife Federation v. Bruce Babbitt, Secretary of Interior) regarding the Natomas Basin Habitat Conservation Plan.
- B. Section 4.c. of the Agreement (as shown in Exhibit 2 attached hereto) provides that the City shall within 60 days following the effective date of the Agreement, initiate proceedings to establish restrictions on issuance of land use entitlements for certain properties located outside the City's boundary, until the City's Sphere of Influence study is completed.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO that:

- 1. Pending completion of the City's currently ongoing Sphere of Influence Study, no first-stage legislative entitlements shall be approved for:
 - A. Lands located within the proposed Camino Norte, West Lakeside and Greenbriar Farms areas, as described on Exhibit A, attached hereto and incorporated herein by this reference;
 - B. Any lands otherwise located outside of the existing boundaries of the North Natomas Community Plan Area or the South Natomas Community Plan Area, except for the area included within the proposed "panhandle" annexation area (P97-125)

FOR CITY CLERK USE ONLY

RESOLUTION NO. 2001-518

DATE ADOPTED: JUL 24 2001

which area shall be free of the restrictions adopted by this resolution.

2. The term "first stage legislative entitlements" shall mean development agreements, general plan or community plan amendments, rezoning, prezoning, or the establishment of a Planned Unit Development.
3. The Camino Norte, Greenbriar Farms and West Lakeside areas are not included within the acreage anticipated to receive incidental take coverage under the Revised Natomas Basin Habitat Conservation Plan and the new Incidental Take Permit to be issued in conjunction therewith. If said areas are eventually issued first stage legislative entitlements by the City, any necessary incidental take coverage for such areas would have to be separately secured from the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

HEATHER FARGO

MAYOR

ATTEST:

VALERIE BURROWES

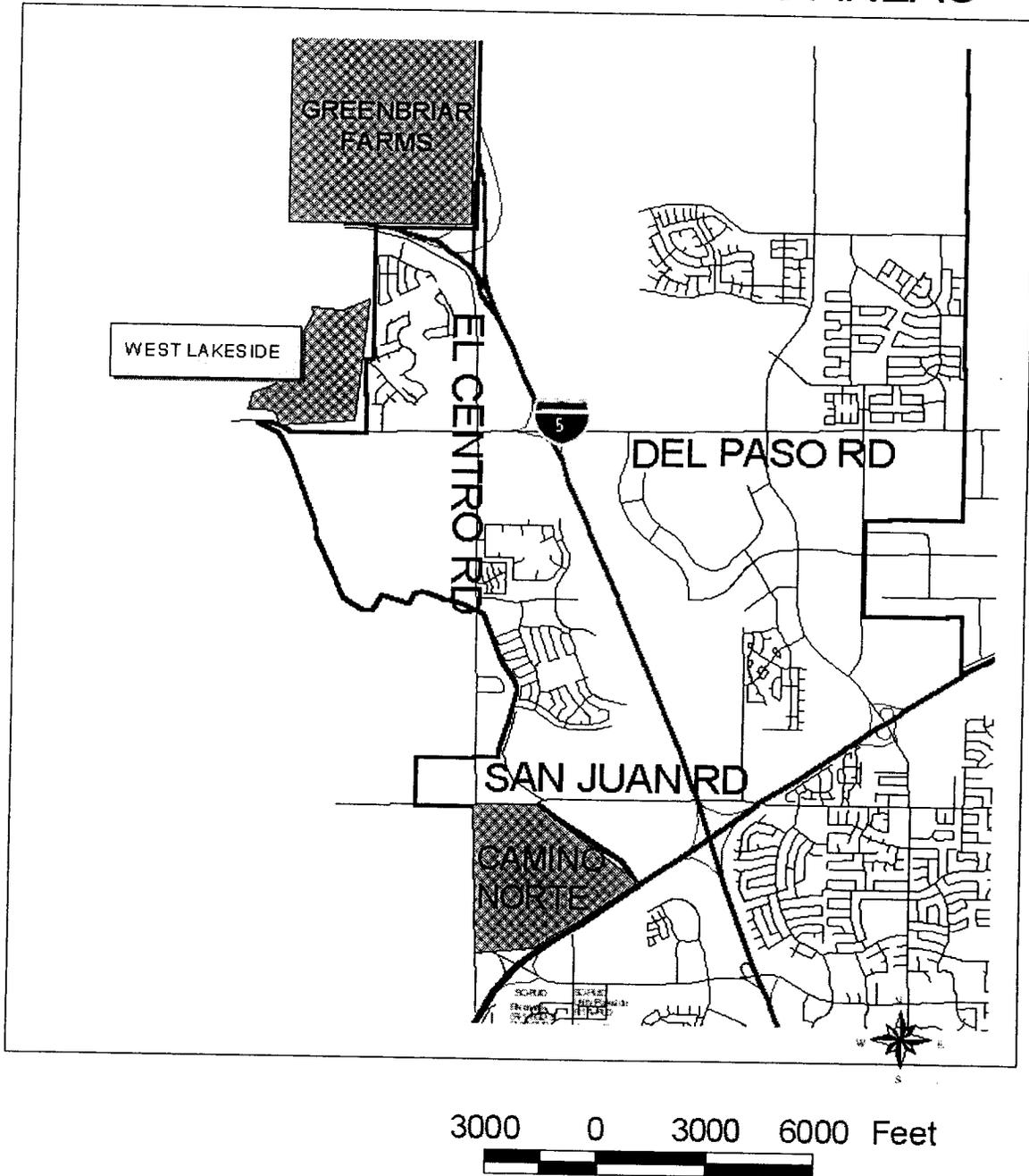
CITY CLERK

FOR CITY CLERK USE ONLY

RESOLUTION NO. 2001-518

DATE ADOPTED: JUL 24 2001

Exhibit 1 CAMINO NORTE, WEST LAKESIDE, AND GREENBRIAR FARMS AREAS



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RESOLUTION NO. 2001-518

DATE ADOPTED: JUL 24

EXHIBIT 2
Excerpt from Agreement to Settle Litigation - May 10, 2001
Section 4.c

Restrictions on First-Stage Legislative Entitlements. City shall, within sixty (60) days following the Effective Date, initiate processing of a resolution providing for restrictions on its approval of "First-Stage Legislative Entitlements" for development of lands (1) located within the proposed Camino Norte, West Lakeside and Greenbriar Farms areas, described on Exhibit H, attached hereto or (2) otherwise located outside of the existing boundaries of the NNCP [The NNCP includes the currently-proposed "panhandle annexation" area] or the SNCP until completion of the SOI Study. As used herein, the term First-Stage Legislative Entitlements shall be defined to mean general plan or NNCP amendments, rezonings (including prezonings and the establishment of PUDs) and development agreements. City acknowledges and agrees that the Camino Norte, Greenbriar Farms and West Lakeside areas are not included within the acreage anticipated to receive incidental take coverage under the Revised NBHCP and New ITP and that, if such areas eventually are issued First Stage Legislative Entitlements by City, any necessary take coverage for such areas would have to be secured from the Service and CDFG.

FOR CITY CLERK USE ONLY

RESOLUTION NO. 2001-518
DATE ADOPTED: JUL 24



1.19

DEPARTMENT OF
PLANNING AND BUILDING

NORTH NATOMAS UNIT

CITY OF SACRAMENTO
CALIFORNIA

1231 I STREET
ROOM 300
SACRAMENTO, CA
95814-2904

PLANNING
916-264-5381
FAX 916-264-5328

July 11, 2001

City Council
Sacramento, California

Honorable Members In Session:

SUBJECT: RESOLUTION RESTRICTING LAND USE ENTITLEMENTS FOR CERTAIN PROPERTIES LOCATED OUTSIDE THE CITY'S BOUNDARY, UNTIL THE CITY'S SPHERE OF INFLUENCE STUDY IS COMPLETED

LOCATION: Areas to the west of the existing City limits in North Natomas adjacent to Council District 1

RECOMMENDATION: Staff recommends approval of the attached resolution.

CONTACT PERSON: Scot Mende, Senior Planner: 264-5894
Carol Shearly, Natomas Manager: 264-5893

FOR CITY COUNCIL MEETING OF: July 24, 2001 (Afternoon)

SUMMARY: The attached resolution would temporarily restrict the ability of the City to approve "first stage" entitlements for land use projects that are located outside of the City's existing Sphere of Influence.

BACKGROUND: The City, developers who intervened in the federal case, and certain environmental organizations entered into an "Agreement to Settle Litigation" with respect to the Natomas Basin Habitat Conservation Plan. Section 4.c. of the Agreement provides that the City shall within 60 days following the effective date of the Agreement, initiate proceedings to establish restrictions on issuance of land use entitlements for certain properties located outside the City's boundary, until the City's Sphere of Influence study is completed. The "North Natomas Panhandle" annexation (P97-125), which is already within the existing Sphere of Influence, will not be affected by the proposed resolution.

The specific projects that may be affected include:

- P00-027: West Lakeside (north of Del Paso Road, west of Westlake);
- Greenbriar Farms (northwest of the I-5/US99 interchange);
- Camino Norte (south of San Juan Road, east of El Centro Road);
- and any other project outside of the existing City Sphere of Influence within the Natomas Basin.

The restrictions on issuance of land use ("first stage") entitlements shall mean that development agreements, general plan or community plan amendments, rezoning, pre-zoning, or the establishment of a Planned Unit Development may not be *approved* until the completion of the Sphere of Influence Study currently underway. The resolution does not restrict the ability of the City to accept and process applications for these first stage entitlements.

FINANCIAL CONSIDERATIONS: None

POLICY CONSIDERATIONS: The resolution defers approval of first stage entitlements until such time that the City can develop and adopt policies relative to its Sphere of Influence. City Planning staff expect to bring the Sphere of Influence Study forward this winter to the City Council.

ESBD PROGRAM: There are no services or supplies purchased with this action.

Respectfully submitted,


CAROL A. SHEARLY
Natomas Manager

FOR CITY COUNCIL INFORMATION:
ROBERT P. THOMAS
CITY MANAGER

APPROVED:


THOMAS V. LEE
Deputy City Manager

ATTACHMENTS

Resolution Establishing Restrictions on First Stage Entitlements
Exhibit 1: Map of Affected Projects
Exhibit 2: Section 4.c of the Settlement Agreement

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APPENDIX I

**Letter from USFWS and CDFG to
Sacramento County**



U.S. Fish & Wildlife Service
 Sacramento Fish & Wildlife Office
 2800 Cottage Way, Room W-2605
 Sacramento, California 95825

Phone: (916) 414-6600
 Fax: (916) 414-6712

California Dept. of Fish & Game
 Sacramento Valley - Central Sierra Region
 1701 Nimbus Road, Suite A
 Rancho Cordova, California 95670

Phone: (916) 358-2900
 Fax: (916) 358-2912



IN REPLY REFER TO:

Service file: 1-1-03-TA-0052

January 31, 2003

Mr. Terry Schutten
 County Executive
 County of Sacramento
 700 H Street, Room 7650
 Sacramento, CA 95814

Subject: Concern Regarding the Potential Unauthorized Take of State and Federally-Listed Species under the Federal Endangered Species Act of 1973, as Amended, and the California Endangered Species Act, Sacramento County, California

Dear Mr. Schutten:

The U.S. Fish and Wildlife Service (Service) and California Department of Fish and Game (Department) are aware of a number of development projects that the County of Sacramento (County) has recently approved within the unincorporated portion of the Natomas Basin. We are concerned that these projects may have resulted in the take of State and/or federally-listed species under the U.S. Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.)(Act) and the California Endangered Species Act (Fish & Game Code §§ 2050, et seq.)(CESA). As you know, the Service and the Department are working with the City of Sacramento (City) and Sutter County to develop a habitat conservation plan for lands approved for existing development in the Natomas Basin. The goal of the habitat conservation plan is to avoid, minimize, and mitigate the effects of development on the habitat conservation plan's Covered Species, many of which are considered by the Service and/or the Department to be at risk of extinction. The County has declined to participate in this process. The County's failure to participate in the habitat conservation planning process and its continuing approval of development projects in the Natomas basin: (1) may result in the unauthorized take of State and/or federally-listed species; and (2) potentially undermines habitat conservation efforts elsewhere in the Natomas Basin.

The Service and the Department expressed our concerns regarding development in the Natomas Basin to the County on prior occasions. On July 15, 2002, the Service sent a letter (Service file number 1-1-02-TA-2565) to Ms. Sabrina Okamura-Johnson of your Department of

Mr. Terry Schutten

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Environmental Review and Assessment, in which the Service commented on the proposed expansion of the Sacramento 49'er Auto Truck Plaza and issuance of an associated General Plan Amendment, Rezone, and Use Permit. Specifically, the Service expressed concerns regarding the direct, indirect, and cumulative effects of the proposed project on federally-listed species. The Service recommended that the County conduct additional environmental review on the proposed project to determine the extent of its effects on listed species and to develop appropriate measures to avoid and minimize those effects. Additionally, the Service recommended that the County delay approval of the proposed truck stop expansion and other development projects until the County had: (1) conducted a comprehensive environmental review; (2) developed a plan to avoid and minimize the direct, indirect, and cumulative effects of the County's development in its portion of the Natomas Basin; and (3) obtained an incidental take permit (ITP) from the Service.

More recently, the Service and the Department sent a letter (Service File no. 1-1-02-TA-3301) to Mr. Gary Stonehouse of your Planning and Building Department and Mr. Tom Hutchings of the City, in which the Service and the Department expressed concerns about the then proposed (recently approved) "Sacramento City-County Joint Vision for Natomas Memorandum of Understanding" (Joint Vision). Although the City clarified many of the Service's and Department's concerns in its December 5, 2002, response to the Service and the Department, the Service's and Department's underlying concern remains - the County is approving projects that may affect State and/or federally-listed species.

The County should bear in mind that cumulative impacts on biological resources may be significant under the California Environmental Quality Act (CEQA) even if individual project-specific impacts are less than significant. Moreover, in order to assess whether the incremental contribution of projects will result in a cumulatively significant impact on biological resources, the County will want to consider the project-specific contribution in connection with similar impacts resulting from other past, present and reasonably foreseeable future projects. (CEQA Guidelines, § 15130, subd. (a)(1).) The County must disclose the potentially significant direct, indirect, and cumulative impacts on biological resources that are reasonably foreseeable, and comply with CEQA's "substantive mandate" to mitigate such impacts to the extent feasible through the imposition of mitigation measures and project alternatives. (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th at 123, 134; *Sierra Club v. State Board of Forestry* (1994) 7 Cal.4th 1215, 1233; see also *Laurel Heights Improvement Assoc. v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1129-1130. The County should be mindful of the extremely low threshold for triggering potentially significant impacts under CEQA on endangered, rare, or threatened species or their habitat under CEQA. (See §§ 15065, subd. (a), 15380; *Mountain Lion Foundation, supra*, 16 Cal.4th at p. 124.) These "mandatory findings" control not only the decision of whether to prepare an EIR but also the identification of effects to be analyzed in depth in the EIR, the requirement to make detailed findings on the feasibility of alternatives or mitigation measures to reduce or avoid the significant effects, and when found to be feasible, the making of changes in the project to lessen the adverse environmental impacts"

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(CEQA Guidelines, § 15065; see also *Los Angeles Unified School District v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1024, fn. 6.).

The County's obligation under CEQA to mitigate impacts on biological resources extends beyond take of species protected under CESA and the Act. "Take," for purposes of CESA, means to "hunt, pursue, catch, capture, or kill," or the attempt to do any such act with respect to State-listed endangered, threatened, or candidate species (Fish & G. Code, §§ 86, 2080; Cal. Code Regs., tit. 14, § 783.1.). "Take," for the purposes of the Act, means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harass is defined by the Service as an intentional or negligent act or omission which creates the likelihood of injury to a listed species by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. Harm is defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by impairing behavioral patterns including breeding, feeding, or sheltering. Adverse modification of habitat used by State-listed species, may not necessarily constitute take of such species under CESA in all instances (See, e.g., 78 Ops. Cal. Atty. Gen. 137 (1995)). In contrast, under CEQA, where substantial evidence supports the conclusion that a proposed project has the potential to reduce the number or restrict habitat of an endangered, rare, or threatened species, such impacts are potentially significant as a matter of law. (CEQA Guidelines, § 15065, subd. (a); *Mountain Lion Foundation*, supra, 16 Cal.4th at p. 124 ("an agency contemplating an action having 'the potential to . . . reduce the number or restrict the range of an endangered, rare or threatened species' must find that the project 'may have a significant effect on the environment'")(emphasis in original); *Mira Monte Homeowners Assoc. v. Ventura County* (1985) 165 Cal.App.3d 357, 364 (equating the word "range," as used in section 15065, with the concept of "habitat").) Thus, while the proposed Natomas Basin Habitat Conservation Plan (NBHCP) may ultimately provide a basis to conclude that the impacts associated with the incidental take of State and federally-listed species pursuant to the proposed NBHCP are minimized and fully mitigated under CESA and the Act, such a conclusion is not, as a matter of law, a basis to conclude that all project-related impacts on biological resources occurring on County lands within the basin are mitigated to below a level of significance under CEQA. In the present, because the County is not a participant in the proposed NBHCP, the individually approved development projects have not likely complied with CEQA's substantive mandate to mitigate all project-related impacts on biological resources to the extent feasible.

The County is also advised to provide a thorough analysis and consideration of all the other plant and animal species, and habitats occurring within the County in addition to the listed species. Analysis should address whether the County's proposed projects will result in any direct or indirect impacts on any of these biological resources in order to comply with CEQA. (Pub. Resources Code, § 21100, subd. (b)(1); CEQA Guidelines, § 15126.2, subd. (a).)

As stated above, to date, the County has declined Service and Department requests to participate in habitat conservation planning efforts in the unincorporated portion of the Natomas Basin.

Mr. Terry Schutten

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Although Metro Air Park Property Owners Association, a private development group, prepared an HCP and received an ITP for the County's proposed Metro Air Park Special Planning Area, the Metro Air Park HCP does not adequately address or provide incidental take authorization for other projects by the County outside the proposed Metro Air Park Planning Area that directly and indirectly affect State and federally-listed species. As we understand the County's intentions, it does not plan to rely on the proposed NBHCP to seek ITP's from either the Department or the Service in order to implement future development in the County portion of the Natomas Basin.

The Service and Department are aware that the County has approved numerous small projects outside the area addressed in the Metro Air Park HCP. Without adequately addressing the direct, indirect, and cumulative effects of the County's projects through a comprehensive habitat conservation plan, incremental approval of such projects will continue to erode the baseline status of listed species in the Natomas Basin, hamper the City's and Sutter County's efforts to obtain an ITP and effectively implement the currently proposed NBHCP, impair recovery efforts for the Natomas Basin population of the giant garter snake (*Thamnophis gigas*), and potentially result in the unauthorized take of State and federally-listed species. The Service's and the Department's knowledge of the Natomas Basin and biology of the giant garter snake, valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), Sacramento splittail (*Pogonichthys macrolepidotus*) (splittail), delta smelt (*Hypomesus transpacificus*), Swainson's hawk (*Buteo swainsoni*), and other species indicates that implementation of the above projects may have resulted in the take of one or more of these species. These projects, although not all located within the Natomas Basin, may have resulted in the take of listed species because of their immediate proximity to the Basin and known species occurrence sites.

The Service and the Department have concerns about the potential indirect and cumulative effects to listed species that may have occurred as a result of these projects. Examples of indirect effects to listed species include, but are not limited to: increased traffic-related roadway mortality; discharge of urban runoff into important waterways; human disturbance of habitat; harassment and depredation by feral and domestic animals; and urban development associated actions such as vegetation removal for fire control, weed abatement, and mosquito abatement. These and other indirect effects of development contribute to habitat degradation, species mortality, reduced or impaired reproductive success, and a decline in listed species populations.

In light of the County's consideration of future development in the Natomas Basin, and the Joint Vision, the Service and Department encourage you to contact us, both with respect to regional planning needs and proposed projects which the County may consider. We also strongly urge you to require project applicants to fulfill their obligations under the California and Federal Endangered Species Act(s) and CEQA prior to approving any additional projects within the Natomas Basin as well as throughout Sacramento County that may result in take of listed species. We are prepared to provide you with assistance in your environmental review and in the preparation of a comprehensive plan to address effects to listed and other listed species.

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If you or your project applicants would like assistance in the preparation of a habitat conservation plan, please contact Vicki Campbell of the Service at (916) 414-6734 or Terry Roscoe of the Department at (916) 358-2382. If you have any questions or concerns about this letter, please contact Craig Aubrey or Justin Ly of the Service at (916) 414-6645 or Jenny Marr of the Department at (530) 895-4267.

Sincerely,



Wayne S. White
Field Supervisor
U.S. Fish and Wildlife Service



Larry L. Eng, Ph.D.
Deputy Regional Manager
California Department of Fish and Game

cc:

- California Department of Fish and Game, Sacramento, California (Attn: Ronald Rempel)
- California Department of Fish and Game, Sacramento, California (Attn: John Mattox)
- County of Sacramento, Sacramento, California (Attn: Board of Supervisors)

Mr. Terry Schutten

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cc:

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Office of the General Counsel
1416 ninth Street, 13th floor
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DFG Habitat Conservation Division
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APPENDIX J

**Letter from City of Sacramento to
California Department of Fish and Game**



OFFICE OF THE
CITY MANAGER

CITY OF SACRAMENTO
CALIFORNIA

CITY HALL
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SACRAMENTO, CA
95814-2684

PH 916-264-5704
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November 20, 2002

Bob Hight
Director
California Department of Fish and Game
Resources Building
Sacramento, CA 95814

Subject: Natomas Basin Habitat Conservation Plan

Dear Mr. Hight:

I received a copy of the letter sent to you by Judith Lamare of Friends of the Swainson's Hawk ("FOSH") dated October 28, 2002 ("October 28 Letter"). I wanted to take this opportunity to respond to several comments raised in the October 28 Letter and highlight for your consideration key conservation measures included in the Natomas Basin Habitat Conservation Plan ("Natomas Basin HCP") which are designed to address effects on Swainson's Hawk.

The Natomas Basin HCP has been developed in substantial collaboration with multiple partners and consultation with participating state and federal agencies. A particular focus of our analysis and that of the biology team at CH2MHill has been to ensure the survival of the Swainson's hawk. To this end, we have included in the Natomas Basin HCP multiple strategies to ensure the preservation, enhancement and restoration of habitat for the Swainson's hawk. I have attached a summary of all of the HCP's mitigation measures related to the Swainson's Hawk which I think you will find are quite substantial.

The Natomas Basin HCP and EIS/EIR evaluate fully the potential impacts on Swainson's Hawk nesting and foraging habitat on existing conditions.

The Natomas Basin HCP considered impacts to the entire basin including impacts resulting from the City of Sacramento, Sutter County, Metro Air Park and the Natomas Mutual and RD 1000 water agencies ("Water Agencies"). Moreover, the impact analysis evaluated impacts on each habitat type within each Permittee's jurisdiction, individually and in combination with the impacts occurring with another participating Permittee's jurisdiction.¹ This is equally true for the evaluation of impacts on Swainson's hawk (Natomas Basin HCP, Chapter VII).

¹ FOSH incorrectly states that the habitat analysis is based solely on an evaluation of 1997 baseline conditions. In fact, as the HCP explains, the analysis of habitat conditions is based on conditions in 1997, the initial year in which incidental take permits were approved and supplemented with additional information available since 1997 and field data compiled in 2001. In this regard, the baseline conditions were updated to reflect 2001 conditions (see HCP, Ch. II, p. II-1 to II-2).

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With respect to impacts on nesting sites, Ms. Lamare states that the preponderance of the nest sites lie south of Elkhorn Boulevard and most are in proximity to foraging habitat. In fact, the preponderance of nest sites are located within roughly 1 mile of the Sacramento River (see Attached Figure 1). The remaining nest sites in the interior of the basin have largely been removed.

As to foraging impacts, Ms. Lamare correctly cites the amount of foraging acres impacted within the City of Sacramento. However, it is important to point out that 70% of the foraging habitat to be lost is non-rice crops. Although CH2MHill included non-rice crops in their analysis of habitat impacts, the EIR/EIS notes that "non-rice crops (e.g. row crops) are used less (Estep 1989; Babcock, 1995) and considered poorer quality foraging habitat for the Swainson's hawk than native grasslands, alfalfa and pasture." Thus, Ms. Lamare's comments do not portray accurately the condition of the existing Swainson's hawk habitat within the basin. We would refer you to pages VII-11 through 17 of the NBHCP and page 4-72-73 of the EIS/EIR for a more complete description of the habitat impacted by Authorized Development within the basin.

The Natomas Basin HCP provides a conservation strategy for Swainson's Hawk which the Permittees have designed to be effective whether the HCP is implemented by one Permittee or by all Permittees.

Recognizing the importance of foraging habitat near nest sites, the Natomas Basin HCP establishes a Swainson's hawk Zone comprised of a 1-mile band adjacent to the Sacramento River where Swainson's hawk nests are predominantly located. (See Figure - attached which shows the location of known nest sites). The HCP acknowledges that hawk nests are frequent along the river in large part because of the presence of larger trees which can support nests. By contrast, in the interior of the basin, nest sites are fewer and occur less frequently because agricultural activities have, over the years, removed a substantial portion of tree cover (see Tech Memo, p 5-24). Consequently, the Natomas Basin HCP conservation strategy for Swainson's Hawk consists of the preservation and protection of existing nest sites along the river through designation of the Swainson's hawk zone, and the establishment of new upland which would be planted with tree species preferred by this species for nesting (see Natomas Basin HCP, pages V-10 through 12).

Ms. Lamare states in her letter that the City should be required to set aside at least 5,300 acres of upland mitigation if the draft Department Mitigation Guidelines (1994) were used.² The Natomas Basin HCP Swainson's Hawk conservation strategy is based in part on the management strategies recommended in the Department's 1994 Staff Report. That is, we worked with the Department, and Fish & Wildlife Service staff, and our team biologists to develop a conservation strategy which would ensure that suitable nesting habitat would continue to be available in the Plan Area and to provide for foraging habitat that is available when the hawk is present in the Basin. For example, as described in the Natomas Basin HCP and listed in the Attachment, the HCP contains the Staff Report's recommended measures to reduce nesting disturbance (see Attachment Items, 1-5 and the HCP, pages V-5 through V-

² We believe that the 1994 "mitigation guidelines" to which Ms. Lamare refers more appropriately describes the Department's "Staff Report Regarding Mitigation for Swainson's Hawk (*Buteo swainsoni*) in the Central Valley of California," dated November 1, 1994.

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12). Similarly, the HCP includes a number of measures related to foraging habitat included in the attachment. For these reasons and the reasons further described in the EIR/EIS, the HCP and the Biological Technical Report we believe that the Natomas Basin HCP Swainson's hawk conservation strategy is consistent with the intent of the Department's Staff Report. It is important to note that the Department's Staff Report, Page 12, Section 3 (a) states that projects within 1 mile of an active nest tree shall provide "one half acre of habitat mitigation land (all of the land requirements shall be met by fee title acquisition or conservation easement {acceptable to the Department} which allows for the active management of habitat for prey production on the habitat mitigation lands) for each acre of development authorized (0.5:1 ratio)." This reduced mitigation ratio is allowed in instances where site control and management of habitat to support the hawk is clearly provided which is the case with lands controlled by the Natomas Basin Conservancy.

Moreover, the intent of the Natomas Basin HCP Swainson's hawk conservation strategy is to ensure that the HCP is effective in fully mitigating for impacts notwithstanding the level of participation by one or multiple permittees. In this regard, our analysis evaluates the cumulative impacts of all permittees (not just the impacts of the City of Sacramento) in the Natomas Basin in developing appropriate mitigation.³

The proposed Natomas Basin HCP conservation strategy would mitigate impacts to Swainson's hawk.

Based on the balance of species impacts in the Natomas Basin, the HCP intends to create a system of large (400 acre minimum size) reserves for a total of 8,750 acres of Mitigation Lands with habitat managed specifically for the Covered Species, including the Swainson's hawk. The Permittee's intent is to develop a reserve system comprised of a mosaic of habitat types including uplands (25% of all reserve acreage or 2,187.5 acres), managed marsh (25% of all reserve acreage or 2,187.5 acres) and rice fields (50% of all reserve acreage or 4,375 acres). At least one larger contiguous 2,400 acre block of reserve lands is to be created providing well protected habitat areas.

Relative to foraging areas for the Swainson's hawk, the HCP will establish high quality, managed upland habitat of 2,187.5 acres. Additionally, HCP Managed Marsh Design and Management Guidelines (page IV 17 of the HCP) for the Mitigation Lands require that on wetland reserves, upland habitats (for basking, hibernacula, etc) will typically comprise 20-30% of the wetland reserve system. This will result in an additional 547 acres of upland habitat. Finally, the levees and upland edges of the Mitigation Land rice reserves would be managed in a manner that supports a prey base and may be used by the hawk, and it is estimated that approximately 25% of the rice acreage would be upland edges. An example of a combined (or mosaic) reserve is the recently completed Betts-Kismet-Sylva reserve which includes uplands, rice and wetlands. Finally, the Natomas Basin HCP also accounts for habitat value which may be derived from operational and management practices related to The Natomas Basin

³The HCP (pages VI-36-38) create a process to balance the types of habitat to be created with the type of habitat and species impacts created in the event a land use agency permittee is no longer party to the HCP. Thus, if Sutter County did not participate, the system of reserves would be reviewed to ensure that habitat created was appropriate for the types of impacts created by the City of Sacramento exclusively.

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Conservancy's (TNBC) rice reserves on Mitigation Lands. The Natomas Basin Conservancy periodically fallows rice reserves. On average it is estimated that 10% of the rice reserves may be fallow in any given year providing extensive foraging areas.

The proposed Mitigation Ratio (0.5:1), in combination with restoration and enhancement efforts, and operational and management practices of rice reserves, would comprise a system of upland areas for foraging equivalent to 4,265 acres.

Reserve Habitat Type	Acreage	Percent Upland	Upland Acreage
25% Upland Areas	2187.5	100	2,187.5
25% Managed marsh of which 20-30% is upland edges	2187.5	25	546.9
Rice fields of which 25% are levees and upland areas.	4375	25	1,093.8
Fallow rice reserves	4375	10	437.5
TOTAL UPLAND FORAGING ACREAGE.			4,265.6

As noted above, 70% of the foraging habitat which may be lost with Authorized Development would be considered poorer quality foraging habitat for the Swainson's hawk. Further, page 4-72 of the EIR/EIS notes that Swainson's hawks concentrate their foraging in agricultural fields during or immediately following harvest (Estep, 1989). In the basin overall, the HCP (and supporting technical analyses) estimate that 4,149 acres of prime habitat (within 1 mile of a nest site) will be impacted. Of this, 2,915 acres are non-rice (row) crops. Even with impacts to all non-rice crops included in the calculation, the Natomas Basin HCP creates 4,265 acres of managed upland habitat which exceeds a 1:1 replacement. For these reasons, the EIR/EIS concludes that the Mitigation Lands will represent much higher quality habitat available for the hawk through-out the nesting and visitation season in the Natomas Basin. Thus, the HCP seeks to consider the value of habitat lost, the enhancements of habitat to be created and other mitigation measures in creating a comprehensive mitigation approach.

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Not included in the above calculation are lands to be protected by land use regulation in the Swainson's hawk zone. This includes re-designation of 1,011 acres of land in the Sutter County "Industrial/Commercial Reserve" to agriculture and preservation of the open space/agricultural designation of an additional 250 acres within the City of Sacramento.

To further ensure the protection of Mitigation Lands in perpetuity, the Natomas Basin HCP would be consistent with the Department's Staff Report because it requires all Mitigation Lands to be acquired outside of urbanized areas and secured by fee title or conservation easement.

We believe the Natomas Basin HCP Swainson's Hawk conservation strategy would effectively result in the establishment of habitat which the mitigation ratio which would be required for high quality foraging habitat near nest sites. As noted above, we believe that under the Department's staff report a 0.5 to 1.0 mitigation ratio would be appropriate given the ownership and management of Natomas Basin Conservancy reserves. Even if the mitigation ratio is calculated at 0.5:1, it is our understanding that the 1994 Staff Report allows an even lower mitigation ratio (e.g., 0.5:1) for lands within 1 mile of a Swainson's hawk nest for which the mitigation lands are secured by fee title or conservation easement.⁴ Consistent with this management recommendation, the Natomas Basin HCP requires all reserve lands to be secured by fee title or conservation easement. And as such, the HCP more than meets the requirements for mitigation of lands within 1 mile of a nest site.

We also note that the 1994 Guidelines encourage "cities, counties and project sponsors to focus development on open lands within already urbanized areas." To this end, the Department's Staff Report allows a further exception for infill areas since small disjunct parcels seldom provide foraging habitat needed to sustain the reproductive effort of a hawk pair. In this regard, we would encourage your Department to review Exhibit B of the Implementation Agreement (included in the HCP document) which shows the extent of parcelization and development that has already occurred within the City's permit area. We also add that substantial planning has gone into the development of the North Natomas Community Plan which specifically calls for compact development surrounding a core, or town center, with maximum transit linkages to take advantage of the area's proximity to downtown Sacramento and the major employment centers (State offices) located within 5 to 10 miles of development in North Natomas.

Finally, we wish to note that the NBHCP is based on the strategy of securing at least 200 acres of mitigation land in advance of development to ensure that impacts to covered species will be accomplished in a timely fashion. Also, since the proposed TNBC does not include a "cap" on mitigation fees, rather fees are adjusted to reflect actual acquisition costs, the NBHCP is designed to ensure impacts will be mitigated.

⁴ CDFG Staff Report Regarding Impacts to Swainson's Hawk in the Central Valley, November 1, 1994, pages 12-13.

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We believe that our system of habitat reserves coupled with the substantial amount of additional avoidance and mitigation measures included in the HCP provide a sound biological basis for the continuance and success of the Swainson's hawk.

We would be pleased to meet with you and Jude at anytime to help further clarify any of the issues in the HCP. As always, please do not hesitate to call me (916-808-5704) or Carol Shearly, Natomas Manager (916-808-5893) if you have questions.

Sincerely,



THOMAS V. LEE
Deputy City Manager

cc:

Judith Lamare, Ph.D, President of FOSH
Mayor Heather Fargo
Gay Goude, USFWS
Vicki Lee, Sierra Club California
Audubon California
Defenders of Wildlife

May Nichols, Secretary of Resources
City Manager Bob Thomas
Jim Estep, Chair SWHTAC
John Roberts, NBC
Larry Combs, CEO, Sutter Co.

ATTACHMENT
Natomas Basin HCP
Conservation Strategies for the Swainson's Hawk

Land Use Agency's Measures to Reduce Cumulative Impacts to Foraging Habitat (in addition to creation of the reserve system)

- (1) To maintain and promote Swainson's hawk habitat values, Sutter County will not obtain coverage under the NBHCP and incidental take permits, nor will Sutter County grant Urban Development Permit approvals, for development on land within the one-mile wide Swainson's Hawk Zone adjacent to the Sacramento River. The City of Sacramento has limited its Permit Area within the Swainson's Hawk Zone to the approximately 252 acres located within the North Natomas Community Plan that was designated for urban development in 1994 and, likewise, will not grant development approvals within the Swainson's Hawk Zone beyond this designated 252 acres. It should be noted that of these 252 acres of land in the Swainson's Hawk Zone, about 80 acres will be a 250 foot wide agricultural buffer along the City's side of Fisherman's Lake. Should either the City or the County seek to expand NBHCP coverage for development within the Swainson's Hawk Zone beyond that described above, granting of such coverage would require an amendment to the NBHCP and permits and would be subject to review and approval by the USFWS and the CDFG in accordance with all applicable statutory and regulatory requirements.

Because the effectiveness of the NBHCP's Operating Conservation Program (OCP) adequately minimizes and mitigates the effects of take of the Swainson's hawk depends substantially on the exclusion of future urban development from the City's and Sutter County's portion of the Swainson's Hawk Zone, approval by the City of future urban development (i.e., uses not consistent with Agricultural Zoning) in the zone beyond the 170 (252 acres minus 80) acres identified above or approval by Sutter of any future urban development in the Swainson's Hawk Zone would constitute a significant departure from the Plan's OCP and would trigger a reevaluation of the City's and/or Sutter's Permits and possible suspension or revocation of the City's and/or County's permits.

- (2) Best management practices for the nearly 250 miles of canals within the Basin will seek to preserve vegetative cover which will provide food and protection for a productive prey base. This prey base will disperse onto adjacent habitats where it will be available as Swainson's hawk forage.

Measures to Reduce Nest Disturbance

- (1) Prior to the commencement of development activities at any development site within the NBHCP area, a pre-construction survey shall be completed by the respective developer to determine whether any Swainson's hawk nest trees will be removed on-site, or active Swainson's hawk nest sites occur on or within ½ mile of the development site. These surveys shall be conducted according to the Swainson's Hawk Technical Advisory Committee's (May 31, 2000) methodology or updated methodologies, as approved by the Service and CDFG, using experienced Swainson's hawk surveyors.
- (2) If breeding Swainson's hawks (i.e. exhibiting nest building or nesting behavior) are identified, no new disturbances (e.g., heavy equipment operation associated with construction) will occur within ½ mile of an active nest between March 15 and September 15, or until a qualified biologist, with concurrence by CDFG, has determined that young have fledged or that the nest is no longer occupied. If the active nest site is located within 1/4 mile of existing urban development, the no new disturbance zone can be limited to the 1/4 mile versus ½ mile. Routine disturbances such as agricultural activities, commuter traffic, and routine facility maintenance activities within ½ mile of an active nest are not restricted.
- (3) Where disturbance of a Swainson's hawk nest cannot be avoided, such disturbance shall be temporarily avoided (i.e., defer construction activities until after the nesting season) and then, if unavoidable, the nest tree may be destroyed during the non-nesting season. For purposes of this provision the Swainson's hawk nesting season is defined as March 15 to September 15. If a nest tree (any tree that has an active nest in the year the impact is to occur) must be removed, tree removal shall only occur between September 15 and February 1.
- (4) If a Swainson's hawk nest tree is to be removed and fledglings are present, the tree may not be removed until September 15 or until the California Department of Fish and Game has determined that the young have fledged and are no longer dependent upon the nest tree.
- (5) If construction or other project related activities which may cause nest abandonment or forced fledgling are proposed within the 1/4 mile buffer zone, intensive monitoring (funded by the project sponsor) by a Department of Fish and Game approved raptor biologist will be required. Exact implementation of this measure will be based on specific information at the project site.

Measures to Prevent the Loss of Nest Trees

- (1) Valley oaks, tree groves, riparian habitat and other large trees will be preserved wherever possible. The City and Sutter County shall preserve and restore stands of riparian trees used by Swainson's hawks and other animals, particularly near Fisherman's Lake and elsewhere in the Plan Area where large oak groves, tree groves and riparian habitat have been identified in the Plan Area. As part of the Urban Development Permit process, the Land Use Agencies will seek to preserve valley oaks, tree groves, riparian habitat and other large trees wherever and whenever possible on publicly owned or controlled lands.
- (2) The raptor nesting season shall be avoided when scheduling construction near nests in accordance with guidelines specified by the Swainson's Hawk TAC, or in accordance with other applicable guidelines provided by the TAC or published by CDFG and USFWS.

Measures to Mitigate the Loss of Swainson's Hawk Nest Trees

- (1) The NBHCP will require 15 sapling trees to be planted within the habitat reserves for every Swainson's hawk nesting tree anticipated to be impacted by Authorized Development. It will be the responsibility of each Land Use Agency approving development that will impact Swainson's hawk nest trees to provide funding from the applicable developer for purchase, planting, maintenance and monitoring of trees at the time of approval of each Authorized Development project. TNBC shall determine the appropriate cost for planting, maintenance and monitoring of trees
- (2) The Land Use Agency Permittee approving a project that impacts: an existing Swainson's hawk nest tree shall provide funding sufficient for monitoring survival success of trees for a period of 5 years. For every tree lost during this time period, a replacement tree must be planted immediately upon the detection of failure. Trees planted to replace trees lost shall be monitored for an additional 5-year period to ensure survival until the end of the monitoring period. A 100% success rate shall be achieved. All necessary planting requirements and maintenance (i.e., fertilizing, irrigation) to ensure success shall be provided. Trees must be irrigated for a minimum of the first 5 years after planting, and then gradually weaned off the irrigation in an approximate 2-year period. If larger stock is planted, the number of years of irrigation must be increased accordingly. In addition, 10 years after planting, a survey of the trees shall be completed to assure 100% establishment success. Remediation of any dead trees shall include completion of the survival and establishment process described.
- (3) Of the replacement trees planted, a variety of native tree species will be planted to provide trees with differing growth rates, maturation, and life span. This will ensure that nesting habitat will be available quickly (5-10 years in the case of cottonwoods and willows), and in the long term (i.e., valley oaks, black walnut and sycamores), and minimize the temporal losses from impacts to trees within areas scheduled for development within the 50-year permit life. Trees shall be sited on reserves in proximity to hawk foraging areas. Trees planted shall be planted in clumps of 3 trees each. Planting stock shall be a minimum of 5-gallon container stock for oak and walnut species.
- (4) In order to reduce temporal impacts resulting from the loss of mature nest trees, mitigation planting shall occur within 14 months of approval of the NBHCP and ITP's. It is estimated at this time that 4 nesting trees within the City of Sacramento are most likely to be impacted by Authorized Development in the near term. Therefore, in order to reduce temporal impacts, the City of Sacramento will advance funding for 60 sapling trees of diverse, suitable species (different growing rates) to TNBC within the above referenced 14 months. It is anticipated that the City will recover costs of replacement nest trees as an additional cost to be paid by private developers at the time of approval of their development projects that impact mature nest trees.
- (5) For each additional nesting tree removed by Land Use Agencies' Covered Activities, the Land Use Agency shall fund and provide for the planting of 15 native sapling trees of suitable species with differing growth rates at suitable locations on TNBC preserves. Funding for such plantings shall be provided by the applicable Permittee within 30 days of approving a Covered Activity that will impact a Swainson's hawk nesting tree.

The Natomas Basin Conservancy (TNBC) Conservation Measures

Swainson's Hawk

TNBC shall implement the following measures to further enhance habitat and to reduce the potential for take of upland Covered Species during improvement, operation and maintenance of TNBC reserves:

- (1) TNBC, in conjunction with the Land Use Agencies, will monitor proposed development in the Swainson's Hawk Zone, where the majority of known Swainson's hawk nest sites are currently located and, hence, much of the Swainson's hawk nesting and foraging in the Basin occurs. Based on existing general plans and the City's and Sutter County's NBHCP Permit Areas, development in this zone is expected to be limited over the life of the Plan. However, if the NBHCP is amended and such development does occur, Mitigation Lands established for such development shall, likewise, be located within the Swainson's Hawk Zone. In addition, TNBC shall set as a top priority the acquisition of upland reserve sites in the Swainson's Hawk Zone (via easement or land purchase. Further, any reserve lands established in the Swainson's Hawk Zone shall, to the maximum extent possible, be managed to benefit all upland-associated Covered Species, though any management in this zone must be fully consistent with Swainson's hawk biology and needs.
- (2) To enhance the success of the species, TNBC reserves shall include tree plantings of valley oaks (*quercus lobata*), cottonwoods (*populus fremontii*), various willow including black willow or other suitable species to recreate suitable nesting sites for the Swainson's hawk over the life of the Plan. Such tree planting shall be in reasonable proximity to upland foraging areas covered by the conservation plan including agricultural areas managed by TNBC.
- (3) For rice fields operated by TNBC, best management practices to increase habitat for Swainson's hawk shall be incorporated. This includes allowing at least 10% of rice fields to fallow each year as well as allowing foraging before and after rice flooding. It is estimated that during the time hawks are present in the Basin, drained or flooded rice fields provide foraging habitat for an average of 2 months every year. Additionally, it is expected, that wildlife friendly agricultural practices (organic farming, providing crop residual for rodent production, similar to those used at the nearby Cosumnes River Preserve), will greatly increase the habitat value of ricelands to the hawk and other Covered Species.
- (4) Where possible develop or restore upland components of wetland reserves such that upland Covered Species, including the Swainson's hawk also benefit from the habitat. Thus, wetland reserves, along with the upland reserves described above, will help offset habitat losses affecting the Swainson's hawk within the NBHCP Plan Area. Also, the upland component of wetland reserves will benefit some of the upland Covered Species, especially those that also have wetland habitat needs (e.g., the tricolored blackbird).
- (5) Utilize best management practices to ensure availability of food sources for Swainson's hawk including meadow mice (*Microtus californicus*) and insects. In the Central Valley, meadow mice and insects make up a significant portion of the Swainson's hawk's diet. In the management of nearby similarly designed preserves (e.g., Beach Lake Mitigation Bank, Stones Lakes National Wildlife Refuge), the increased availability of water in previously dry grasslands has increased *Microtus* abundance (Caltrans, 1991). This would be expected given the biological requirement of *Microtus* for green food. This species has been found to increase its reproductive rate nearly ten-fold in the presence of persistent green food over dry grasses (Batzli, 1986; Bowen, 1987; Gill, 1976). Those green plant species generally preferred by *Microtus* (bent grass, chickweed, bedstraw, sorrel, plantain and bromus) are tolerant of limited inundation and will do well in a seasonally wetland environment, as well as those ruderal habitats associated with agricultural and water conveyance systems (Ostfeld and Klosterman, 1986). It is expected that the Water Agencies' Covered Activities on nearly 250 miles of canals, improved agricultural practices timing of

water management (floodup and drawdown) on reserve lands, and the increase in edge or ecotone between upland and wetland habitats will greatly enhance upland habitat values for Swainson's hawk.

- (6) Specific plans for acquisition of upland habitat reserve lands will be determined by TNBC in consultation with the Technical Advisory Committee, by applying the objectives and criteria described above, and consistent with the requirements described in Chapter IV. Specific management plans for reserve sites providing Swainson's hawk habitat will be developed as described in Chapter IV.
- (7) Upland reserves will initially be designed to maintain existing Swainson's hawk populations and, where possible, to increase such populations through the tree planting program. However, such reserves will be re-designed, as necessary, to meet Swainson's hawk recovery plan goals, once a Swainson's Hawk Recovery Plan is prepared and approved by CDFG.
- (8) Reserve design will use wildlife friendly agricultural practices. For health and safety reasons rodent control measures will be limited to that necessary to maintain structurally sound flood control levees within the Basin.

Measures to Reduce Swainson's Hawk Nest Disturbance

- (1) Prior to the commencement of development activities at any reserve site within the NBHCP area, a pre-construction survey shall be completed by TNBC to determine whether any Swainson's hawk nest trees will be removed on-site or active Swainson's hawk nest sites occur on or within ½ mile of the development site. These surveys shall be conducted according to the Swainson's Hawk Technical Advisory Committee's (May 31, 2000) methodology or updated methodologies, as approved by the site specific management plan for the reserve site.
- (2) If an active Swainson's hawk nest is identified, no new disturbances (e.g., heavy equipment operation associated with construction) will occur within ½ mile of an active nest site between March 15 and September 15. If the active site is located within 1/4 mile of existing urban development the no new disturbance zone can be limited to the 1/4 mile versus ½ mile. Routine disturbances such as agricultural activities, commuter traffic and routine facility maintenance activities within ½ mile of an active nest site are not restricted.
- (3) If practicable, disturbance or destruction of Swainson's hawk nest sites shall be entirely avoided by designing the project (including construction activities) to maintain the year-round integrity of the nest site.
- (4) If practicable, disturbance or destruction of Swainson's hawk nest sites shall be avoided during the active nesting season through seasonal use or other restrictions that apply annually or as needed.
- (5) Where disturbance of a Swainson's hawk nest cannot be avoided, such disturbance shall be temporarily avoided (i.e., defer construction activities until after the nesting season) and then if unavoidable, the nest tree may be destroyed during the non-nesting season. For purposes of this provision the Swainson's hawk nesting season is defined as March 15 to September 15. If any tree must be removed that has an active nest in the year the impact is to occur, the tree removal should only occur between September 15 and February 1.
- (6) Disturbance should be avoided within ½ mile of an active nest between March 15 through August 15, or until fledglings are no longer dependent on nest tree habitat (which could be as late as September 15).

- (7) If a Swainson's hawk nest tree is to be removed and fledglings are present the tree may not be removed until September 15 or until the CDFG has determined that the young have fledged and are no longer dependent upon the nest tree.

Measures to Mitigate the Loss of Swainson's Hawk Nest Trees

- (1) TNBC shall plant replacement trees in upland reserve areas and where appropriate on the edges of wetland reserves. These trees may be contributed to the reserve as part of the Land Use Agencies' tree mitigation program or may be determined to be important to the habitat enhancement of objectives of the site. The replacement mitigation trees shall include a variety of native tree species with differing growth rates, maturation and life span. This will ensure that nesting habitat will be available quickly (5 to 10 years in the case of cottonwoods and willows) and in the long term (i.e., valley oaks, black walnut and sycamores). Trees shall be sited on reserves in proximity to hawk foraging areas.

APPENDIX K

**Letter from City of Sacramento to
Sacramento County**



Post-it® Fax Note 7671

To	<i>Matt Frank</i>	
Date	<i>2/6/03</i>	# of pages <i>2</i>
From	<i>Hawco</i>	

OFFICE OF THE
CITY MANAGER

CITY OF SACRAMENTO
CALIFORNIA

CITY HALL
ROOM 101
SACRAMENTO, CA
95814-2684

PH 916-264-5704
FAX 916-264-7618

November 28, 2000

Terry Schutten, County Executive
Sacramento County
700 H Street, Suite 7650
Sacramento, CA 95814

Dear Terry:

Subject: Natomas Basin Habitat Conservation Plan—Revisions to Plan and
Preparation of Plan EIS/EIR.

The purpose of this letter is again to invite Sacramento County to partner with Sutter County, Reclamation District 1000, Natomas Central Mutual Water Company and the City of Sacramento in revising the Natomas Basin Habitat Conservation Plan (NBHCP) and preparing new NEPA and CEQA documents for the Plan.

As you are aware, United States District Judge David F. Levi has issued a Memorandum of Opinion and Order in the case National Wildlife Federation v. Bruce Babbitt. In his Order, Judge Levi noted that while the NBHCP was designed to be a basin-wide plan, only the City of Sacramento of the five agencies, was participating as a permittee. Throughout his Order, Judge Levi questioned the viability of the NBHCP if only the City participated. The Court also found that the Fish and Wildlife Service should have prepared and EIS for the Plan and it's Incidental Take Permit(ITP).

The final drafting of the NBHCP was a cooperative effort by the three land use agencies coordinated by SAFCA and their consultant Thomas Reid Associates. Mr. Patrick Groff was the County's representative. As the final draft neared completion, and the SAFCA Board relinquished the document to the three land use agencies for ITP application, it became obvious that the agency applications were governed by different time lines. The City's need was immediate, while the two Counties preferred to proceed more cautiously. To this end the City applied for and received a ITP. It was always assumed the Counties would participate as their needs demanded. Likewise, RD1000 and NCMWC were proceeding independently to complete HCP's governing their maintenance practices. If not for the lawsuit and Court Order, this approach would have continued.

APPENDIX L

Attachments to Comment Letter 01



QUALIFICATIONS AND RELEVANT EXPERIENCE

Hausrath Economics Group (HEG) is a firm of urban economists experienced in applying the tools of economic, socioeconomic, real estate, fiscal, and financial analysis to local and regional planning projects. HEG is recognized for thorough analysis, creative use of data sources, intelligent forecasting, and responsiveness to both client and public concerns. HEG has been in business for 20 years.

The firm's principals and staff have expertise in the fields of urban and land economics, demography, market and feasibility analysis, public finance and fiscal analysis, and survey research. Our work for both public and private sector clients statewide has included:

- ♦ Forecasts of population and employment growth;
- ♦ Economic and fiscal analyses for general plans and specific plans;
- ♦ Economic impact assessment for evaluating projects and larger-scale planning alternatives;
- ♦ Infrastructure and public service planning and financing analysis;
- ♦ Development impact fee documentation;
- ♦ Housing market studies;
- ♦ Marketing and feasibility analyses;
- ♦ Economic and fiscal assessment methodologies; and
- ♦ Economic analyses for public policy evaluation.

HEG is a woman-owned business and has been located in Oakland, California since 1982. The majority of HEG's work has involved: analyzing economic development potential and market feasibility questions; analyzing and forecasting broader economic and demographic trends affecting neighborhoods, cities, and the region; and evaluating the economic, socioeconomic, and fiscal implications of projects, plans, and policy options.

HEG is comfortable dealing with diverse interests and our projects often require sensitivity to local issues and concerns. In most instances, while our direct client has been a local government jurisdiction, we not only work with staff, but also interact extensively with citizen and neighborhood groups, with the business community, and with real estate and development interests.

Summaries of relevant HEG experience begin on the next page.

SELECTED RELEVANT EXPERIENCE

ECONOMIC AND FISCAL ANALYSIS FOR OPEN SPACE PLANNING

Placer County, California

Client: County of Placer, California
with MuniFinancial

The Placer Legacy program is a countywide proposal to identify and preserve in perpetuity significant open space and agricultural resources throughout Placer County. In June of 2000, the Placer County Board of Supervisors approved the proposed program and moved to commit significant local public funding with a November 2000 ballot measure to increase the local sales tax by ¼ percent.

To get to that decision, Placer County engaged Hausrath Economics Group to conduct a series of economic and fiscal impact analyses of program proposals and to develop information and analysis of funding options. HEG prepared a comprehensive cost analysis of proposed land management alternatives, including capital costs for acquiring public interests in land and undertaking restoration and enhancement activities, as well as ongoing land management and monitoring costs. HEG also assessed the fiscal implications of the proposed program, focusing on implications of various land protection mechanisms on Placer County revenues. We evaluated fee title and conservation easement acquisitions, implications of conservation trusteeship, mitigation banking, and the role of Williamson Act contracts. To aid decision-makers in understanding the ramifications of Placer Legacy, after conducting an extensive review of the literature, HEG also provided a summary of the economic benefits of open space protection. HEG provided decision-makers with information about local public funding options (general obligation bond, sales tax, and impact fees/exactions, and other taxes). We provided estimates of revenue potential for these sources and identified state and federal funding sources. We also provided information on how other public and private (nonprofit) open space and land management entities are funded. HEG prepared written documentation of analysis findings and conclusions and presented our results to the Placer Legacy Citizens Advisory Committee and the Placer County Board of Supervisors. We also worked closely with County staff in support of the final funding strategy decision.

ECONOMIC ANALYSIS FOR HABITAT CONSERVATION AND OPEN SPACE PLANNING

San Joaquin County, California

Client: San Joaquin County Council of Governments

San Joaquin County and the cities of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton, and Tracy prepared a multi-jurisdictional, multi-species habitat conservation plan to provide mitigation under federal and state statutes for the impacts of urban development and public agency activities on habitat for endangered and threatened plants and animals. HEG provided economic analysis in support of this complex countywide planning effort. Our analysis included: cost estimates for land acquisition, habitat restoration and enhancement, and ongoing maintenance and plan administration; a framework for analyzing the contribution of various cost components and various habitat types to overall plan costs; a nexus analysis for a fee paid by

activities covered by the Plan as one part of the multiple-source funding plan; and economic analysis of the plan, describing the cost and benefits of habitat management generally, and the proposed plan and funding program specifically, for county residents, businesses, visitors, agricultural interests, developers, homebuyers, and public agencies, among others.

**FUNDING MAJOR PUBLIC
ACCESS IMPROVEMENTS**
San Francisco, California

**Client: San Francisco Bay Conservation and
Development Commission and the
Port of San Francisco**

To implement the *Waterfront Land Use Plan*, the Port of San Francisco has committed to provide major public access and park improvements, remove obsolete piers to create open water, and provide a funding mechanism to achieve these public improvements. In return, the San Francisco Bay Conservation and Development Commission (BCDC) has agreed to develop new policies concerning public access requirements for individual development projects, new regulations about re-building piers, and revised definitions of permitted uses on piers. Because of our reputation working with both agencies, HEG was asked to provide expert economic and financial analysis of proposed methods for generating revenues for the Public Access Fund to pay for the major public access improvements. Towards this end, HEG evaluated development scenarios prepared by Port staff and prepared alternative funding scenarios. This work required analysis of waterfront development potential and the revenue-generating capacity of various development sites. HEG prepared implementation language for a preliminary funding scheme for review by the Port. In support of a revised funding proposal, HEG evaluated Port financial statements and projections of costs and revenues and advised BCDC staff on the reasonableness of that proposal for the Public Access Fund.

OAKLAND ESTUARY PLAN
Oakland, California

**Client: Port of Oakland and City of Oakland,
Community and Economic Development Agency
with ROMA Design Group**

Hausrath Economics Group (HEG) participated as lead economists on the multidisciplinary consultant team working with the City and the Port to prepare the *Oakland Estuary Waterfront Plan*. The plan addressed the future of Oakland's Estuary waterfront as a valuable community resource for promoting recreational, commercial, industrial, and residential/live-work activities and land uses. HEG was responsible for real estate market analysis to define development potentials, for economic feasibility analysis to test development options and refine a preferred alternative, and for implementation programming including development of a financing plan for open space and transportation improvements and catalyst development projects.

COMPREHENSIVE PARK FEE PROGRAM
Placer County California

Client: County of Placer, California

Since 1979, Placer County has required either land dedication or payment of an in-lieu fee for park and recreation facilities as a condition of subdivision approval, as authorized by the Quimby Act. Current documentation is outdated and does not reflect either current policies, standards, or facility costs. HEG is preparing a comprehensive update of Placer County's park and recreation

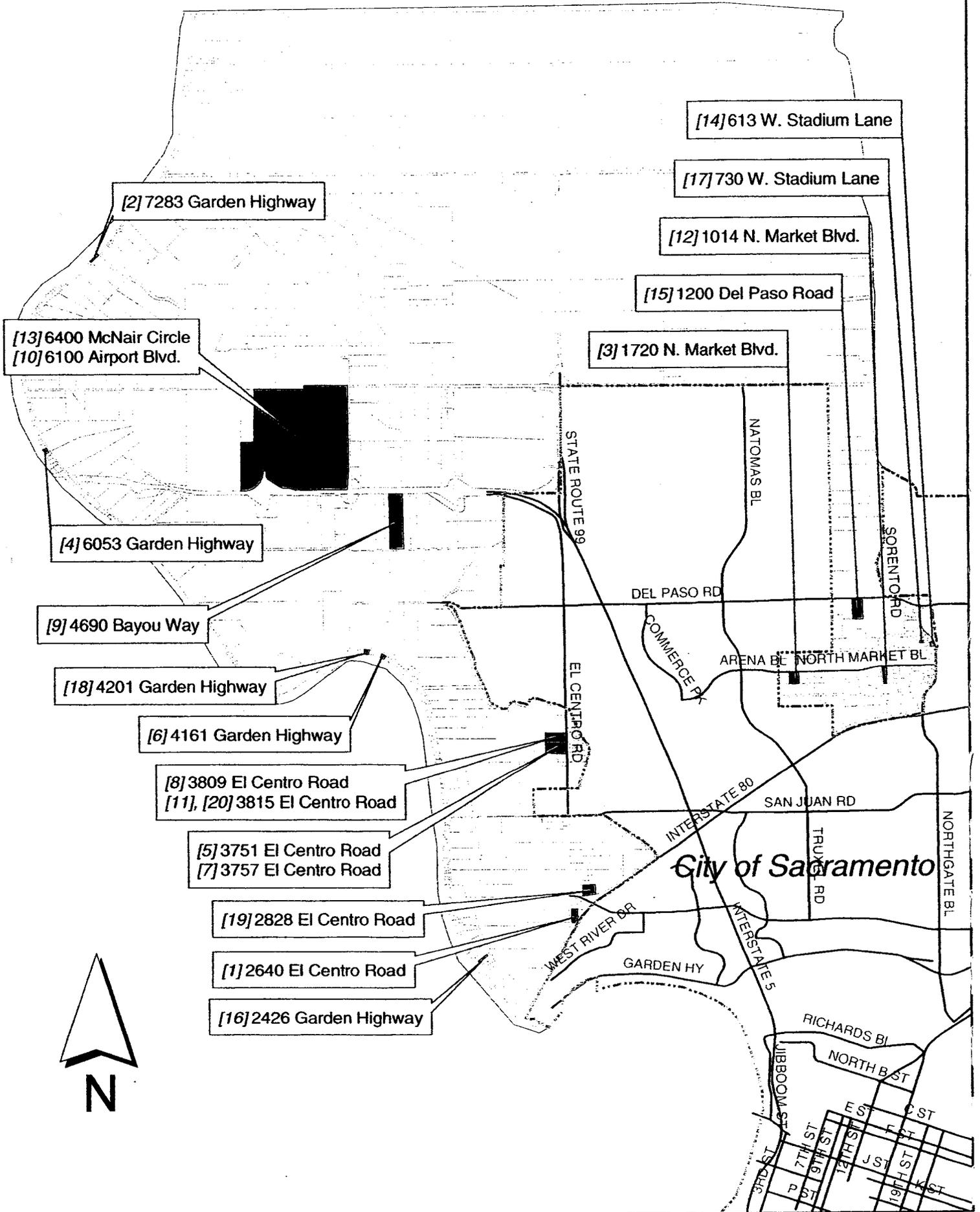
facilities development impact fee program. The work includes analyzing facility inventories, reviewing existing park and recreation facility standards for unincorporated area residents in light of updated planning standards, analyzing current County facility development cost information, and developing land cost acquisition factors, based on analysis of recent land sales data. The County intends establish a multi-faceted approach to providing adequate park and recreation facilities to serve new development: renewing the park dedication and/or in-lieu fee requirement for active park land acquisition in subdivisions, implementing a public facility impact fee for park and recreation facility improvements, implementing a public facility impact fee for active park land acquisition that would apply to new development in the unincorporated area outside of subdivisions, and implementing a public facility impact fee for passive park land that would apply to all residential development throughout the unincorporated area. HEG's report will provide the documentation necessary to move forward with this more comprehensive park and recreation facility impact fee program.

**BUILDING PERMITS
ISSUED IN SACRAMENTO COUNTY
FROM JANUARY 2000 TO JUNE 2002
IN THE AREA SURROUNDING NORTH NATOMAS**

- data compiled by
City of Sacramento
- pages excerpted

EXHIBIT One

County area surrounding North Natomas



	APN	Address	Description	Permit Issue Date	Permit Finaled Date
1	225 1020 010 0000	2640 El Centro Road	New Mini Storage Building	04/10/00	01/18/01
2	201 0250 028 0000	7283 Garden Highway	NSFD (New Single Fam. Dwel.)	08/16/00	
	225 0942 053 0000	1720 N. Market Blvd.	Storage Silo & Cooling Tower	05/04/00	06/05/02
4	201 0280 069 0000	6053 Garden Highway	NSFD (New Single Fam. Dwel.)	07/03/00	
5	225 0110 053 0000	3751 El Centro Road	NSFD (New Single Fam. Dwel.)	11/02/00	
6	225 0090 027 0000	4161 Garden Highway	NSFD (New Single Fam. Dwel.)	05/16/01	05/09/02
7	225 0110 053 0000	3757 El Centro Road	NSFD (New Single Fam. Dwel.)	09/26/00	
8	225 0110 052 0000	3809 El Centro Road	NSFD (New Single Fam. Dwel.)	10/25/00	
9	225 0020 028 0000	4690 Bayou Way	Cellular Tower	05/09/01	
10	201 0291 026 0000	6100 Airport Boulevard	Convience Store/2 Dispenser Canopies	03/01/01	08/07/01
11	225 0110 052 0000	3815 El Centro Road	NSFD (New Single Fam. Dwel.)	12/20/00	
12	225 0944 036 0000	1014 N Market Blvd.	Commercial Building	08/22/01	
13	201 0291 026 0000	6400 McNair Circle	Enterprise Car Rental Facilities	04/18/01	07/20/01
14	237 0011 057 0000	613 W. Stadium Lane	New Building Sir Speedy Printing Shop	12/17/00	
15	225 0060 048 0000	1200 Del Paso Road	Warehouse Shell	09/28/01	
16	274 0250 011 0000	2426 Garden Highway	NSFD (New Single Fam. Dwel.)	10/11/00	
17	237 0011 066 0000	730 W. Stadium Lane	Commercial Building	11/30/00	
18	225 0090 031 0000	4201 Garden Highway	NSFD (New Single Fam. Dwel.)	10/15/00	
19	225 0220 054 0000	2828 El Centro Road	49'er Truck Plaza-Truck Repair/Wash Fac.	04/12/02	
20	225 0110 052 0000	3815 El Centro Road	Barn	03/07/02	

Building Permits issued by
County of Sacramento,
Natomas Basin, 1/2000 - 6/2002

CALIFORNIA LEGISLATURE

STATE CAPITOL
SACRAMENTO, CALIFORNIA
95814

July 25, 2002

Mr. Robert C. Hight, Director
Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

Dear Mr. Hight,

We write to request that you, as Director of the Department of Fish and Game (DFG), intervene on behalf of the endangered Swainson's hawk. Its habitat is dwindling and state law requires that a State of California incidental take permit be acquired before destroying Swainson's hawk habitat.

Recently the Sacramento Department of Airports removed three of the five known and well-documented Swainson's hawk nesting trees on county owned land near the Sacramento International Airport, in the Natomas Basin. In addition, 97 other trees were cut down that could have served as substitute nesting habitat. The issue has been covered in detail in the *Sacramento Bee* (see attached articles). It is our understanding that the airport also committed wetland filling violations.

The destruction reportedly was done for "maintenance" reasons. All of the trees destroyed were outside the Airport fence, and most were in agricultural buffer lands owned by the county to buffer airport use from urban surroundings. At least two of these nest trees were located in areas where future county projects (lengthening of the east runway and widening of Powerline Road) may evolve. Such projects would require incidental take permits to remove these nest trees, with mitigation requirements, under the California Endangered Species Act.

The county was also cited by the Corps of Engineers and the Regional Water Quality Control Board for dumping fill into Pritchard Lake, a wetland area on county lands held as airport buffer land. Pritchard Lake is documented habitat for the Giant Garter Snake, listed as threatened under both the state and the federal Endangered Species Acts.

Again, it is our understanding that the County did not ask for, nor obtain a permit from the DFG to destroy Swainson's hawk habitat prior to the massive tree destruction and wetland filling operation.

EXHIBIT 2

Mr. Robert Hight
July 25, 2002
Page 2

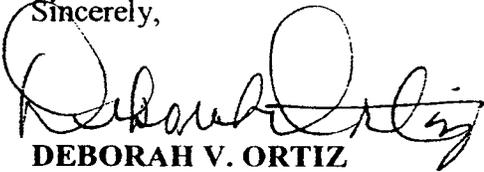
We write to you to ask that the DFG conduct a full investigation regarding responsibility for these acts as well as appropriate penalties and mitigation measures.

We are hopeful that the State will act quickly to rectify this issue. If acts such as these go unpunished, it will only encourage and set a precedent for further habitat destruction in the sensitive Natomas Basin, and elsewhere in the area. If the county or any entity is able to destroy habitat at this level without penalty or mitigation, there is nothing to avoid jeopardy of this species in our region. Other landowners could follow suit, knowing that there will be no penalties for clearing land of habitat.

We look forward to your response concerning this request. We hope that your department will be able to investigate and make a determination regarding appropriate action and mitigation for the removal of Swainson's hawk habitat on county-owned lands adjacent to the Sacramento International Airport.

Thank you for your consideration of our request. If you need any additional information, please do not hesitate to contact our offices.

Sincerely,



DEBORAH V. ORTIZ
Senator, District 6



DARRELL STEINBERG
Assembly Member, District 9

cc: Don Nottoli, Chair, and Members of the Board, County of Sacramento
Terry Schutten, County Executive Officer



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922
May 29, 2002

Regulatory Branch (200200313)

Frances Shererpz
Assistant Director of Airports
Sacramento International Airport
6900 Airport Blvd.
Sacramento, California 95837-1109

Dear Ms. Shererpz:

I am writing to you concerning unauthorized discharges of dredged or fill material by the airport into wetlands adjacent to the Sacramento River. This work is located at approximate Latitude 38 43' 42" and Longitude 121 35' 30", in Sacramento County, California.

Based on the available information, approximately 6 acres of waters of the United States remanent of Prichard Lake have been filled. Under Section 404 of the Clean Water Act, a Department of the Army (DA) permit is required prior to discharging dredged or fill material into waters of the United States. Since a DA permit has not been issued authorizing these discharges, the work is in violation of the Clean Water Act. We have enclosed an extract of the law for your reference.

You are hereby directed to cease and desist from any additional work involving discharges of dredged or fill material into waters of the United States at this site.

We are currently conducting an investigation to determine the impact of this work on the public interest and the course of action that should be taken. To ensure that all pertinent information is available for our evaluation and included in the public record, you are invited to provide any information which you feel should be considered. Your plans for utilization of this work and your evaluation of the need to retain this fill may be of particular significance in determining what actions are to be taken. Since the information provided will become a part of the public record, it may be presented in any court action that could result from this investigation. Any information you wish to provide should reach this office no later than June 23, 2002.

You should reference number 200200313 in any correspondence concerning this work. Prompt voluntary restoration of these wetlands to their pre-project condition, following a DA approved plan, may resolve this violation. If you have any questions, please write to Mr. Justin Cutler, Room 1480, e-mail: Justin.Cutler@usace.army.mil, or telephone 916-557-5258.

Sincerely,

ORIGINAL SIGNED

Art Champ
Chief, Regulatory Branch

Enclosure

Copies Furnished: w/o Enclosure

George D. Day, P.E., Senior Water Resources Control Engineer, Storm Water & Water Quality Certification Unit, Central Valley Regional Water Quality Control Board, Suite A, 3443 Routier Road, Suite A, Sacramento, California 95827-3003

Tim Vendlinski, Chief, Wetlands Regulatory Office, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105-3941

Jan C. Knight, Chief, Endangered Species Division, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W2605, Sacramento, California 95825-3901

James P. Paehl, Attorney at Law, 817 - 14th Street, Sacramento, California 95814-2909



California Regional Water Quality Control Board Central Valley Region

Robert Schneider, Chair



H. Hickox
etary for
Environmental
Protection

Sacramento Main Office
Internet Address: <http://www.swrcb.ca.gov/rwqcb5>
3443 Routier Road, Suite A, Sacramento, California 95827-3003
Phone (916) 255-3000 • FAX (916) 255-3015

Gray Davis
Governor

6 June 2002

CERTIFIED MAIL
7001 2510 0004 1548 9821

Mr. G. Hardy Acree
Director of Airports
County of Sacramento
600 Airport Blvd
Sacramento, CA 95837

CLEANUP AND ABATEMENT ORDER NO. R5-2002-0714, SACRAMENTO COUNTY, DEPARTMENT OF AIRPORTS

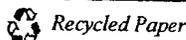
The enclosed Cleanup and Abatement (C&A) Order directs you to clean up sediment and fill material that you placed into wetlands in the Prichard Lake area..

The C&A Order requires that you (1) Submit to the Regional Board, by 15 July 2002 a Cleanup and Abatement Plan describing the methods proposed to remove sediment from the Prichard Lake wetland area, (2) Rehabilitate the wetland ecosystem while minimizing the re-suspension of sediments and fines without re-deposition of sediments in the affected area or downstream and (3) Accomplish 1, and 2 above without violating water quality objectives described in the Basin Plan.

If you have any questions, please contact Patrick G. Gillum at 916-255-3397.

WILLIAM J. MARSHALL, Chief
Storm Water & Water Quality Certification Units

California Environmental Protection Agency



July 26, 2002

Mr. Ron Remple
Deputy Director, Habitat Conservation Division
1416 Ninth Street
California Department of Fish and Game
Sacramento, CA 95814

SUBJECT: Swainson's Hawk Nest Tree Removal in the Natomas Basin

Dear Ron:

Due to the continuing discussion of Swainson's hawk nest tree cutting in the Natomas Basin, and my understanding of your role representing the Department on this matter, I thought I would send you my information for use in your investigation.

Since 1999, I have been conducting basin-wide surveys for nesting Swainson's hawks in the Natomas Basin for the Natomas Basin Conservancy, the entity administering the Natomas Basin Habitat Conservation Plan. All of the nests that were removed are documented in the 2001 annual report. I am assuming you have this information, but if not, please feel free to call me at 916/503-6681 and I can fax over the appropriate maps and descriptions.

During late winter/early spring 2002, I began my initial surveys of the basin and noted the removal of the trees. Four nest sites were removed during late winter 2002. Refer to the 2001 annual report for specific locations, descriptions, and photographs.

1. NB-7. This is the Metro Airpark pair. The nest was located just north of Interstate 5 and just east of Powerline Road. All 3 alternate nesting trees were removed. The Metro Airpark project was permitted for this activity under their Section 10a(1)(B) and 2081 permits. Mitigation was required for this action. This site had been active and productive for several years, including 2001.
2. NB-20. This was a lone tree along a canal south of I-5 and west of Powerline Road. The tree was cut down sometime prior to March 9, 2002, my first observation of the site. Unlike some reports to the contrary, the cottonwood tree was healthy and straight, and did not appear to be in danger of falling (refer to photo in 2001 annual report). This site had also been active for several years, including 2001.
3. NB-26. This nest tree along with a dozen or so other trees was located along the west side of Powerline Road between Elkhorn and Elverta Roads on Sacramento International Airport property between the road and the fence. All of the trees, including the nest tree, were probably cut down sometime in March or early April. My first observation was on April 6. At the time, 3-4 foot-high stumps remained. A few days later, the stumps were removed and the site was graded. This site was active and successful in 2001.
4. NB-15. This nest tree was in a riparian area just north of Elverta Road and north of the airport. The entire riparian area, along with the nest tree, was removed sometime in the late winter - probably in March. My first observation was on April 6, when the removal activity looked very fresh. However, this was my first observation and thus I cannot be certain of the removal time. At this site, the entire riparian forest and associated wetland were removed and graded. This site had been historically active, but inactive the last two years.

As you know, trees are at a premium in the Natomas Basin, and with the loss of these 4 sites (including the Metro Airpark site which was a permitted and mitigated activity), nearly 20% of the nesting sites in the interior of the basin have been affected. This loss represents a substantial reduction of available nesting sites, particularly with all of the efforts by the Natomas Basin Conservancy to maintain and create habitat for the purpose of sustaining this population in the Natomas Basin. There are few opportunities for these displaced nesting pairs to relocate in the basin, and thus their future status may remain unknown.

I have provided this information to Terry Roscoe and Jenny Marr. Please feel free to call me at 916-503-6681 if you have any questions or if I can be of any assistance to the Department in its investigation of this matter.

Sincerely,



Jim Estep

Cc: John Roberts – Natomas Conservancy
Waldo Holt – Swainson's Hawk Technical Advisory Committee
Jim Pachel – Friends of the Swainson's Hawk



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Sacramento Field Office
2800 Cottage Way, Room E-1803
Sacramento, California 95825-1846

In Reply Refer To:
1-1-94-F-13

March 11, 1994

District Engineer
U.S. Army Corps of Engineers
Regulatory Branch (Attention: Tom Kavanaugh)
1325 J Street
Sacramento, California 95814-2922

Subject: Endangered Species Act Consultation on the Revised Natomas Area Flood Control Improvement Project (PN 199200719) in Sacramento and Sutter Counties, California

Dear Sir:

This responds to your request of January 21, 1994, for initiation of formal consultation pursuant to section 7 of the Endangered Species Act of 1973, as amended (Act), on the proposed provision of 200-year flood protection for the lower American Basin. Your request was received by the U.S. Fish and Wildlife Service (Service) on January 25, 1994. At issue are the effects of the proposed project on the giant garter snake (*Thamnophis gigas*), listed as a threatened species by the State and Federal governments.

This biological opinion is based on the public notice for this project, numerous environmental documents prepared under the National Environmental Policy Act and California Environmental Quality Act, and other scientific and commercial information in Service files.

Biological Opinion

It is our biological opinion that the proposed Revised Natomas Area Flood Control Improvement Project, together with the five proposed permit conditions described in the Corps' letter dated January 21, 1994, is not likely to jeopardize the continued existence of the giant garter snake. Critical habitat has not been designated for this species; therefore, none will be adversely modified or destroyed.

Description of the Proposed Action

Please refer to the public notice (PN 199200719) for a description of the construction related details of the proposed project. In brief, the Sacramento Area Flood Control Agency (SAFCA) proposes to improve levee systems needed to provide 200-year flood protection to the 55,000-acre lower American

EXHIBIT 3

~~000712~~

(Natomas) Basin. Your January 21, 1994, request for consultation included a list of five special conditions proposed for inclusion as part of any permit issued for the proposed project--three conditions designed to avoid, minimize, and offset the direct effects of project construction on the garter snake, and two conditions that would offset the indirect effects of the proposed flood control project. By mutual agreement, the Corps and Service consider these permit conditions to be part of the project proposal. Please refer to the Incidental Take section below for more details on conditional language to be included in any Department of the Army authorization of the proposed project.

To avoid, minimize, and offset the direct effects of the proposed project on the giant garter snake, the Corps proposed three permit conditions to supplement the applicant's proposed Wetland Mitigation Plan, dated June 1993. These three permit conditions, as described by letter dated January 21, 1994, would (1) require preconstruction surveys for the giant garter snake, (2) include measures to minimize the extent of incidental take, and (3) compensate for any direct losses of giant garter snake habitat. To address indirect effects of the proposed project, the Corps also proposed (in the same letter) to require (4) completion of a habitat management plan prior to start of construction of the proposed pumping station, per direction of the Assistant Secretary of the Army (Civil Works), that addresses mitigation requirements for the giant garter snake, and (5) inclusion of a habitat management plan and signed agreement among the City of Sacramento, Sacramento and Sutter counties, and the Service, to guarantee implementation of the plan. Relative to items #1 and 2 above, the permit applicant, by letter dated February 3, 1994, submitted a proposed plan to avoid direct effects of project construction on the giant garter snake. This plan will be modified and approved by the Service per requirements described in the Incidental Take section below.

Species Account/Environmental Baseline

Please refer to the October 20, 1993, Federal Register notice (58 FR 54053-54066) listing the giant garter snake as a threatened species, for detailed information on the biology/ecology of the species. One of the largest garter snakes, reaching a total length of at least 64 inches, this highly aquatic species feeds exclusively on small fishes, tadpoles, and frogs. The giant garter snake inhabits small mammal burrows and other soil orifices above prevailing flood elevations throughout its winter dormancy period (November to mid-March). The breeding season commences immediately upon emergence in the spring, extending through March and April; females give birth to live young from late July through early September (Hansen and Hansen 1990). Brood size is variable, ranging from 10 to 46 young, with a mean of 23.1 (n=19) (*ibid.*). Although growth rates are variable, young typically more than double in size by one year of age (*ibid.*). Sexual maturity averages 3 years of age in males and 5 years for females (*ibid.*).

The giant garter snake is endemic to valley floor emergent marshes in the Central Valley, historically distributed throughout the large flood basins from the former Buena Vista lakebed in Kern County northward to the Butte Basin. Reclamation of wetlands for agriculture and flood control have resulted in severe habitat fragmentation, to the extent that wetland habitats with natural hydrologic and vegetative characteristics effectively have been eliminated throughout the entire range of the species. The remaining giant garter snake populations identified since the mid-1970s are clustered in 13

distinct areas that largely coincide with historical riverine flood basins and tributary streams (Hinds 1952, Brode and Hansen 1992). In agricultural areas (predominantly rice), giant garter snakes primarily occur along water delivery and drainage canals. Nine of the remaining 13 regional populations occur discontinuously in typically small, isolated patches of valley floor habitat that support few individuals due to limited extent and quality of suitable habitat (Hansen 1988). These nine populations, encompassing about 75 percent of the species' current geographic range, are vulnerable to extinction at any time from anthropogenic causes, as well as stochastic (random) environmental, demographic, and genetic processes. Despite repeated censusing, giant garter snakes have not been observed throughout the San Joaquin Valley since the mid-1970's. Considering the urbanization threats to the American Basin population portended by the proposed project, 10 of the 13 (77 percent) extant populations are imminently imperiled.

The American Basin supports the largest extant giant garter snake population (Brode and Hansen 1992). Throughout this area, reconnaissance level surveys (USFWS 1991) indicate that about 1,400 acres of giant garter snake habitat exist in the form of man-made irrigation and drainage canals, as well as an undetermined acreage of suitable habitat within nearly 13,000 acres of adjoining rice fields. The giant garter snake also uses an undetermined amount of habitat at higher elevations to escape from winter flooding during the inactive winter phase of the snake's life cycle.

Effects of the Proposed Action

Direct Effects

The proposed levee improvement work could directly affect giant garter snakes if they occur along the reaches specified for upgrading. The applicant proposes to conduct field surveys to determine if suitable habitat and the species occur in any of the proposed work areas. If giant garter snakes are found, construction will be scheduled to avoid the period between October 1 to May 1, thereby precluding the likelihood of impacting snakes while dormant underground. Levee construction will predominantly occur along levee tops and banks, areas seldom used by this highly aquatic species during its active season. Therefore, death or injury from construction activities during the summer along levee banks and slopes is unlikely because snakes center their activities in aquatic habitats at this time.

Nonetheless, as currently formulated, the proposed levee improvements do not address the possibility of eliminating terrestrial retreat habitat during the summer while garter snakes are restricted largely to aquatic habitats. Under this scenario, terrestrial retreat habitat may become a limiting factor to any garter snakes inhabiting project reaches scheduled for levee improvement. However, it is likely that small mammals and other processes that create soil holes and fissures will relatively quickly reestablish any terrestrial retreat habitat lost due to project construction.

Indirect Effects

The proposed flood control project would provide 200-year flood protection for the 55,000-acre lower American Basin. This area currently consists 7,140 of acres of urban land uses and 47,742 acres of agricultural lands. The draft

and final Environmental Impact Statement (EIS) for the American River Watershed Investigation (U.S. Army Corps of Engineers 1991) and Environmental Impact Report (EIR) for the Revised Natomas Area Flood Control Improvement Project (SAFCA 1993) defined this 55,000-acre basin as the project area. Both documents acknowledged that flood control would result in intensive urbanization of the Basin throughout the foreseeable future. In addition, various City and County plans identify proposed development for the region, to wit: draft EIR for the Sutter Bay Village Specific Plan and Golf Course Residential (Sutter County 1992); draft EIR for the Metropolitan Airport/Vicinity Special Planning Area General Plan Amendment and Rezone No. 89-GPB-ZOB-0781 (Sacramento County 1992); North Natomas Community Plan (City of Sacramento 1993); draft and final EIR's for the South Sutter County General Plan Amendment (Sutter County 1991, 1992). These documents establish a clear link between the proposed flood protection and resulting flood plain development. For example, the North Natomas Community Plan acknowledges that further development is precluded until the proposed flood control project is constructed. The Sutter Bay Village Specific Plan states that "[u]ltimate approval of the proposed project (Sutter Bay) is dependent on the eventual approval of a regional flood control project, which is being proposed by the Sacramento Area Flood Control Agency, the Army Corps of Engineers, and the State Reclamation Board." Moreover, Joe Serna, Mayor of the City of Sacramento, stated at a September 16, 1993, meeting of the Floodplain Management Association, that "the decision already has been made in Natomas, we're going to develop it" (Sacramento Bee, 9/17/93).

Absent measures to address the prospect of future basin-wide losses of existing giant garter snake habitat, this flood control project and consequent urban development could extirpate the giant garter snake from the American Basin [California Department of Fish and Game (CDFG) 1992, Brode and Hansen 1992]. The North Natomas Community Drainage System and associated urban development, proposed by the City of Sacramento, would affect about 26 miles of giant garter snake habitat along existing canals and ditches, and additional rice field habitat (*ibid.*). Potential effectiveness of a proposed mitigation plan remains undetermined. The proposed Sutter Bay project, at the north end of the American Basin, could eliminate and/or degrade about 42 miles of suitable canals (*ibid.*) and thousands of acres of associated rice fields and giant garter snake habitat. The proposed South Sutter Industrial Center, located near the Sutter Bay project, could eliminate another 9.0 miles of aquatic habitat and associated rice fields. The Metro Air Park is proposing about 1,890 acres of development on agricultural and vacant lands that potentially could result in major adverse impacts to the species, including the loss of about 9.0 miles of canal habitat and 1,500 acres of rice fields, as well as the disruption of movement corridors (*ibid.*). Roadway improvement and construction projects, or the planned extension of the Sacramento Regional Transit system in this area, also increases the likelihood for major impacts to the species, including elevated mortality from increased traffic on local roads and highways (*ibid.*). Numerous species of aquatic snakes are vulnerable to roadway mortality (Bernardino et al. 1992). Giant garter snakes also are killed and injured by vehicular traffic, as evinced by numerous observations (Sacramento County 1992; G. Hansen, pers. comm., 1992; J. Brode, pers. comm., 1992); of the cumulative total of 1,056 giant garter snake records compiled by G. Hansen over his many years of study, 76 (7.2 percent) were road kills (G. Hansen, pers. comm., 1992).

With nine of the twelve other extant populations on the verge of extinction throughout 75 percent of the current range of the species, including the entire San Joaquin Valley (see Species Account/Environmental Baseline), survival of the species cannot be assured by the additional loss or degradation of the largest remaining population. Because of the severe, declining trends in habitat suitability/availability and population levels throughout 75 percent of the range of the species, the Service concludes that the maintenance of a viable giant garter snake population in the American Basin is vital to the survival of the species.

To address the prospective habitat losses of the proposed project to the American Basin population, the Corps has proposed, by letter dated January 21, 1994, a special permit condition that would establish a multispecies habitat management plan for the 55,000-acre lower American Basin, scheduled for completion prior to the start of construction of the proposed pumping station. An element of this habitat management plan would include an agreement among local governments and the Service that guarantees the conservation needs of the giant garter snake. Based on ongoing habitat conservation planning discussions with representatives of the applicant, Corps, CDFG, and landowners, this agreement, at the Federal level, will take the form of an incidental take permit and implementing agreement issued by the Service under section 10(a)(1)(B) of the Act, and at the State level, a permit issued by the CDFG under section 2081 of the State Fish and Game Code.

This habitat management plan would provide certainty for the maintenance of a viable population in the American Basin if the proposed project is authorized. The Service, therefore, concludes that the proposed project is not expected to reduce appreciably the likelihood of the survival and recovery of the giant garter snake by adversely affecting reproduction, numbers, and distribution of the species.

Cumulative Effects

Cumulative effects are those effects of future non-Federal (State and local governments, or private) activities on endangered and threatened species or critical habitat that are reasonably certain to occur during the course of the Federal activity subject to consultation. Future Federal actions are subject to the consultation requirements established in section 7 and, therefore, are not considered cumulative to the proposed action.

Various farming and canal maintenance practices adversely affect most remaining giant garter snake populations (58 FR 54063). For example, sodium sulfate and selenium contamination throughout most of the Grasslands region of the San Joaquin Valley has been documented to adversely affect giant garter snake prey species and overall habitat quality (USFWS file information). In addition, acrolain (Magnacide H) is commonly used as a herbicide in irrigation and drainage canals throughout much of the range of the giant garter snake. This compound, when used at levels needed to control target plant species, is toxic to virtually all aquatic vertebrates (CDFG and USFWS file information). Livestock grazing is known to be contributing to the elimination and degradation of available habitat at four populations (58 FR 54061).

Cumulative effects together with the impacts of the proposed project are not likely to reduce appreciably the likelihood of the survival and recovery of the giant garter snake.

Incidental Take

Sections 4(d) and 9 of the Act, as amended, prohibit any taking (harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct) of listed species of fish or wildlife without special exemption. Harm is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding, or sheltering. Harass is defined as actions that create the likelihood of injury to such an extent as to significantly disrupt normal behavioral patterns that include but are not limited to breeding, feeding, or sheltering.

Under the terms of §7(b)(4) and §7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered a prohibited taking provided that such take is in compliance with this incidental take statement. The measures described below are nondiscretionary and must be undertaken by the agency so that they become binding conditions of any permit issued to the applicant for the exemption in §7(o)(2) to apply. The Federal agency has a continuing duty to regulate the activity that is covered by this incidental take statement. If the agency fails to require the applicant to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit, the protective coverage of §7(o)(2) may lapse.

The Service anticipates that an unquantified amount of potential giant garter snake habitat could be lost during construction of the proposed levee improvements. Surveys have not been conducted to determine the extent, if any, of giant garter snake habitat within the project reaches proposed for improvement. The Corps and applicant propose preconstruction surveys to obtain the information needed to design and schedule the project so that impacts can be avoided and minimized to the extent possible. The Service also anticipates that an unquantifiable amount of giant garter snake habitat would be eliminated by future commercial development over the next ±50 years throughout much of the lower American Basin consequent to the provision of the proposed flood protection.

The Service establishes the following reasonable and prudent measures to minimize the impact of take. The measures below are nondiscretionary and must be undertaken by the Corps:

- 1) Construction related disturbance to the giant garter snake shall be minimized.
- 2) A conservation plan to address indirect effects of the proposed project shall be approved by the Service prior to the start of construction on the pumping station.

To be exempt from the prohibitions of section 9 of the Act, the following terms and conditions, which implement the reasonable and prudent measures described above, must be complied with in their entirety and included as

special conditions in any Department of the Army permit issued for the proposed project:

- 1) The applicant shall prepare and implement a plan for avoiding and minimizing construction related impacts to the giant garter snake. The plan shall be submitted to the Corps and Service for review and approval prior to the start of project construction.
- 2) The permit applicant shall not begin construction on the pumping station along the East Main Drain or otherwise complete the proposed project by providing 100-year flood protection for the lower American Basin until the Service first issues an incidental take permit and associated implementing agreement pursuant to §10(a)(1)(B) of the Act to the City and County of Sacramento, Sutter County, and any other parties necessary to guarantee the successful implementation of a habitat conservation plan for the giant garter snake population resident within the American Basin. This plan shall be compatible with and a component of the multispecies habitat management plan otherwise required by the Department of the Army as a condition of permit authorization.

Pursuant to 50 CFR §402.14(i)(4), if during the course of the action the amount or extent of incidental taking is exceeded, the causative action must cease and the Corps must reinitiate consultation immediately with the Service to avoid violation of section 9 of the Act.

Reporting Requirements: The Service shall be notified immediately of any information about take or suspected take of giant garter snakes associated with project construction and implementation of the habitat conservation plan for the giant garter snake. Upon locating a dead, injured, or sick giant garter snake specimen, the Corps, permittee, and/or contractors must immediately notify the Service within 3 working days of any such information. Notification must include the date, time, and precise location of the incident/specimen, and any other pertinent information. The Service contact for this information is the Field Supervisor at 916/978-4866. Care shall be taken in handling sick or injured specimens to ensure effective treatment and care and in handling dead specimens to preserve biological material in the best possible state for later analysis of cause of death. The finder and handler of any such animals has the responsibility to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed. Injured animals or specimens shall be delivered to the Service's Division of Law Enforcement at 2800 Cottage Way, Sacramento, California 95825-1846 (916/978-4861).

This concludes formal consultation on the project as described above. Reinitiation of formal consultation is required if (1) the amount or extent of incidental take is exceeded, as previously described, or the requirements under the Incidental Take section are not implemented, (2) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent that was not considered in this opinion, (3) the proposed action is subsequently modified in a manner that causes an effect to the giant garter snake that was not considered in this opinion, and/or (4) a new species is listed or critical habitat is designated that may be affected by the action.

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BROOKFIELD NATOMAS

10/3/02

The Project: An environmentally sensitive, innovative mixed-use community on approximately 2200 acres in the area bounded by Sutter County on the north, the East Main Drain on the east, Elkhorn Boulevard on the south and Highway 99 on the west. There are ongoing negotiations with other landowners and the Brookfield Natomas acreage may increase.

The Participants: Brookfield Land Company, Inc. in conjunction with more than 20 individual Natomas landowners. Brookfield has entered into binding agreements with these landowners and will act on their behalf to create the Master Plan and develop the vision.

The Vision: Integrate habitat land and open space into transit-oriented villages linked by bike paths and pedestrian walkways with appropriate support neighborhood commercial located just 7 miles from downtown Sacramento. The agreements between Brookfield and Natomas landowners include an innovative transfer of development rights which will create the desired separation between Sutter County and Sacramento County and protect precious occupied habitat. This will be accomplished at no cost to the City and without the City (or the Natomas Basin Conservancy) being required to acquire land on behalf of landowners. While this is enormously more costly than the fee-based mitigation program developed for the North Natomas Community Plan, it ensures protection of key habitat and guarantees community separation, thereby meeting from the outset key community goals. We believe our approach will create a model for future development within the region and will come to be regarded as one of the most thoughtful, innovative habitat protection programs in the state.

The Proposal for Habitat Mitigation: The Natomas Basin is home to many special status species. The Brookfield Natomas project area contains important habitat for the state and federally listed giant garter snake. Brookfield Natomas proposes to protect this habitat by setting aside key habitat areas within the Project which, in conjunction with other landowners and the Natomas Basin Conservancy, will provide an enhanced habitat area far in excess of 2500 acres. This habitat area will be interconnected and will preserve and enhance the occupied giant garter snake habitat within the Brookfield Natomas project. It will also provide additional upland areas suitable for the Swainson's Hawk. This habitat and open space preserve will include the following features:

EXHIBIT 4

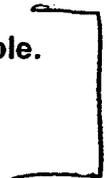
①

1. **The occupied giant garter snake habitat in Sacramento County will be included in the preserve.** Maintenance of the species will not depend on restoration of habitat (always risky), but rather on maintenance and enhancement of **existing** giant garter snake habitat.
2. **All habitat will be interconnected thereby avoiding species isolation.**
3. **Habitat and open space will be provided at the 1:1 ratio called for in the Natomas Joint Vision.** In combination with other landowners already committed to mitigating on site and including the Natomas Basin Conservancy land in this area, the interconnected habitat and open space areas will far exceed 2,500 acres.
4. **All existing canal and ditch structures will be preserved in the preserve.** Habitat areas will be enhanced for giant garter snake preservation by addition of meandering canals separated by new upland areas created within the preserve and addition of large pools of water (1 to 5 acres in size). In this way, desirable interconnected habitat will be materially increased.
5. **Portions of the habitat area will also serve as estuary type wetlands in the event of a 100-year flood event.** The water depth in a 100-year event will vary, but following creation of the new upland areas would range from one to four feet. Normal rain runoff levels is anticipated to be a few inches. Upland areas will be created at appropriate heights such that the giant garter snake can easily reach high ground. This is the classic periodic flooding pattern of lowland portions of the Natomas Basin and will result in enhanced habitat for the giant garter snake. The snake has adapted successfully to periodic flooding of the rice fields where it frequently forages, as well as to the more major flood events in the Natomas Basin.
6. **The habitat areas will be separated from the residential areas by an approximately 150-foot wide urban runoff collector with berms on each side.** The 150-foot wide collector will also serve as a buffer separating urban uses from the preserve. The height of the berm will be designed to protect habitat, but retain vistas across the preserve such that it will also become an important community open space resource. The outer berm can be used for walking and biking and will offer appropriate opportunities for community education. While the key habitat areas will not be accessible in order to protect the species, the many viewing opportunities will enhance community awareness and appreciation of the importance of habitat preservation.
7. **The habitat value of the existing Natomas Basin Conservancy preserves will be significantly enhanced by being connected to the substantial occupied giant garter snake habitat provided by our landowners.**

8. **The creation of new upland areas within the habitat and open space preserve will result in new Swainson's Hawk foraging habitat in an area which presently contains little Swainson's Hawk habitat.**

Habitat Conservation Principles for the MOU: We believe that the MOU could be modified to insure creation of this important habitat preserve by adding the following additional points to the MOU in Section 1A (Open Space):

- **All mitigation land shall be within the Natomas Basin. Habitat mitigation shall be incorporated within development areas to the extent possible to protect occupied habitat areas.**
- **All parcels within the existing 100-year flood plain shall mitigate for loss of habitat on site to ensure connectivity of habitat and consistent resolution of hydrology issues.**
- **All onsite habitat areas shall be interconnected to the extent possible.**





13.1

PLANNING AND BUILDING
DEPARTMENT

CITY OF SACRAMENTO
CALIFORNIA

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2998

PLANNING
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September 3, 2002

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: SACRAMENTO CITY-COUNTY NATOMAS JOINT VISION (M02-014)

LOCATION AND COUNCIL DISTRICT: Unincorporated Portion of the Natomas Basin, within Sacramento County.

RECOMMENDATION: It is recommended that the Council direct staff to continue public outreach for the Joint Vision, further clarify the identified issues, report back and adopt the MOU on November 26, 2002.

CONTACT PERSON:

Gary L. Stonehouse, Planning Director	(916) 264-5567
Steve Peterson, Principal Planner	(916) 264-5981
Rebecca Bitter, Associate Planner	(916) 264-7852

FOR COUNCIL MEETING OF: September 17, 2002 (evening)

SUMMARY: This report is a follow-up to the August 20, 2002 City Council workshop regarding the City-County Natomas Joint Vision to answer questions and identify areas for further investigation. The intent of the MOU and Joint City and County Natomas Vision is to reach a formal agreement for high level collaboration regarding growth and permanent open space preservation in the unincorporated portion of the Natomas Basin within Sacramento County.

COMMITTEE/COMMISSION ACTION: There was none required for this report.

BACKGROUND INFORMATION: On August 20, 2002, City Council directed staff to respond to several issues arising from discussion of the Joint Vision. Issues for further discussion include the revenue sharing principles, the outreach schedule, the role of CEQA in the adoption of the Joint Vision, the relationship of the Joint Vision to the Habitat Conservation Plan for North Natomas, public service and facilities impacts, timing of development, farmland preservation, and the role of compensation in open space acquisition.

EXHIBIT 5 11

Public Outreach

A series of meetings with various stakeholders have been held this past summer, with several more scheduled through September and October. Generally, various interests are in support of the concept of City / County collaboration, although some expressed concerns about specific planning principles. Staff will continue to meet with smaller groups to discuss the Joint Vision (see Attachment B).

FINANCIAL CONSIDERATIONS: There are no known financial impacts from the MOU agreement. The MOU agreement establishes the principles of revenue sharing for the adoption of a Master Tax Sharing agreement between the City and County. The resulting financial impact to the City and County is dependent on the area being annexed in the future and the land uses that end up occurring within that annexation.

ENVIRONMENTAL CONSIDERATIONS: The current request is for Council to enter into a Memorandum of Understanding (MOU) between the City and the County of Sacramento. The MOU establishes mutually agreed upon principles with regard to land use and revenue sharing for the Natomas area. After adoption of the MOU, Council will direct staff to draft amendments to the North Natomas Community Plan (NNCP) and the City's General Plan to implement the vision established for the planning area. No changes in land use designations or specific projects would be proposed or implemented by the MOU, and no environmental review would be required

Potential environmental issues related to implementation of the MOU planning principles to be implemented by Council action pursuant to the MOU, such as policy revisions to the City's General Plan, will be addressed in the "City of Sacramento Comprehensive Annexation Program and General Plan Amendment Environmental Impact Report (EIR)" currently underway. The EIR will be considered by the Council at the time such General Plan policies are considered for adoption. The EIR process will include a full opportunity for review and comment by the public, and would be completed in compliance with the requirements of the California Environmental Quality Act.

POLICY CONSIDERATIONS:

Revenue Sharing

City and County Tax Sharing

The revenue sharing principles in the attached MOU will govern the provisions of tax sharing to be adopted by the City and County in a Master Tax Sharing Agreement for annexations. The County terminated the prior Master Tax Sharing Agreement for annexations, effective January 2001. That prior Agreement shared only property tax revenues.

The revenue sharing in the MOU is to apply to the entire current unincorporated area in the Natomas Basin except for Metro Air Park and Sacramento International Airport, though in some instances it does cover development on Airport properties currently used as buffer land for Airport operations.

The revenue sharing formula that will ultimately apply depends on the type of development occurring, and the status of development at annexation (if annexation is occurring).

Property Tax Sharing

The pooled property tax from an area annexing shall be split between the City and County as 50% City and 50% County except in the cases discussed below (developed areas at time of annexation, and certain cases of multi-purpose/master planned community areas). In the prior tax sharing agreement, property taxes were split 48.5% City and 51.5% County.

In some instances discussed below, the split of property taxes could end up being changed from the general 50% City/50% County property tax sharing arrangement.

Property Tax Sharing for Multi-Purpose/Master Planned Community Areas

Upon the effective date of the annexation of undeveloped property for a Multi-Purpose/Master Planned Community Area, property tax share may be adjusted from the 50% City/50% County split. Projected revenues to the City will be compared to City projected expenses including capital/development costs funded by the City for the new planned area. In the event of a projected City surplus (revenues exceed expenses), 50% of such surplus shall be allocated to the County by adjusting the County's property tax share for the area.

Property Tax Sharing for Annexation of Area Already Developed for Urban Purposes

For the annexation of any area already developed for urban purposes as of the date of the MOU, the County municipal revenues transferred with the area shall be calculated against the costs of municipal services being transferred. The County's property tax share will be increased in the case of a surplus (i.e. County revenues transferred exceed County expenses transferred), and the City's share will be increased in case of a deficit (i.e. County revenues transferred are less than County expenses transferred). The MOU contains language regarding consideration of a County contribution for near-term capital maintenance costs and necessary, significant infrastructure repairs.

Tax Sharing of Single-Purpose/Regional Tax Generating Land Uses not in Multi-Purpose/Master Plan Areas

The City and County have established a tax sharing partnership related to the development of single-purpose/regional tax generating land uses (such as auto mall, factory outlets) that are not part of a multi-purpose/master planned community area as follows:

The Bradley Burns 1% sales tax and General Fund share of transient occupancy tax will be split 50% City and 50% County in the following cases:

1. Annexation of undeveloped property for single-purpose/regional tax generating land use; *and*
2. Upon issuance of certificates of occupancy for single-purpose/regional tax generating land use by the County in the unincorporated area.

Issues for Future Study

The following issues will be addressed in more detail in the staff report for the November City Council meeting:

Habitat Conservation Plan for North Natomas. City and County staff will be meeting with John Roberts of the Natomas Basin Conservancy and Carol Shearly, Natomas Manager, to further clarify the relationship of the Joint Vision to the Habitat Conservation Plan for North Natomas.

Public service and facilities impacts. Staff will meet with the affected districts.

Farmland preservation. City and County staff will be meeting with the Agriculture Commissioner and representatives from the State Farmland Mitigation Program to discuss this issue, and doing further research to outline options for farmland preservation.

Open Space Preservation Scenarios. City and County staff will be analyzing the scenarios for open space preservation and economic impacts, including further review of the report, Open Space Preservation Economic Analysis, prepared by EPS Consultants.

Development Timing and Boundaries. Staff will meet with affected landowners and review the triggers for development relative to infill and North Natomas Community Plan policies.

Some of these issues will be addressed in more detail when the General Plan Amendment and actual master planning for development occurs.

E/SBD CONSIDERATIONS: No goods or services are being purchased under this report.

RECOMMENDATION APPROVED:

Respectfully Submitted:



Robert P. Thomas
City Manager



Gary L. Stonehouse
Planning Director

Attachments:

Attachment A - Memorandum of Understanding

Exhibit A - Map of Area

Exhibit B - Joint Vision Principles

Attachment B - Public Outreach Schedule

Attachment A
**MEMORANDUM OF UNDERSTANDING BETWEEN
THE COUNTY OF SACRAMENTO AND
THE CITY OF SACRAMENTO
REGARDING PRINCIPLES OF LAND USE AND REVENUE SHARING
FOR NATOMAS AREA**

This Memorandum of Understanding (MOU) is entered into this ____ day of 2002, by and between the County of Sacramento, a political subdivision of the State of California (hereinafter referred to as "County") and the City of Sacramento, a chartered, California municipal corporation (hereinafter referred to as "City");

WHEREAS, the County and the City have mutual policy and economic interests in the long term development and permanent preservation of open space within that area of the County known as Natomas, which area is generally depicted on Exhibit A to this MOU; and

WHEREAS, cooperation between the County and the City is an opportunity to develop a vision for Natomas which reflects areas of collective interest. Protecting and maximizing existing, and future, airport operations, open space preservation, and fair distribution of revenue are shared core values. There is a common stake in pro-actively influencing the emerging urban form, by guiding inevitable growth to provide for residential and employment opportunities close to the region's urban core. This promotes improved air quality through trip reductions, and distance traveled, and maximizes the return on existing and future public infrastructure investment in Natomas, this Shared Policy Vision is contained in Exhibit B to this memo; and

WHEREAS, together, the City and County can forge a leadership role on a regional scale for growth management. Such a cooperative effort can address land use, economic development, and environmental opportunities and challenges in Natomas. The result can be quality development balanced with permanent open space preservation systems; and

WHEREAS, Cities and counties are dependent upon tax revenues generated by continued commercial and industrial growth. The tax system creates intense competition between jurisdictions and can lead to economic development at the expense of good land use planning. Such competition between the City and County can be reduced or eliminated by establishing a revenue sharing agreement. In this way, each jurisdiction can benefit from economic development through cooperation rather than competition; and

WHEREAS, the County and City desire to establish principles to form the parameters of a future agreement or agreements encompassing the manner in which the County and City share revenue and land use decisions within the Natomas area.

NOW, THEREFORE, the County and City agree to the following principles:

I. Land use and revenue sharing within the Natomas areas should be guided as follows:

A. Open Space.

- (1) Open space planning will rely on, and coordinate with, existing open space programs, and will address linkage issues. Some specific areas will be designated for preservation as permanent open space to provide assurance that community separators are implemented. Other areas, such as west of Sacramento International Airport, may not require active preservation because of specific constraints related to inadequate infrastructure or public ownership.
- (2) Open space mitigation may be in conjunction with or distinct from any applicable criteria of the Natomas Basin Habitat Conservation Plan (HCP) and may, depending upon circumstances, exceed that of the HCP. A joint funding mechanism will provide funding for land and easement acquisitions.
- (3) Land to be preserved as farmland must not be restricted by nearby development and needs to have a secure supply of affordable water. Buffer areas will be derived from developing lands.
- (4) An airport protection plan will protect the airport by preserving open space around it and keeping noise-sensitive development and waterfowl attractors in relatively distant areas. An emphasis on open space will also lend permanence to any buffers that are established. Such a plan may be achieved through a multi-jurisdictional agreement as to land uses designed to maximize airport protection.

B. Future Growth.

- (1) Consideration of new growth should be done in partnership with the preservation of open space. The urban form should include a well integrated mixture of residential, employment, commercial, and civic uses, interdependent on quality transit service with connections linking activity centers with streets, transit routes, and linear parkways with ped/bike trails.
- (2) The City is the appropriate agent for planning new growth in Natomas. The County is the appropriate agent for preserving open space, agricultural and rural land uses.
- (3) The County will preserve its interest in the planning and development of Sacramento International Airport and Metro AirPark.
- (4) New growth will be supportive of the City's Infill Strategy. It will contribute to the sustainability of established neighborhoods/ commercial corridors/business districts.

- (5) Development in Natomas will build on the vision of the currently planned growth in North Natomas, including the application of the City Council adopted (Resolution No. 2001-805) Smart Growth Principles.
- (6) Future Growth areas shall foster development patterns which achieve a whole and complete, mixed-use community.
- (7) The City, as the agent of development, will apply the adopted Smart Growth Principles to any new development in Natomas. Smart Growth Principles emphasize pedestrian and transit orientation by addressing density, efficient design, and urban open space to provide sustainable, livable communities with fewer impacts than standard development.
- (8) The City and County will develop a joint planning process for major uses in Natomas that are likely to have important economic impacts to existing commercial facilities in the city or county. Among the goals of that process will be to avoid competition for tax revenues, in favor of balanced regional planning.

C. Economic Development.

- (1) The area subject to revenue sharing between the County and the City shall include all that area depicted on Exhibit A except for those areas designated as Metro Air Park and the grounds of Sacramento International Airport, excepting those Airport properties currently used as buffer lands for Airport operations. If retail or commercial development other than Airport-related operations is permitted on such buffer lands, revenues derived from such development shall be subject to this MOU. For purposes of this section, airport-related operations are defined as airport support services such as terminal expansion, aviation fuel sales, aircraft maintenance and support; and hotel motel uses, to the extent such uses are existing or are relocated from existing premises.
- (2) The one percent, general ad valorem tax levy on all property within defined area, which is annexed to the City, shall be distributed, from the effective date of annexation, equally between the County and the City prior to accounting for the impact of distribution of such taxes to the Education Revenue Augmentation Fund.
- (3) It is generally intended that all other revenues from the area be shared as follows subject to an agreed upon projection of need for County or City services:
 - (a) Upon the effective date of the annexation of undeveloped property for single-purpose/regional tax generating land use the County and City will share the 1% Bradley-Burns sales tax and City General Fund share of transient occupancy tax equally.
 - (b) Upon issuance of certificates of occupancy, or their equivalent, property within the

unincorporated area, except as excluded in Section C (1), which is approved for single-purpose/regional tax generating land use by County, the County and City will share the 1% Bradley-Burns sales tax and County General Fund share of transient occupancy tax equally.

- (c) Upon the effective date of the annexation of undeveloped property for a Multi-Purpose/Master Planned Community Area but prior to commencement of development beginning, revenues (including the general ad valorem property tax but excluding special taxes, fees or assessments) shall be shared by comparing the projected City municipal revenues to projected City municipal expenses including capital/development costs funded by the City.

In the event of a projected City surplus (revenues exceed expenses), 50% of such surplus shall be allocated to the County by adjusting the County's property tax share for the area.

- (d) Upon the effective date of Annexation of any area developed for urban purposes as of the date of this MOU, the County municipal revenues transferred with the area shall be calculated against the costs of municipal services being transferred. The County's property tax share will be increased in the case of a surplus (i.e. County revenues transferred exceed County expenses transferred), and the City's share will be increased in case of a deficit (i.e. County revenues transferred are less than County expenses transferred). The County will consider a one-time contribution to the City upon annexation of any such area calculated on the basis of avoided, near-term capital maintenance costs together with a one-time contribution for the costs of necessary, significant infrastructure repairs which are identified prior to completion of annexation.
- (e) In the event either the County or the City approve development in a fashion which would require payment pursuant to Government Code Section 53084, the County or the City, as the case may be, should be entitled to the greater of the revenue calculated pursuant to either that section or the ultimate provisions of a revenue sharing agreement.
- (f) Should legislation be enacted which alters the manner in which local agencies are allocated revenue derived from property or sales taxes, any agreement shall be subject to good faith renegotiations.

II. The principles set forth are intended to guide further discussions and the ultimate negotiation of an agreement between the County and the City. It is recognized that certain of the terms used are subject to further definition and refined during the process of negotiation. It is the intent of the County and the City to work cooperatively to establish a review process, by agreement, to evaluate the likely impacts of large-scale commercial uses in Natomas on competing uses in the County and City. The goals of such a process will be to avoid competition for tax revenues, in favor of balanced

City Council Meeting, September 17, 2002
RE: Sacramento City-County Natomas Joint Vision
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regional planning and to assure that proposed land uses conform to the principles articulated in this MOU. It is further the intent of the County and the City that the revenue sharing principles set forth in this MOU shall govern the adoption of a Master Tax Sharing and Land Use Agreement for annexations.

Nevertheless, this Memorandum of Understanding is a good faith expression of the intent of the County and the City to cooperatively approach development and revenue within the Natomas area of our regional community.

Sacramento City – County MOU for the Natomas Area on
 Principles of Land Use and Revenue Sharing
Exhibit A
 Natomas Area Map

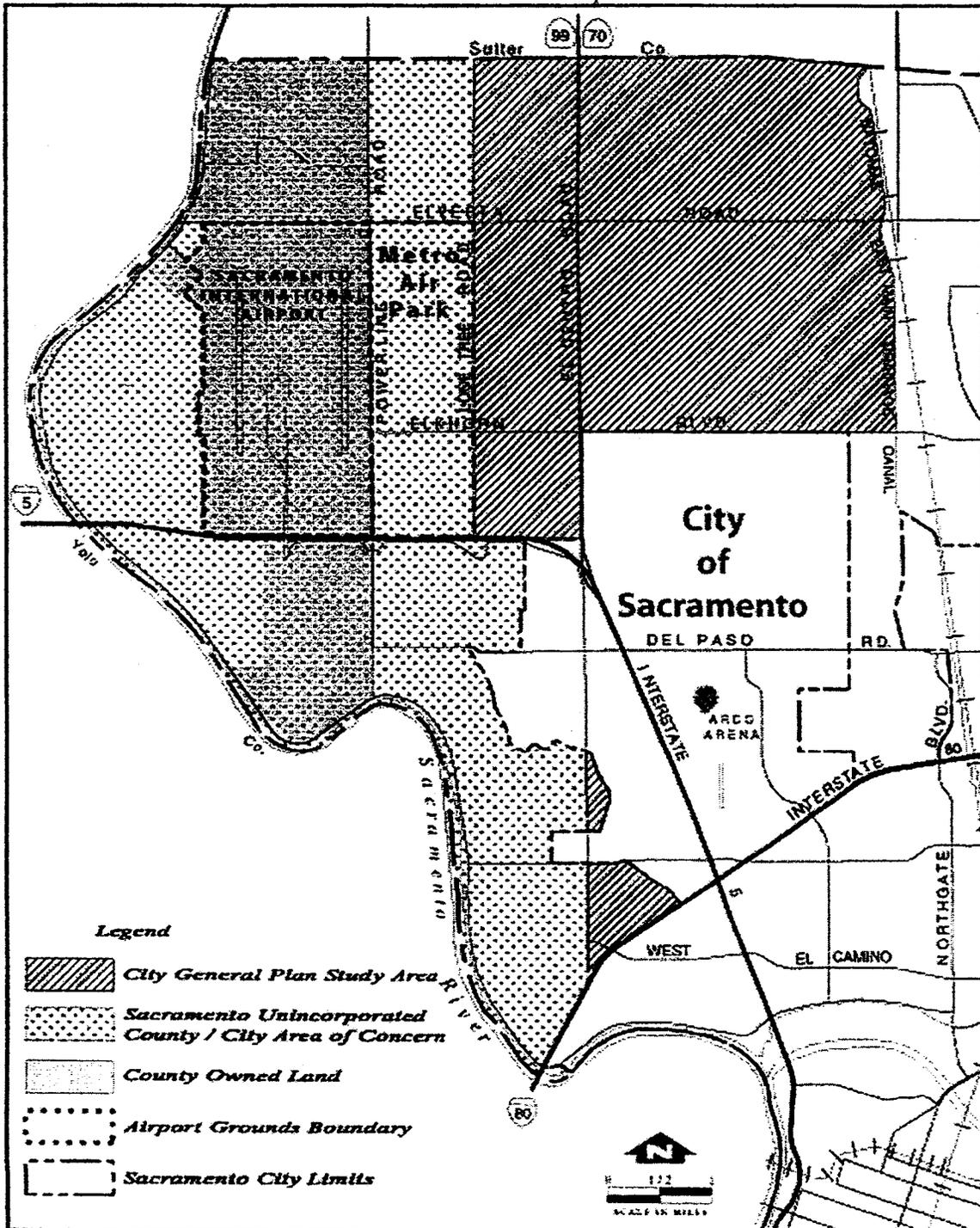


EXHIBIT B

Joint City-County Shared Policy Vision in Natomas

I. Statement of Intent

The intent of this joint City and County Planning exercise is that both the City Council and Board of Supervisors will reach a formal agreement regarding growth and permanent open space preservation in the unincorporated portion of the Natomas Basin within Sacramento County. The agreement will be adopted by Sacramento County and the City of Sacramento.

1. Introduction

A. Background

A preliminary set of planning principles for Natomas was presented to the Board of Supervisors at a public workshop in May 2001. Before that, in June 2000, the City Council held a public hearing to consider goals and policies to modify the City Sphere of Influence for several study areas, including Natomas.

Subsequent discussions among City and County management and staff have fostered a spirit of mutual gain. There is opportunity to develop a vision for Natomas, which reflects areas of collective interest. Protecting and maximizing existing, and future, airport operations, open space preservation, and fair distribution of revenue are shared core values. There is a common stake in pro-actively influencing the emerging urban form, by guiding inevitable growth to provide for residential and employment opportunities in close to the regions urban core. This promotes air quality measures through trip reductions, and distance traveled, and maximizes the return on existing and future public infrastructure investment.

Together, the City and County will forge a leadership role on a regional scale for growth management. The cooperative effort addresses land use, economic development, and environmental opportunities and challenges in Natomas. The result will be quality development balanced with permanent open space preservation systems.

B. Vision - Cooperative Land Use Planning

The best way to insure sustainable community building in Natomas is for the City and County to plan jointly. Such an effort will provide opportunity to focus more on sound long-term planning principles, and less on quick return revenue generation. Such a planning policy foundation may be without precedent, however, the highly regarded American River Parkway Plan (ARP) stands as an excellent result of City-County cooperation. That plan also provides an example of an administrative structure that involves third-party ratification of any amendments to the plan.

II. Basic Issues

There are three main areas where the City and County will come to agreement, each comprised of several sub-issues.

1. Open Space

The planning principles offer agreement regarding the size, location, and nature of open space preservation areas in the Natomas area. The location of open space areas will be based in part on the natural value of the land (e.g. habitat value, community separators), but also on constraints to development (e.g. airport protection or flood-prone areas). This agreement will ultimately designate the location of open space and provide principles for its permanent preservation. Ideally, the County will be the agent for maintaining rural and agricultural land uses, and permanent open space preservation.

Open Space systems provide multiple values/ benefits for human needs (health, public safety, cultural, recreational, economic prosperity, and civic identity), for wildlife, for productive agriculture, and for a healthy, sustainable built environment. Open Space also contributes to the provision of clean air and water for the region. Open Space systems must be of adequate size to support their intended purpose, e.g., agricultural areas must be large enough to maintain the agricultural economy; regional recreation facilities must be diverse enough to accommodate multiple passive and active uses; habitat areas must be large enough to support the requirements of native species; vistas/viewsheds should be sufficient to provide a sense of place. Open Space systems may be linked by trails, act as community separators, and accommodate habitat conservation plan requirements.

2. Economic Development

Cities and counties are dependent upon tax revenues generated by continued commercial and industrial growth. The tax system creates intense competition between jurisdictions and can lead to economic development at the expense of good land use planning. This joint agreement will lessen competition between the City and County by establishing a revenue sharing agreement. In this way, each jurisdiction stands to benefit from economic development, without becoming subject to the forces of competition.

New development will be consistent with the City's Smart Growth Principles, by supporting reinvestment in existing communities, particularly designated infill areas, as an alternative to greenfield development. New growth will not detract from the sustainability of established neighborhoods, commercial corridors, and business districts in the city and county.

Sacramento International Airport is recognized as a regional asset for economic development. The vision will incorporate effective measures for protection of airport operations and expansion, such as where residential development will not be considered.

3. Future Growth

The vision will provide the acreage and location for future growth, and identify principles to define the nature of growth appropriate for Natomas. Constraints and opportunities inherent in the land (e.g. habitat values) or its location (e.g. proximity to existing urbanization) will help define where growth is desired. The City will be the agent for growth, by planning areas to be developed.

Conclusion. Now is the time to seize the opportunity to craft the common vision for Natomas. This is best addressed through a cooperative planning effort between Sacramento City and County. This will curb land speculation, competition between jurisdictions and establish planning principles to guide growth in concert with permanent open space preservation.

III. Planning Issues and Principles

The City and County discussions regarding Natomas identified seven primary issues areas related to possible development in Natomas. Those issues areas are listed below along with principles that address the general concerns of the City or County. These principles will constitute the basis of an agreement between the City and County for making decisions regarding land uses.

1. Open Space
 - A. Open Space Preservation
 - B. Farmland Preservation
 - C. Airport Protection
2. Economic Development
 - A. Fiscal Collaboration
3. Future Growth
 - A. Jurisdictional Roles
 - B. Infill Linkages

1. Open Space

A. Open Space Preservation

1. Permanent Protection of Open Space. Achieve a permanent open space by acquiring land or easements. A variety of funding sources will be used to make land and easement acquisitions. Open Space encompasses lands that essentially are unimproved and that have limited development potential due to the physical characteristics of the land, due to value as a drainage or habitat corridor, due to land being restricted to agricultural production, due to location of the land as a community separator/ buffer between developed areas, or due to the scenic value of the land and its role in maintaining a community's sense of place or heritage.

2. Community Separators. Provide community separators at the Sutter/ Sacramento County line, by using open space that defines urban shape by providing gateways, landscaped freeway corridors, defined edges and view sheds. The community separator is land designated as permanent open space, by both the City and County General Plans, in order to avoid an uninterrupted pattern of urbanization, and to retain the character of distinct communities.

3. Open Space Linkages. Coordinate permanent open space in Natomas with the larger open space systems to provide linkages for trail extensions and biological connectivity.

4. Mitigation Ratio. Require development to provide permanent open space, preserved in the Natomas area, at a mitigation ratio of at least one-to-one.

Implementation. The agreement will establish a policy framework for open space planning in Natomas which will rely on, and coordinate with, existing open space programs, and will address linkage issues. Some specific areas will be designated for preservation as permanent open space to provide assurance that community separators are implemented. Other areas, such as west of Sacramento International Airport, may not require active preservation because of specific constraints related to inadequate infrastructure or public ownership.

This mitigation may be in conjunction with or distinct from any applicable criteria of the Natomas Basin Habitat Conservation Plan (HCP). A one-to-one mitigation ratio will exceed that of the HCP by one-half acre of mitigation per acre of development. A joint funding mechanism will provide funding for land and easement acquisitions.

B. Farmland Preservation

1. Require Mitigation for Losses. Avoid loss of overall agricultural productivity in the county. Any development that occurs must mitigate for farmland losses by permanent preservation of farmlands elsewhere in the county.

Implementation. Identify areas of Natomas that are to be developed or remain in general agriculture. Land to be preserved as farmland must not be restricted by nearby development and needs to have a secure supply of affordable water. Buffer areas will be derived from developing lands.

C. Airport Protection

1. Protect Future Airport Operations. Plan land use in Natomas in a manner that will protect Sacramento International Airport from complaints originating from encroaching uses that might eventually limit its operations or future expansion.

2. Coordinate long range land use planning. The various affected jurisdictions will coordinate planning efforts to ensure the continued viable operations and expansion of Sacramento International Airport

3. **Maintain Airport Safety Related to Habitat.** Avoid compromising airplane safety when establishing open space by keeping waterfowl habitat at safe distances from the airport.

Implementation. A multi-jurisdictional airport protection plan will protect the airport by preserving open space around it and keeping noise-sensitive development and waterfowl attractors in relatively distant areas. An emphasis on open space will also lead permanence to any buffers that are established.

2. Economic Development

A. Fiscal Collaboration

1. **Revenue Agreement.** Adopt a Revenue Exchange Agreement.

Implementation. The City and County will negotiate an agreement that defines, and provides for, revenue exchange for development that occurs within the agreement area.

3. Future Growth

A. Jurisdictional Roles

1. **City and County Roles.** The City is the appropriate agent for planning new growth in Natomas. The County is the appropriate agent for preserving open space, agricultural and rural land uses.

2. **Maintain County Interests.** The County will preserve its interest in the planning and development of Sacramento International Airport and Metro AirPark.

Implementation. Define the roles of each jurisdiction in the agreement.

B. Infill Linkage

1. **Support City Infill Strategy.** New growth will be supportive of the City's Infill Strategy. It will contribute to the sustainability of established neighborhoods/ commercial corridors/ business districts.

Implementation. Review new growth proposals in the context of the City's Infill Strategy.

4. Urban Growth Principles

1. **Smart Growth.** Development in Natomas will build on the vision of the currently planned growth in North Natomas, including the application of Smart Growth Principles.

2. Regionally Significant Land Uses. The City and County will develop a joint planning process for major uses in Natomas that are likely to have important economic impacts to existing commercial facilities in the city or county.

3. Balanced Communities. Undeveloped areas shall foster development patterns which achieve a whole and complete, mixed-use community.

Implementation. The City, as the agent of development, will apply Smart Growth Principles to any new development in Natomas. Smart Growth Principles emphasize pedestrian and transit orientation by addressing density, efficient design, and urban open space to provide sustainable, livable communities with fewer impacts than standard development.

Establish a review committee, by agreement, to evaluate the likely impacts of large scale commercial uses in Natomas on competing uses in the county and city. The committee's goal will be to avoid competition for tax revenues, in favor of balanced regional planning.

IV. Identify Areas for Growth and Permanent Open Space Preservation

Consideration of new growth should be done in partnership with the preservation of open space. The urban form should include a well integrated mixture of residential, employment, commercial, and civic uses, interdependent on quality transit service with connections linking activity centers with streets, transit routes, and linear parkways with ped/bike trails.

The attached map indicates the future City Sphere of Influence to accommodate growth as appropriate, and an Area of Concern for the preservation of open space systems. The point of demarcation is approximately one mile parallel to the Sacramento River, along the alignment of El Centro Road, then over to Lone Tree Road. This configuration insulates the airport from development pressures north and south, and respects the criteria of the Natomas Basin HCP, which calls for the preservation of habitat along the river. It also allows master planning to proceed in an orderly manner outward from the City to the approved Metro Air Park.

V. Plan Administration and Agreement

The agreement will be adopted by Sacramento County and the City of Sacramento. It may also be desirable to have the agreement adopted by an outside party, e.g. the State Legislature (similar to the American River Parkway Plan) to provide additional strength to the agreement, and to require inter-jurisdictional coordination on agreement implementation.

The means to implement this common vision is yet to be defined. There are various instruments available for the legislative bodies of the City and County, such as a Joint Resolution, or a Memorandum of Understanding.

The agreement will consist of:

- A map clearly delineating the areas for growth and for permanent open space and agricultural preservation
- The Planning Principles
- The implementation program

The implementation includes:

- A third party agreement
- Amendments to both General Plans to incorporate the common vision
- Adoption of a Revenue Sharing Agreement
- Define Goals, Roles and Responsibilities for the respective jurisdictions, and a mechanism for future, regional scale participation
- Benchmarks for performance
- A funding program for permanent open space and agricultural preservation

This cooperative planning effort is consistent with the Capitol Regional Compact, endorsed by both jurisdictions recently. Developed by Valley Vision, it promotes regional coordination, cooperation and collaboration. The compact defines four goals for future collaboration:

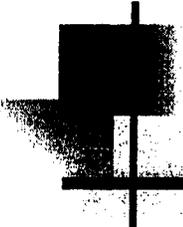
- Create Regional Growth and Development Patterns
- Coordinate Land Use, Infrastructure, Public Services and Transportation
- Reinforce our Community Identities and Sense of Place
- Protect and Enhance Open Space and Recreational Opportunities

Attachment B

List of Public Outreach Meetings

Group
Metro Chamber of Commerce
Natomas Central Water District
Natomas Community Association Town Hall Meeting
County Agriculture Commissioner
State Farmland Conservancy Program
Natomas Basin Conservancy
County Water Quality
Natomas Landowners
ECOS

Sacramento City-County Natomas Joint Vision



City and County Tax Sharing

City and County Tax Sharing

- Pooled property tax from area annexing split 50% City and 50% County except in some cases listed below (prior agreement 48.5% City and 51.5% County):
 - ▲ Annexation of undeveloped area for Multi-Purpose/Master Planned Areas;
 - ▲ Annexation of area already developed for urban purposes;
 - ▲ Development of Single Purpose/regional tax generating land use not in Master Planned area



Property Tax Sharing for Multi-Purpose/Master Planned Areas

- Compare projected City revenues to projected City expenses.
- If projected City surplus (revenues exceed expenses), 50% of net surplus allocated to County by adjusting the property tax share.

Tax Sharing on Annexation of Already Developed Areas

- Compare County municipal revenues transferring to City to County costs being transferred or relieved.
- If projected County surplus (revenues transferred exceed expenses transferred), County's property tax share increased.
- If projected County deficit (revenues transferred less than expenses transferred), County's property tax share decreased.

Single-Purpose/Regional Tax Generating Land Use Not in Master Plan Area

- Sales tax and transient occupancy tax split 50% City and 50% County in the following cases:
 - ▲ City annexes undeveloped property for single-purpose/regional tax generating land use;
 - ▲ County issues certificates of occupancy for single-purpose/regional tax generating land use in unincorporated area.

California Department of Fish and Game
Region 2
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670

U.S. Fish and Wildlife Service
Ecological Services
2800 Cottage Way, Room E-1803
Sacramento, CA 95825-1846

August 8, 1994

Terry Moore
Transportation and Engineering Planning Manager
City of Sacramento
927 10th Street, Room 200
Sacramento, California 95814

Subject: Natomas (American) Basin Habitat Conservation Plan

Dear Mr. Moore:

The U.S. Fish and Wildlife Service (Service) and California Department of Fish and Game (Department) appreciate the conservation planning efforts of all contributors and interested parties in the Natomas Basin Habitat Conservation Plan (HCP). This planning effort promises an ecosystem based approach to the conservation of listed and candidate species and their habitat - an approach wholeheartedly endorsed by the Service and the Department. While there are still issues that require resolution, we are confident that we can reach consensus, allowing you to complete a conservation plan acceptable to the Service and Department. The purpose of this letter is to assist you in your conservation planning efforts for the Natomas Basin and to provide guidance on the requirements that are necessary to obtain an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended, and a section 2081 permit under the California Endangered Species Act.

The Department was an early participant in the American River Watershed Investigation that included the Natomas Basin and has provided comments per the Fish and Wildlife Coordination Act and on various permit applications for flood control in the Basin. The Department also has provided comments for California Environmental Quality Act projects and originally participated in early conservation planning for the Basin.

The Service has been actively involved since at least 1991 in fish and wildlife planning discussions for the Basin with numerous local, State, and Federal agencies/governments. Examples of our involvement include Fish and Wildlife Coordination Act Reports to the U.S. Army Corps of Engineers (Corps), dated November 1991, November 18, 1992, and April 19, 1993; and the Service's letter to the Sacramento Area Flood Control Agency (SAFCA), dated March 11, 1992, on procedural guidance for basin planning. Most recently, the Service provided the Corps with a biological opinion, dated March 11, 1994, on the effects of the Revised Natomas Area Flood Control Improvement Project on the giant garter snake, listed as a threatened species by the State and Federal governments.

It may be helpful to all parties concerned to review portions of the regulatory background on this project. Pursuant to conditions in its section 404 permit for the Revised Natomas Area Flood Control Improvement Project, the Corps required SAFCA and local government to prepare and implement a multispecies "Natomas Basin habitat management plan" (HMP). This plan was required by the Corps as a result of a Clean Water Act section 404(q) referral between the Corps and the Service. The Corps' HMP is required to address the basin-wide habitat needs of fish and wildlife, particularly migratory waterfowl, exclusive of listed species. In addition, the Corps permit requires SAFCA and local governments, pursuant to section 10(a)(1)(B) of the

EXHIBIT 6

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Act, to prepare a habitat conservation plan (HCP) and obtain incidental take authorization from the Service for the giant garter snake, prior to the completion of the flood control project. The Corps' permit specifies that the HCP for the giant garter snake be compatible with and a component of the HMP for unlisted fish and wildlife species.

To assist in the development of the HCP and HMP, the Service and the Department have attended weekly meetings among various landowners, local agencies, and, recently, local jurisdictions. These meetings have precipitated divergent views among the various interests with respect to:

- mitigation ratios;
- habitat composition (e.g., agriculture versus emergent marshes) of the future giant garter snake preserve;
- HCP planning boundary;
- design and management of the giant garter snake habitat preserve;
- additional species to be included in the HCP and appropriate application to the mitigation ratio;
- regulatory mechanisms for addressing entrainment of listed and proposed fishes in the Sacramento River associated with water supplies for agricultural and habitat needs in the basin; and
- the need for all prospective permit applicants, including the City and County of Sacramento and Sutter County, to participate in planning discussions, among other issues.

The following discussion is intended to clarify the Service's and the Department's position on these issues. Pursuant to subparagraph (iv) of section 10(a)(2)(A) of the Act, the Service takes this opportunity to specify those measures that are necessary and appropriate for this HCP planning effort.

1) We agree that the proposed 0.5:1 ratio of habitat mitigation to development should apply to the gross development acreage of any land in the basin. This ratio should apply specifically to the giant garter snake, with other unlisted, candidate species included only to the extent that they would not require habitat types in excess of those used by the garter snake. Protecting giant garter snake habitat also would conserve habitat for the following species within the 0.5:1 ratio:

California black walnut
Sanford's arrowhead
tricolored blackbird
white-faced ibis

Within the giant garter snake preserve, an upland component must be included to provide basking areas, hibernaculae, and other habitat needs of the giant garter snake. The ratio of wetlands to uplands should approximate 9:1.

2) Swainson's hawk and other candidate species on the list below require somewhat different habitats than the giant garter snake (typically a greater preponderance of upland habitats). In addition to the 0.5:1 ratio for the giant garter snake, additional habitat areas to meet the needs of these species must be factored if permit applicants desire to have assurances for future incidental take permits for currently unlisted species. The Service and Department encourage such advance planning to avoid the need for future listings. If equivalent assurances are desired for species that may be listed in the future, they should be included in the HCP and treated at a similar level of detail as listed species. Accordingly, the plan must be specific in terms of (1) analyzing and offsetting impacts, (2) developing adaptive management strategies, and (3) research/monitoring studies to ensure candidate species are benefitting from the management measures.

As discussed on August 3, 1994, by the Service, Department, and consultants, we agree with the concept of an HCP overlay of additional mitigation requirements along the corridor of land in the basin along the Sacramento River, from approximately just north of Sankey Road in Sutter County, south to Interstate 80 and extending to a maximum of 1 mile inland. This corridor of Swainson's hawk foraging habitat is the same envisioned in the Swainson's Hawk and Giant Garter Snake Habitat Conservation Plan, prepared by EIP in 1992, as depicted in Natomas Habitat Conservation Alternative 1 and Alternative 2. While we did not discuss the actual additional mitigation ratio to be applied to the River Corridor Overlay, we understand that this additional mitigation requirement (over and above the 0.5:1 mitigation ratio for all land in the Basin) would be used to conserve habitat for the Swainson's hawk and other species using dryland farming habitats within the Basin. Conserving habitat outside of the Basin for upland species would be considered by the Service and the Department, however, we would prefer an ecosystem-based plan that focuses on the preservation of representative habitat types within the Natomas Basin floodplain. It also should be noted that any habitat conserved out of basin would not meet the Corps' HMP requirements (discussed later in this letter).

Species conserved by including upland habitat components in addition to the 0.5:1 giant garter snake ratio would include:

- Swainson's hawk
- burrowing owl
- mountain plover
- loggerhead shrike
- western pond turtle

Please note that the status of some of these animals are poorly known and may not necessarily occur within the Basin. Surveys would be appropriate to determine whether questionable species should be included in this planning effort.

3) Other candidate species also could be included in the HCP and the Corps' HMP, as listed below. Habitat based approaches may be suitable for some of these species. For example, a soils map analysis could be conducted to help determine the presence of alkaline soils and thus the potential for the occurrence of the palmate-bracted bird's-beak, Sacramento milk-vetch, and hispid bird's-beak in the Natomas Basin.

In addition, other listed and proposed species that likely would be affected by water diversion entrainment from the Sacramento River system include winter run chinook salmon, delta smelt, and Sacramento splittail. The plan should address how these species would be considered in the HCP. The National Marine Fisheries Service should be consulted regarding winter run chinook salmon and any other species under their regulatory jurisdiction.

The possible presence of Federal candidate vernal pool associated species, including vernal pool fairy shrimp, California linderiella, Conservancy fairy shrimp, vernal pool tadpole shrimp, longhorn fairy shrimp, hairy orcutt grass, Hoover's spurge, and California tiger salamander could be determined easily through field surveys. If present, avoidance likely would be the most appropriate conservation strategy, given the limited extent of potentially suitable habitat within the Basin.

4) Giant garter snake habitat provided under the 0.5:1 mitigation ratio must be restored as perennial and summer (wet) seasonal marsh. The HCP process requires a sound biological basis for any proposed mitigation. The Service and the Department accept this ratio based on the assumptions that the doubling or tripling of habitat values (depending on current land use) on half the land base is possible only through restoration and management of natural wetland habitats, and that application of this ratio will offset the loss of

habitat values likely to be incurred by future urbanization. We have not seen any studies indicating that two to three-fold enhancement of giant garter snake habitat values can be achieved on lands devoted to agricultural production. Though specific studies on the value of perennial marshes also are not available, the fact that virtually all habitat degradation and mortality factors associated with agricultural practices can be eliminated in more natural marsh habitat, illustrates the importance of relying upon more natural systems rather than intensively managed artificial systems as the basis for the HCP Preserve. For reasons discussed below, the proposed mitigation of continuing agricultural practices within the proposed giant garter snake habitat preserve is not based on biologically sound tenets needed to provide assurance that this HCP would promote the recovery of the species or offset project impacts.

Although giant garter snakes persist in some rice culture areas throughout the Sacramento Valley, available information also indicates that the species apparently is absent from many rice growing areas in the same region. Similarly, giant garter snakes are excluded from some rice growing areas in the Natomas basin and are declining in other areas for a variety of cumulative, if poorly known, reasons. As established in the final rule listing the giant garter snake as a threatened species (58 FR 54053), numerous agricultural practices limit the extent and quality of available habitat. Constraints on habitat quality and causes of population declines include but are not limited to:

- annual water availability
- seasonal timing of water deliveries
- rotational crop following patterns
- lack of cover due to weed control practices such as disking, spraying, mowing, etc.
- rodent control practices
- mortality from vehicles, farming equipment, and farm workers
- water canal operation and maintenance practices
- application of crop pesticides
- fluctuations in agricultural economies and price support systems.

Recent HCP discussions have focused on the possibility of modifying operational and maintenance practices to reduce mortality rates and increase carrying capacity for the giant garter snake as part of a proposal to include an unspecified mix of agricultural lands in the habitat preserve. However, numerous constraints impinge on the likelihood of quantifying the extent to which modification of agricultural practices may increase giant garter snake population levels or carrying capacity, even if altered practices were technically feasible, operationally practical, or acceptable to farmers, water companies, and reclamation districts. National and international agricultural market economics will exert over-riding influences on the future of rice production in the Basin. Therefore, reliance upon rice production as giant garter snake habitat within the HCP preserve does not provide the long-term assurance necessary to establish a viable habitat conservation plan.

However, to facilitate establishment of the HCP Preserve, the Service and Department are willing to work with the permit applicants to design an adaptive conservation strategy that establishes a transition period, during which managed rice lands are converted into a perennial and seasonal wetlands. As discussed at our meeting on August 3, 1994, with the project consultants, we will further explore the concept that full mitigation credit is given only when perennial or seasonal marsh is restored, and partial credit given to lands conserved that provide interim rice production, managed under specific criteria designed to reduce impacts to the giant garter snake. As proposed by the project consultants, once agricultural lands are bought or conserved through a conservation easement, then scientific studies and monitoring would be performed on various agricultural management practices, in an attempt to

demonstrate the value of managed rice lands for giant garter snakes during the interim transition period.

The long-term goal of the conservation plan must be the permanent establishment of perennial and seasonal marsh. To accomplish this, a schedule must be developed for the transition period from managed agricultural to marsh habitat, and a concomitant phasing of the incidental take that would be allowed. All interim rice lands must be converted to wetland status in advance of expiration of the incidental take permit and completion of development in the north Natomas area of the City of Sacramento. The Service and Department agree with a flexible, adaptable approach to establishment and management of a habitat preserve as part of the Natomas Basin HCP. Given the current lack of understanding of many aspects of giant garter snake biology and ecology and the long-term management requirements of this species, the plan must be centered on scientifically derived data and must adaptively incorporate new information into the plan as necessary. We cannot, however, support a conservation plan that incorporates rice lands as a long-term solution, as this type of approach would not conserve the ecosystem within which the snake evolved. A primary purpose of the Federal Endangered Species Act is to conserve the ecosystems upon which endangered and threatened species depend [16 USC §1531(b)]. The legislative history of section 10(a) indicates that Congress intended that conservation plans contribute to the recovery of listed species by improving habitat and their ecosystems. The Central Valley wetland ecosystem virtually has been eliminated throughout the range in which the giant garter snake evolved. The HCP planning process represents an important opportunity to conserve and restore the remnants of the ecosystem upon which the giant garter snake depends. Lands devoted to agricultural production do not provide a viable substitute for the wetland ecosystem.

5) To date, the HCP conservation area has been divided into two areas, with area A occurring within the region proposed for 100-year flood protection, and area B designated for lands north and east of the Cross Canal, including the Pleasant Grove "triangle". To ensure contiguity and adequate management control over the habitat preserve, all giant garter snake habitat should be located exclusively within area A. Although the Service and the Department originally anticipated that 20 percent of the giant garter snake habitat could be planned in area B, new information on the use of pesticides with known deleterious effects on giant garter snake (Magnacide H (Acrolein)), and other complications related to coordination with additional water and reclamation districts have caused us to reassess the viability of establishing giant garter snake habitat in area B. The Service and the Department now do not believe that lands in area B are currently suitable for this giant garter snake planning effort. However, if the permit applicants can demonstrate, to the satisfaction of the Service and the Department that giant garter snake habitat in area B exists, can be improved, and that a viable population would be established, then the Service and the Department would consider allowing a maximum of 20 percent of Natomas Basin mitigation to occur in area B. Note that establishment of a viable preserve in area B would necessitate involvement of all water and drainage districts servicing the area as co-permit applicants to the HCP.

6) Specific roles and responsibilities of the respective permit applicants must be defined and how these different jurisdictions will be integrated into a comprehensive conservation plan must be explained in the plan. For example, water companies and reclamation districts would be responsible for minimizing and mitigating take associated with the management of the existing canal systems. Existing water systems and the habitat they provide, including those in South Natomas, would not be available as mitigation for urban development because opportunities to offset impacts incurred by operation, maintenance, and farming practices along these facilities must be reserved for use by water companies and reclamation districts, as co-permit applicants to the basin-wide planning process. In contrast, the City, counties, and others would acquire,

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create, and manage new habitats to be added to the network of existing canal habitat. We understand that the drainage canals and irrigation system would provide the backbone of the HCP preserve design. A mechanism should be developed to ensure that preserve lands are adjacent to the canal system. Management of habitats along water canal systems will need to provide functional movement corridors for garter snake dispersal among habitat units comprising the preserve. Participation by water companies and reclamation districts is integral to the design and management of the HCP habitat preserve.

7) Although funding of the HCP mitigation measures are still being discussed, the Service emphasizes the need to fund not only land acquisition and conservation, but also restoration, management, and scientific studies of lands and species conserved under the HCP. An on-going trust fund or other mechanism is needed to insure implementation and effective monitoring of the plan and long-term operation and maintenance.

8) Unobstructed connectivity among habitat preserve units must be provided. While the minimum patch size needed to sustain viable populations among the preserve units is not known, scientific investigation is needed to resolve such unanswered questions. The HCP should include an amendment process to incorporate new information that may benefit the establishment or management of the Natomas Basin preserve system, as part of an adaptive management strategy. For now, the minimum size of preserve units acquired through the HCP process should be the minimum existing parcel size according to existing zoning ordinances unless specifically approved by the Service and Department.

To maintain preserve viability, adequate buffer zones must be provided between the preserve and urban land uses. The habitat preserve contemplated by the Service's Habitat Evaluation Procedures (HEP) conducted for the American River Watershed Investigation was based on the provision of a minimum 250-meter wide buffer. This dimension also appears compatible with maintaining an HCP preserve and should be factored in addition to the 0.5:1 mitigation ratio. As discussed above, appropriate agricultural uses in the buffer would compliment habitat objectives in the preserve, and would, together with the upland habitat preservation component, likely satisfy the Corps' HMP requirements, as discussed below.

9) A management section must be developed, including, but not limited to:

- a map that outlines the HCP planning area, including the area where take will occur and the general areas where conservation of habitat will occur;
- specific habitat restoration guidelines for creation and improvement of giant garter snake habitat;
- operation and maintenance manual incorporating adaptive management techniques for the habitat preserve;
- monitoring guidelines and research protocol to assess the effectiveness of management measures for the habitat preserve and connecting water canal system;
- long-term water supplies;
- water quality criteria, including agreements by the County Agricultural Commissioners to ban the use of certain chemicals throughout the basin, including Magnacide H (Acrolein);
- reconciling potential conflicts between protection of giant garter snake habitat and mosquito abatement practices.
- phasing of take and conservation of habitat, as determined by the conservation strategy selected.

10) As stated above, the HCP must be compatible with and a component of the Corps' HMP for unlisted fish and wildlife species in the Natomas Basin that

would be indirectly affected by the flood control project. For the purposes of the HMP, the goal of which is to satisfactorily offset impacts to migratory shorebirds, waterfowl, and other species not included in the HCP, a mitigation ratio of 0.27:1 (habitat replacement:habitat loss) should be provided over and above the 0.5:1 ratio for giant garter snake habitat. This is based on the HMP conducted for the American River Watershed Investigation and the assumption that lands would be purchased in fee-title.

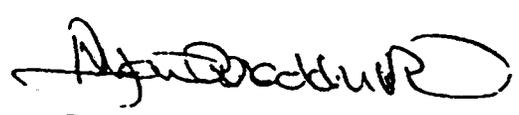
If the HCP includes the River Corridor Overlay option that would include an additional mitigation requirement for any lands developed within this corridor, and if such mitigation occurs within the basin, then the Corps' HMP requirement likely would be met. The Service contemplates that the HCP would provide the wetland component of the Corps' HMP, with the additional mitigation requirement focused primarily on the remaining ecosystem elements, such as the mix of riparian woodland, upland, and agricultural lands needed to provide the full "rainbow" of habitats for all evaluation species within the Basin. If properly designed and if desired by the prospective permit applicants, the HCP area could be enlarged to encompass the same geographic area as the HMP. Please note that any out of Basin habitats would not qualify for mitigation credit under the Corps' HMP requirement.

Lastly, the Service and the Department would like to stress the importance of involving all the permit applicants, including the City and County of Sacramento and Sutter County, in this conservation planning process. As we have stated many times during our meetings, all permit applicants must participate in the HCP planning process because prospective permittees will be responsible for ensuring that the plan is implemented.

The Service appreciates the conservation planning efforts to date of SAFCA and other interested parties. The biologists and HCP planners have held two meetings, separate from the larger "steering committee" to try to resolve some of the biological issues. We would suggest more of these meetings, with the HCP Consultant, Service and California Department of Fish and Game biologists and other experts gathered as a "technical advisory committee", whose sole charge would be to resolve the biological issues. The recommendations of this group could then be taken back to the "steering committee", providing them with the biological rationale for a conservation strategy for the giant garter snake. The steering committee would then be able to accomplish the task of developing the actual habitat conservation plan.

We assure you that the Service and the Department will continue to assist, as necessary, in the development of the HCP and Corps' HMP for the Natomas Basin. Should you have any questions or require clarification on any of the above issues, please contact Pete Sorensen (978-4866) or Tara Wood (978-4613), U.S. Fish and Wildlife Service, or Dave Zezulak (355-7030), California Department of Fish and Game.

Sincerely,



Ryan Broddrick
Regional Manager
Region 2
CDFG



Joel A. Medlin
Field Supervisor
Sacramento Field Office
USFWS

Identical letters sent to:

U.S. Army Corps of Engineers, Regulatory Branch, Sacramento District
City of Sacramento Planning Depart.
Sacramento County Depart. of Environ. Review and Assessment
Sutter County
Reclamation District 1000
Natomas Central Mutual Water Company
Sacramento County Mosquito Abatement District
Thomas Reid Associates

DFG007189

California Department of Fish and Game
Region 2
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670

U.S. Fish and Wildlife Service
Ecological Services
2800 Cottage Way, Room E-1803
Sacramento, CA 95825-1846

In Reply Refer To:
1-1-94-CP-1684

September 28, 1994

Mr. F.I. Hodgkins
Executive Director
Sacramento Area Flood Control Agency
926 J Street
Sacramento, California 95814

Subject: Natomas Basin Habitat Conservation Plan (HCP)

Dear Mr. Hodgkins:

The purpose of this letter is to provide additional Fish and Wildlife Service (Service) and California Department of Fish and Game (Department) comments on the Natomas Basin draft HCP as it evolves toward completion. On August 31, 1994, we received a copy of the Natomas Basin HCP Overview document dated August 29, 1994. This document presents the main points of the HCP as currently conceived by the permit applicants; it is our understanding that this document will be expanded upon to develop the draft HCP. We would like to commend you for the tremendous progress that has been made to-date and encourage you to continue working diligently as we approach the final leg of the HCP process.

During our last Natomas Basin HCP meeting (August 31, 1994) it was related to the Service that there is a desire to complete the section 10(a)(1)(B) permit process no later than April 1995. As discussed at the meeting, this is an ambitious timetable that will require the rapid completion of an application package (the HCP itself, the accompanying implementing agreement and the draft Environmental Assessment). We anticipate that to issue a section 10(a)(1)(B) permit by the end of April 1995, a completed application package, approved by the Sacramento Field Office, must be submitted to the Regional Office no later than the end of December 1994.

In an effort to assist you in meeting your desired timetable, we would like to provide you with a short list of our concerns that remain to be addressed in your plan:

Because the effectiveness of the proposed mitigation for the giant garter snake is dependent on an adequate water supply, measures must be incorporated and adequately described in the plan to ensure that this water supply will be provided in perpetuity. This may require the presentation of information regarding the water rights of HCP participants and the length of water contracts;

As outlined in section 1.0 of the HCP Overview, it is anticipated that the incidental take permit issued by the Service would apply to City or County actions or actions by others which involve City or County permits that include current development approvals and other reasonably

EXHIBIT 7

DFG007190

foreseeable plans...". Item 1.3 allows for individual landowners to become direct permittees, in the case that the local land use authority is not a participant. The HCP and implementing agreement (IA) should specifically address how individual landowners would be added to the section 10(a)(1)(B) permit as permittees. In addition, item 1.4 of the HCP Overview allows for individual agricultural landowners/operators to enter into agreements with the Natomas Basin Conservancy (NBC) and receive permit authorization (for agricultural operations only). Since the NBC is not intended to be a permit applicant, it has no legal authority to grant coverage under the incidental take permit. Thus, the HCP and IA should reflect that, in order to receive incidental take authorization under the anticipated permit, agricultural landowners should enter into an agreement directly with the permittee or with the Service and the Department. Also, it should be noted that the incidental take permit will be issued to cover only those development and agricultural activities identified in the HCP - take will not be authorized for any activity not addressed in the HCP. It is important, therefore, that the "current development approvals and reasonably foreseeable activities" intended to be authorized under the permit be described as clearly and unambiguously as possible in the HCP;

The HCP, as described in our meetings and as summarized in the Overview, does not contain sufficient description of the mechanism that will be utilized to ensure that habitat conserved under the plan will result in a viable preserve system. As currently proposed, the conservation strategy outlined for the HCP could result in small fragmented parcels of conserved habitat that have little or no value to the species of concern. The conservation strategy included in the HCP must clearly describe how and where habitat will be conserved for the giant garter snake (and other species) - the HCP must clearly describe how the giant garter snake (and other species) will benefit from the conservation strategy proposed. This issue could be resolved in a number of ways, such as: the clear designation of the area of take as separate from the areas where habitat will be conserved, the setting of a minimum mitigation patch size (such as minimum parcel size according to existing zoning) and the clear, specific designation of priority areas for habitat acquisition that ensures an adequate distribution of conserved habitat; the designation of a higher mitigation ratio in the area of potential preserve area, which would provide an economic disincentive to urban encroachment into preferred reserve areas; or the clear designation of priority conservation/acquisition areas and/or exclusionary zones where take would not be allowed. The conservation strategy also should include a description of the permitted uses/restrictions in conserved habitat, including best agricultural management practices, and restrictions on waterfowl hunting. Specific proposals for waterfowl hunting must be formulated specifying hunting days, closed zones, and other methods for protecting the wildlife habitat values while permitting waterfowl hunting.

Flood basins are not known to provide habitat for the giant garter snake anywhere in its range, and in fact, pose a threat to the long-term survival of this species. Therefore, habitat conserved under the HCP cannot be located within flood retention basins that are required to be constructed in the Natomas Basin to protect urbanizing areas from the

effects of rainwater falling within the Basin, in addition to the 100-year flood control protection to be provided by SAFCA. Because of flooding and contaminant hazards that would expose giant garter snakes to heightened levels of take, the conservation strategy must outline how giant garter snakes will be kept out of the necessary flood retention basins;

- An adequate buffering scheme remains to be agreed upon;
- To provide the level of assurance desired by permit applicants, the conservation strategy should specifically address candidate and proposed species;
- The mechanism that will be utilized to protect mitigation habitat requires further clarification (i.e., conservation easement versus in-fee-title);
- Adequate avoidance and mitigation measures for vernal pool and jurisdictional wetland habitat destruction remains to be agreed upon; and
- An operation and maintenance plan that includes best management practices (for all water conveyance facilities) must be included in the HCP.

By addressing the above concerns in the HCP, together with the other elements of the HCP outlined in the HCP Overview, the Service anticipates that the requirements of the Habitat Management Plan will be met.

Due to your goal for rapid completion of the section 10(a)(1)(B) permit process and to develop 2081 management authorization, we recommend that these issues be addressed in the draft document that will be presented to the Service and the Department in October. Additionally, we recommend that the IA be revised as necessary and submitted along with the HCP. We are available to meet or conference as necessary to resolve these few remaining issues. It would be advisable to schedule a meeting to present the draft documents to the Service and Department and to address any final questions or concerns at that time.

We suggest that the staff from the Service's Regional Office, a representative from the Department of the Interior's Solicitors Office, and the Department's Environmental Services Supervisor be included in this meeting. Due to the difficulty in arranging meetings with the permittees (City of Sacramento, Counties of Sacramento and Sutter) we suggest that this meeting be scheduled at their convenience. Finally, we would like to assure you that upon adequately addressing the above concerns, the Service and the Department will put a high priority on the completion of the permit process and do everything within our power to ensure that you meet your timetable.

If we can be of further assistance to you please do not hesitate to call Mr. Michael Horton, U.S. Fish and Wildlife Service (978-4866), or Mr. Dave Zezulak, California Department of Fish and Game (355-7030).

Sincerely,

Bruce Broddrick

for Ryan Broddrick
Regional Manager
Region 2
CDFG

Joel A. Medlin

for Joel A. Medlin
Field Supervisor
Sacramento Field Office
USFWS

cc: ARD (Attention: Al Pfister)
Office of the Solicitor (Attention: Lynn Cox)
U.S. Army Corps of Engineers (Attention: Tom Cavanaugh)
Tom Reid Associates

Identical letters sent to:

City of Sacramento
Sacramento County
Sutter County
Reclamation District 1000
Natomas Central Mutual Water Company
Sacramento County Mosquito Abatement Program
Sacramento Metropolitan Airport

4/25 10am

Summary of U.S. Fish and Wildlife Service Comments
on the Natomas Basin Habitat Conservation Plan
and draft economic analysis
presented to the Natomas Basin Habitat Conservation Plan Working Group
December 7, 1994

Natomas Basin Habitat Conservation Plan dated November 30, 1994

1. One of the required elements of a Habitat Conservation Plan (HCP) is the demonstration of adequate funding for the mitigation program proposed. We have two comments on the funding proposed for the Natomas Basin HCP:

a. the restoration and enhancement portion of the mitigation fee (\$180) is likely too low to support the wetland creation/restoration that is proposed under the plan. We do not agree with statements such as that on page IV-19 of the HCP ... "funding for land acquisition should take precedence over funding for restoration and management activities...". The plan must outline a funding plan that enables the permittees to both acquire mitigation lands as well as to restore, enhance and manage those lands; and

b. there should be a "back-up" funding plan for the long-term maintenance and operation of the lands conserved under the plan, in the event that revenues from hunting and rice do not provide adequate funds to manage the mitigation lands over the long-term.

2. Because the plan focuses on preserving and enhancing habitat values, it may be worth exploring specifically covering other listed and candidate species in the HCP and implementing agreement (IA) to a greater extent that is currently envisioned. This would mean that once the additional species are agreed upon and included in the HCP, the IA would be worded such that these species, if listed, would be automatically added to the permit, without the need for amending the conservation program. This would provide greater assurances to permittees over the long-term.

3. The definition of development that requires mitigation under the HCP needs to be specifically defined. Areas within the development zone that are to be excluded from the mitigation requirement must be specifically identified. At a minimum, any land use within the development area that does not provide habitat for the giant garter snake should be required to mitigate under the terms of the plan.

4. The Natomas Basin HCP is also intended to satisfy SAFCA's habitat management plan requirement under the Section 404 of the Clean Water Act, as determined by the U.S. Army Corps of Engineers. To satisfy both the HCP and the section 404 permit requirements, a detailed management and monitoring plan for the giant garter snake and other wildlife species must be included in the HCP. The existing management section on page IV-18 needs to be more specific and should be expanded to include management for other species. This section should discuss hunting restrictions and no hunt zones (sanctuaries). Monitoring for giant garter snake must be addressed in a more definitive statement, and should be expanded to include other species expected to inhabit

EXHIBIT 8

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conserved lands. We would suggest a technical meeting as soon as possible to resolve this issue.

5. Habitat conservation must occur prior to habitat destruction under the plan. On page IV-7, it is acknowledged that "an initial acquisition" of habitat must be purchased prior to any development, but that an additional funding source must be identified. On page IV-24, Item 2b states that "An initial area of approximately 400 acres will be acquired and placed partially in rice and partially in marsh and that funding will be provided through North Natomas Mello Roos funds. Item 2c on page IV-24 states, contrary to item 2b that "there are inevitable time-lags between collection of a fee and acquisition of land and enhancement of habitat". Please note that habitat conservation must occur prior to habitat destruction and that adequate funding for this habitat conservation must be assured.

6. The mitigation accounting rules are still confusing and do not reflect our understanding of the rules. We would suggest a technical meeting as soon as possible to discuss and resolve this issue.

7. The discussion on page IV-11 does not provide adequate information on NCMWD and RD 1000's participation in the plan. The ongoing O and M activities performed by the water districts should be described, the estimated take should be quantified, and how this take is to be minimized and mitigated must be clearly addressed. Best management practices are expected to minimize take. What is being proposed as mitigation for the take? A suggested mitigation measure would be to waive or substantially reduce the water fee that will be charged to the NBC to provide water to mitigation lands.

8. Similarly, the agricultural activities that will be undertaken by the NBC will likely result in take of giant garter snakes. This take must be quantified and adequate minimization and mitigation measures provided. The best management/agricultural practices will minimize take, but how will take by NBC's agricultural practices be mitigated?

9. The Habitat Reserve Guidelines depicted on page IV-17 provide some of the criteria necessary in defining the future reserve system. However, we are still concerned with habitat fragmentation, edge effects, and the ultimate design and configuration of conserved lands. A suggestion would be to agree on a minimum reserve unit size and to have development tied to purchase of a minimum reserve unit (not just minimum parcel size). We are also concerned that these guidelines do not mention the 2,500 - 3,000 acre contiguous non-agricultural wetland preserve that the technical group discussed via conference call. The reserve system that will be established under the plan must be described in more detail. We propose a meeting of the technical group as soon as possible to discuss and resolve this issue.

10. The definition of buffers and set-backs need further clarification, along with the types of management and land use envisioned in these areas.

11. Minor amendments to the HCP will require the concurrence by the Service and the CDFG.

12. As discussed above, the incidental take currently included in the plan identifies only that take envisioned by urban development. Take by NBC

agricultural activities and by water district O&M activities must be addressed.

13. The Service and the CDFG should be named as third party beneficiaries on the lands acquired in fee or through conservation easement as part of the HCP.

Draft Report, Economic Analysis of the NBHCP

1. This draft report provides a well written, concise assessment of the economic needs of the HCP.
2. Our main concern with the economic analysis is that the assumptions in this analysis reflect, more or less, the Service's understanding of the mitigation program for the HCP. However, these assumptions are not carried through in the HCP. This should be corrected. Some of the issues that require clarification include: the assumption in the EPS report that habitat conservation always stay ahead of habitat destruction by development; the assumption in the EPS report that an initial acquisition of 400 acres will be needed before development occurs and that a funding source, as yet undetermined needs to be agreed on; and the assumption in the EPS report that 50% of the habitat conserved under the plan will be natural marsh land.
3. We do not agree that the restoration and enhancement fee is adequate to cover the restoration and enhancement costs necessary under the plan. We will work with EPS and the Working Group to arrive at a more realistic, satisfactory figure.
4. The O&M costs for long term management of the lands conserved under the plan include mostly the cost of water. Other management costs may be necessary. These costs should become evident when a more definitive management plan is outlined. The plan will need to assure funding for these additional costs.

Attached to CLAW 2/6/01
Comments

January 20, 2001

To: Keith Wagner
California Legal Advocates for Wildlife
926 J Street 8th Floor
Sacramento, CA 95814

Phone: (916) 442-2666

From: Eric Hansen
4001 South Watt Ave #122
Sacramento, CA 95826

Phone: (916) 362-3156

Fax: (916) 361-9913

**Re: USFWS Draft Environmental Impact Statement; Metro Air Park Project;
Draft Habitat Conservation Plan for the Metro Air Park in the Natomas
Basin, Sacramento County, California; November 2000**

Hello Keith,

Preliminary review of the Metro Air Park Habitat Conservation Plan (MAPHCP) and the accompanying U.S Fish and Wildlife Service Environmental Impact Statement (EIS) points to deficiencies in the representation of current and historical records of the Giant Garter Snake (*Thamnophis gigas*) (GGS) within proposed MAP boundaries. Consideration of these egregious GGS locality omissions indicates that potential impacts to GGS within MAP project boundaries may be grossly underrepresented.

Figure 9 of the EIS omits GGS localities described in Wylie and Casazza, the source material for records within the figure. Please refer to:

Investigations of the Giant Garter Snake in the Natomas Basin: 1998-1999. Prepared by Glenn D. Wylie and Michael L. Casazza, Dixon Field Station, Western Ecological Research Station, Biological Resources Division, USGS, March 2000. See also:

Investigations of the Giant Garter Snake in the Natomas Basin: 2000 Field Season. Prepared by Glenn D. Wylie and Michael L. Casazza, Dixon Field Station, Western Ecological Research Station, Biological Resources Division, USGS, December 2000.

Records should include abundant sightings along the Natomas Central Mutual Water Company canal running from north to south between Central Main Canal and Elkhorn Boulevard (refer to figure). Further records omitted include those of George E. Hansen occurring along the drain paralleling Meister Way to the east of Powerline Road (refer to figure). The records of Wylie and Casazza and George E. Hansen that are not represented within EIS Figure 9 exist within the center of the proposed MAP project boundaries, while those records that are represented in EIS Figure 9 indicate only those records along the perimeter of the MAP project site. In light of these historical GGS locality omissions, and the direct relation of these records to proposed urbanization within the MAP, it is necessary to reevaluate impacts of the MAP project to GGS.

EXHIBIT 9

The Natomas Basin (Basin) can be subdivided to represent three primary blocks of critical GGS habitat, with disruption in connectivity occurring due to the migration and transit impediments produced by HWY 99/70 and Interstate 5. Historical and current records of known GGS sightings indicate distinct clusters of population density within each of these habitat blocks. Proposed MAP boundaries encompass a significant portion of current and historical records of the Giant Garter Snake (*Thamnophis gigas*) (GGS) and incorporate drainage ditches representing the only direct connectivity between to populations of GGS within the Fisherman's Lake area south of Interstate 5. To maintain connectivity characteristics that perpetuate contiguity between populations of GGS is paramount to preventing genetic isolation within these Basin GGS populations.

Despite the barriers to implementation described in **EIS Section 2.4.5 Retention of On-Site Drainage Ditches**, I strongly recommend the preservation of demonstrated GGS habitat and transit corridors that it describes. At its southern end, the Reclamation District 1000 ditch paralleling Lone Tree Road and the ditch paralleling Powerline Road are perhaps the only adequate crossings of Interstate 5 that may yet link GGS at Fisherman's Lake to the northwest portion of the Basin. The West Drainage Canal, which crosses Interstate 5 at the western end of the Basin near the Sacramento River has not been shown to support GGS and therefore fails to ensure GGS dispersal and movement between biological populations. Other arterial highway crossings have been disrupted by construction activities, or possess characteristics that likely discourage frequent use by GGS.

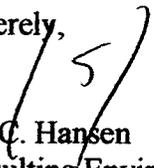
EIS Section 2.4.6 On-Site Habitat Preservation and Creation proposes the creation of a 6000-acre habitat preserve, yet like **EIS Section 2.4.5 Retention of On-Site Drainage Ditches** warns of the potential to isolate GGS within MAP project boundaries. It must be noted that strict adherence to the NBHCP program of off-site mitigation will most likely achieve the same isolating effect by effectively closing the corridor between GGS occupying areas south of Interstate 5 and those to the north of Interstate 5 west of HWY 99/70.

As well, **EIS Section 2.21 Plan Description and Figure 4b** describe required "offsite drainage, sewer and roadway improvements that would result in additional habitat loss both within Sacramento County and within a small area of the City of Sacramento." These modifications would further disrupt connectivity between GGS occupying areas south of Interstate 5 and those to the north of Interstate 5 west of HWY 99/70.

While the procurement of mitigation lands and the establishment of core reserve areas may be of great benefit to GGS, such benefits are greatly diminished if the snakes have no way of getting there. Because MAP project boundaries contain demonstrated populations of GGS, and because habitat connectivity is required to facilitate genetic exchange between contiguous populations of Basin GGS, it will be necessary to preserve and maintain arterial portions of GGS habitat and canal networks to prevent the MAP from becoming an impediment to GGS transit. Replacement habitat infrastructure is of untested advantage to GGS; therefore the preservation of existing habitat dissecting the MAP should be a priority. **EIS Section 2.4.5 Retention of On-Site Drainage Ditches**

does recommend criteria likely adequate to the task. An effort of this scale could be disproportionately advantageous to GGS within the Basin, and would constitute a grand gesture toward species preservation by the proprietors of the Metro Air Park.

Sincerely,


Eric C. Hansen
Consulting Environmental Biologist

US FISH AND WILDLIFE SERVICE RECOVERY PERMIT: 10(a)(1)(A) ESA
TE-018177-0
EXPIRES 05/22/2004

November 12, 2002

COPY

Certified Mail – Return Receipt Requested

Gale Norton
Secretary of the Interior
Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

Steven A. Williams
Director
U.S. Fish and Wildlife Service
1849 C Street, NW
Mail Stop 3012 MIB
Washington, DC 20240

Anne Badgley
Regional Director, Region 1
U.S. Fish and Wildlife Service
911 N.E. 11th Ave.
Portland, OR 97232-4181

Dear Secretary Norton, Director Williams, and Regional Director Badgley:

I am writing on behalf of a coalition of environmental protection organizations¹ to notify you of violations of Sections 7 and 10 of the Endangered Species Act (“ESA”), 16 U.S.C. §§ 1536 and 1539, by the United States Fish and Wildlife Service (“Service”) in the issuance of an incidental take permit (“ITP”) to the Metro Air Park Property Owners Association (“Applicant”). This constitutes the notice required by Section 11(g) of the ESA, 16 U.S.C. § 1540(g), prior to commencement of legal action.

Summary

As set forth in detail below, the Service illegally granted the Applicant’s application for a 50-year incidental take permit based upon its submission of an inadequate Metro Air Park Habitat Conservation Plan (“Metro Air Park HCP”). The Applicant has not minimized and mitigated to the maximum extent practicable the impacts of the incidental taking of listed species that will be caused by the project as required by ESA Section 10(a)(2)(B)(ii), 16 U.S.C. § 1539(a)(2)(B)(ii), and the Service erred in granting the permit in the absence of such a

¹ The coalition includes: The Environmental Council of Sacramento, Friends of the Swainson’s Hawk, The National Wildlife Federation, Planning and Conservation League, and The Sierra Club.

EXHIBIT 10

showing. In addition, the Applicant has not ensured that adequate funding for the conservation plan will be provided as required by ESA Section 10(a)(2)(B)(iii), 16 U.S.C. § 1539(a)(2)(B)(iii), and the Service's finding to the contrary violated that Section. Finally, because the project, in combination with other related development in the Natomas Basin, could jeopardize the survival and recovery of listed species, the Service violated ESA Sections 7(a)(2) and 10(a)(2)(B)(iv), 16 U.S.C. §§ 1536(a)(2) and 1539(a)(2)(B)(iv), in issuing the Metro Air Park ITP.

Background

The Metro Air Park project site encompasses 1,892 acres northwest of the City of Sacramento in Sacramento County. See Intra-Service Biological and Conference Opinion on Issuance of a Section 10(a)(1)(B) Incidental Take Permit to the Metro Air Park Property Owners Association for Urban Development in the Natomas Basin, Sacramento County, California (January 16, 2002) ("Biological Opinion") at 5. It is located within the 53,341-acre Natomas Basin ("Basin"), where a combination of agricultural lands and wetlands provide valuable habitat for a broad array of animal and plant species. Id. at 7.

Many imperiled species reside in the Basin or use the lands as a migratory stop. Of particular concern are the giant garter snake, which is listed as a threatened species under both the ESA, see 50 C.F.R. § 17.11, and the California Endangered Species Act, see 14 C.C.R. § 670.5(b)(4)(E), and the Swainson's hawk, listed under the California Endangered Species Act as threatened. See 14 C.C.R. § 670.5(b)(5)(A).² Both species rely heavily on habitat within the Basin for their survival.

The Natomas Basin houses the largest extant population of the giant garter snake, see Biological Opinion at 46, and the Service has stated that "if an excessive proportion of the Basin was [sic] to be urbanized, resulting in extensive losses of rice lands and other snake habitats, the giant garter snake population might decline to the point of extirpation." See Natomas Basin HCP, November 1997 ("Natomas Basin HCP"), *attached to* Implementation Agreement for the Metro Air Park HCP ("Metro Air Park IA"), Exhibit E at V-9. The Metro Air Park site itself historically supported a large population of giant garter snakes but that population has decreased as habitat has been degraded. Metro Air Park HCP at 24-25; Biological Opinion at 48.

The site also at one time had at least one Swainson's hawk nesting tree, Metro Air Park HCP at 26, which developers have since cut down. See Mary Lynne Vellinga, *Airport growth drive stumbles*, Sacramento Bee, June 10, 2002. The California Department of Fish and Game

² In addition to the giant garter snake and the Swainson's hawk, the federally-threatened valley elderberry longhorn beetle is also covered by the incidental take permit. In addition, the permit covers a large number of species that are not currently federally or state listed but may become so during the 50-year life of the permit, including the Aleutian Canada goose, white-faced ibis, peregrine falcon, greater sandhill crane, tricolored blackbird, northwestern pond turtle, delta tule pea, Sanford's arrowhead, loggerhead shrike, and burrowing owl.

("CDFG") has stated that the Basin's population of Swainson's Hawks is so significant that if it were destroyed, the state would be forced to seriously consider changing the Hawk's status from threatened to endangered. See Formal Section 7 Consultation on Issuance of a Section 10(a)(1)(B) Incidental Take Permit to the City of Sacramento for Urban Development in the Natomas Basin, Sacramento County, California at 17 (December 17, 1997) ("1997 Natomas Basin Biological Opinion").

The plans for the Metro Air Park site call for the complete development of all 1,892 acres of land, as well as use of an additional 123 acres of adjoining land for off-site infrastructure. Metro Air Park HCP at 6. The plan includes 1,255 acres of commercial and industrial development, 278 acres of golf course, 296 acres of airport-related development, and 58 acres of roads and freeway interchanges. *Id.* at 9.

The site is currently composed of agricultural land, mostly in rice production, with occasional wetlands, irrigation canals, and drainage ditches, which are used as habitat by the giant garter snake. Biological Opinion at 7; see also Metro Air Park HCP at 22 (giant garter snake "adapts well to human-made waterways, as long as they have the primary requirements of" sufficient water, grassy banks for basking, emergent vegetation for cover during active season, and high ground for cover during dormant season). Unfortunately, the promise of imminent development has led many farmers to cease operations and leave their fields fallow. Metro Air Park HCP at 18. This dearth of activity, especially on local rice farms, and the resultant decrease in the water found on fields and in the canals and ditches, has led to degradation of the habitat for giant garter snakes. *Id.* at 18, 25. Moreover, further development of the site would destroy the canals and ditches, which, in addition to themselves providing habitat for the giant garter snake, also connect to other viable habitat. *Id.* at 34. Completion of this development would also drastically reduce the amount of open lands in close proximity to nesting sites used as foraging territory by the Swainson's hawk. *Id.* at 35. Moreover, further development within the Basin is expected, which will increase the loss of habitat in the lands immediately surrounding the Metro Air Park site. Biological Opinion at 79.

Significant as it is, the planned development of Metro Air Park is only a piece of a much larger development planned for the entire Natomas Basin. In 1997, the Service approved a regional Natomas Basin Habitat Conservation Plan ("Natomas Basin HCP") and issued an incidental take permit to the City of Sacramento allowing for development of Basin lands within the city limits. This action was challenged by a coalition of environmental groups and the court found that the Service had violated both the ESA and the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4332, in approving the Natomas Basin HCP and issuing the incidental take permit for that development project. See National Wildlife Federation v. Babbitt, 128 F.Supp.2d 1274 (E.D. Cal. 2000) ("NWF v. Babbitt").

Among the deficiencies found by the court in NWF v. Babbitt were: (1) the Service's finding that the Natomas Basin HCP minimized and mitigated the impacts of the taking "to the maximum extent practicable" was arbitrary and capricious and a violation of the ESA, id. at 1292; (2) the Service's finding that the City had ensured that adequate funding would be provided to implement the mitigation measures was arbitrary and capricious and a violation of the ESA, id. at 1294-95; (3) the Service's finding that the taking associated with the City's ITP would not appreciably reduce the likelihood of the survival and recovery of the species in the wild was arbitrary and capricious and a violation of the ESA, id. at 1299; and (4) the Service's decision that an environmental impact statement under NEPA was unnecessary was arbitrary and capricious and a violation of NEPA. Id. at 1301-02. The City of Sacramento and Sutter County have published a draft revised Natomas Basin HCP that claims to remedy these errors. They have applied for a new incidental take permit. See Draft Environmental Impact Report/ Environmental Impact Statement and Habitat Conservation Plan for the Natomas Basin, Sacramento County, CA, 67 Fed. Reg. 54,819 (August 26, 2002).

Instead of waiting for the completion and approval of the revised Natomas Basin HCP, the Metro Air Park developers have attempted to correct the deficiencies of the Natomas Basin HCP within the Metro Air Park HCP. However, the Metro Air Park HCP replicates the deficiencies of the original, invalid Natomas Basin HCP, including continued reliance on the mitigation measures established in the original Natomas Basin HCP and a similar funding mechanism.

As discussed below, the Service violated Section 10 of the ESA by issuing an ITP for the Metro Air Park development because the Applicant has failed to demonstrate that the impacts of the taking on covered species will be minimized and mitigated to the maximum extent practicable as required by ESA Section 10(a)(2)(B)(ii), 16 U.S.C. § 1539(a)(2)(B)(ii), and because the Applicant has not ensured that adequate funding will be provided to implement the Metro Air Park HCP mitigation measures as required by ESA Section 10(a)(2)(B)(iii), 16 U.S.C. § 1539(a)(2)(B)(iii). Consequently, the Service's contrary findings violate 16 U.S.C. §§ 1539(a)(2)(B)(ii) and (iii), and are also arbitrary and capricious in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A). Further, the project may appreciably reduce the likelihood of the survival and recovery of the giant garter snake in the wild, and the Service's contrary finding violates both ESA Section 7(a)(2) and ESA Section 10(a)(2)(B)(iv), 16 U.S.C. §§ 1536(a)(2) and 1539(a)(2)(B)(iv), and is also arbitrary and capricious.

Endangered Species Act Violations

Section 9 of the ESA makes it unlawful to "take" an endangered species. See 16 U.S.C. § 1538(a)(1)(B). The Service has extended this prohibition to threatened species. See 50 C.F.R. § 17.31(a). The ESA defines "take" to mean to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect" a listed species. 16 U.S.C. § 1532(19). "Harm," within the definition of

“take,” includes “significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.” 50 C.F.R. § 17.3.

Section 10 of the ESA, 16 U.S.C. § 1539, provides an exception to the take prohibition. Pursuant to Section 10, the Secretary of the Interior, acting through the Service, may issue permits allowing take that is “incidental to, and not the purpose of,” otherwise lawful activities on private property. 16 U.S.C. § 1539(a)(1)(B). To obtain an incidental take permit, a party must develop a “conservation plan” (commonly referred to as a habitat conservation plan or “HCP”) that specifies, among other things, “the steps the applicant will take to minimize and mitigate” the impacts of the incidental taking, “and the funding that will be available to implement such steps.” 16 U.S.C. § 1539(a)(2)(A)(ii). The Service must then find, with respect to the permit application and the related conservation plan, that “the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking,” that “the applicant will ensure that adequate funding for the plan will be provided,” and that “the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild.” 16 U.S.C. § 1539(a)(2)(B)(ii), (iii), (iv). See generally *NWF v. Babbitt*, 128 F.Supp.2d at 1285-87.

Finally, section 7(a)(2) of the ESA, 16 U.S.C. § 1536(a)(2), imposes an over-arching duty on all federal agencies, including the Service, to “insure” that any authorized action “is not likely to jeopardize the continued existence of any endangered species or threatened species.”

The Applicant Has Not Ensured That It Will Minimize and Mitigate the Impacts of the Incidental Take To the Maximum Extent Practicable.

The Service has violated Section 10 by issuing an ITP to the Metro Air Park Property Owners Association despite inadequate demonstration in the Metro Air Park HCP that the Applicant will, to the maximum extent possible, minimize and mitigate the impacts of such taking. The Metro Air Park HCP adopts the same .5-to-1 mitigation ratio established in the original Natomas Basin HCP, meaning that for each acre of habitat that is destroyed by the project, only half an acre will be set aside as “reserve” habitat elsewhere. Metro Air Park HCP at 53. An additional 200 acres must be acquired for Swainson’s hawk habitat. *Id.* at 54. The Metro Air Park HCP also adopts the same fee mechanism as was established by the City of Sacramento in the Natomas Basin HCP to raise funds to purchase the mitigation habitat. *Id.* at 45. The Metro Air Park HCP does not set aside any land for mitigation within the Metro Air Park site itself.³ Instead, it specifies that the mitigation land may be acquired anywhere within

³ The only alternative to complete development (and thus complete elimination within the project area of all viable habitat) considered in the Metro Air Park HCP is a minor concession of part of the land slated for a golf course. Metro Air Park HCP at 78-81. The Metro Air Park HCP rejects this alternative, however, because such a small

the larger Natomas Basin, with only 25% required to be in Sacramento County, and allows up to 20% to be acquired outside of the Basin, if approved by the Service and CDFG. Id. at 65, 67; see also Response to Comments, Appendix G, Final Environmental Impact Statement, Metro Air Park Project (“FEIS Response to Comments”) at 11-14. Neither the Metro Air Park HCP nor the Service’s findings cite any scientific studies or data to support the assertion that the location of the reserve lands outside of the Metro Air Park site will, to the maximum extent practicable, minimize and mitigate impacts of the taking of the species within the site. See Metro Air Park HCP at 78-81; FEIS Response to Comments at 11-14.

In NWF v. Babbitt, the court rejected the Natomas Basin HCP mitigation ratio and fee mechanism because, as is also the case here, there was no demonstration in the record that these were set at the maximum practicable level. In order to make this demonstration, the court held that “the record should provide some basis for concluding, not just that the chosen mitigation fee and land preservation ratio are practicable, but that a higher fee and ratio would be impracticable.” NWF v. Babbitt, 128 F.Supp.2d at 1292 (emphasis added).

The Metro Air Park HCP has not corrected this deficiency. Although the fee is slightly higher than that set in the Natomas Basin HCP, neither the Metro Air Park HCP nor the Service’s findings contain any analysis demonstrating that a still higher fee would be impracticable. Nor is there any demonstration that a higher ratio is impracticable. The Metro Air Park HCP offers only unsupported, conclusory statements to justify the level of the ratio and the fee. See Metro Air Park HCP at 53 (stating that “[t]his ratio amply mitigates for the impacts of take from the Metro Air Park project” but providing no supporting information). The lack of any analysis or demonstration supporting these assertions directly contravenes the decision in NWF v. Babbitt.⁴

In fact, other HCPs in the area typically require a 1-to-1, 2-to-1 or even 3-to-1 mitigation ratio. See, e.g., San Joaquin County HCP (adopted 2001) (requiring a 1-to-1 ratio for lands converted from agricultural use, including fallow farmland, and a 3-to-1 ratio for converted natural land, aquatic habitat, and all non-concrete drains and ditches); Preliminary Draft Yolo County HCP (January, 2001) (requiring 1-to-1 mitigation ratio); Preliminary Conservation Strategy (December, 1999) of the Draft South Sacramento County HCP (under development) (requiring minimum 1-to-1 mitigation ratio); and Metropolitan Bakersfield HCP (1994) (requiring 1-to-1 mitigation ratio for “Open Land,” including agricultural, and 3-to-1 ratio for

portion of land would not provide enough buffer between urban development and the species. Id. at 79. No other alternatives consider partial development, leaving some viable habitat on the site.

⁴ The Metro Air Park HCP fails to discuss how the unusually low ratio of habitat acquisition to habitat destruction will mitigate to the maximum extent practicable for covered species when the two most-affected species require very different types of habitat. The giant garter snake requires shallow aquatic habitat such as slow-moving water, canals, marshes, and flooded rice fields. Metro Air Park HCP at 22. The Swainson’s hawk, on the other hand, requires dry uplands, including grassland plains, row crops, and open fields. Id. at 25. Overlap of habitat is minimal, because the snake uses the flooded rice fields and waterways, whereas the hawk cannot use rice fields until they are drained, dried, and harvested. Id. at 22, 25.

“Natural Land”). See also Kern Water Bank HCP, Kern County, CA (October 1997) (“For permanent mitigation of compensable habitat the USFWS now typically requires a 3:1 replacement ratio”; 1.1 to 1 ratio for temporary habitat loss). Moreover, the conclusion that a .5-to-1 mitigation ratio is sufficient directly contravenes the expert opinion of the CDFG, which has stated that a 2-to-1 or greater ratio is necessary to achieve viable giant garter snake population levels. See Status and Future Management of the Giant Garter Snake (*Thamnophis gigas*) within the Southern American Basin, Sacramento and Sutter Counties, California (CDFG, Jan. 1992).

Consequently, the Service had no basis for finding that the Applicant will, to the maximum extent practicable, minimize and mitigate the impacts of any taking, and its finding to this effect was, therefore, arbitrary and capricious and in violation of 16 U.S.C. § 1539(a)(2)(B)(ii).

**The Applicant Has Not Ensured That Adequate Funding
for Implementing the HCP Mitigation Measures Will Be Provided.**

Section 10(a)(2)(B)(iii) of the ESA requires that before the Service may issue an incidental take permit, it must find that “the applicant will ensure that adequate funding for the plan will be provided.” 16 U.S.C. §1539(a)(2)(B)(iii) (emphasis added); see also NWF v. Babbitt, 128 F.Supp.2d at 1294. The key to this provision is the word “ensure.” Section 10(a)(2)(B)(iii) requires that the Applicant, Metro Air Park Property Owners Association, provide a financial guarantee of back-up funding for the Metro Air Park HCP’s mitigation measures to pay the costs of mitigation if the Metro Air Park HCP’s funding mechanism fails to generate funding adequate to achieve the HCP’s biological goals of minimizing and mitigating the impacts of the taking on the species and of preventing the reduction of the likelihood of the survival and recovery of the species. As the court stated in the Natomas Basin HCP case, “It is not clear that a funding mechanism that is not backed by the applicant’s guarantee could ever satisfy the requirement of §1539(a)(2)(B)(iii) that the applicant ‘ensure’ funding within the meaning of §1539(a)(2)(B)(iii).” NWF v. Babbitt, 128 F.Supp.2d at 1295.

The court found that the specific funding mechanism of the Natomas Basin HCP did not meet this requirement. Id. The Service has erred in approving the Metro Air Park HCP because it repeats the deficiencies of the Natomas Basin HCP not only by adopting the inadequate .5-to-1 mitigation ratio, but also by failing to identify the future mitigation lands and therefore making it impossible to determine what level of fees will be sufficient to meet the unknown future costs associated with purchasing and maintaining those lands. In addition, the Metro Air Park HCP fails to provide the needed financial guarantee that the Applicant will provide the necessary funding because the responsible organization, Metro Air Park Property Owners Association, is a no-asset corporation and no individuals are alternatively liable. Each of these deficiencies will be discussed in turn.

The Metro Air Park HCP provides that acquisition of land to be set aside for covered species, operation and maintenance, monitoring, and other mitigation measures required by the Metro Air Park HCP are to be funded by a one-time fee levied upon the owner of the acreage to be developed, payable when grading permits are issued. Metro Air Park HCP at 44-45. The fees are paid to the Natomas Basin Conservancy, an organization created for the purpose of collecting fees, purchasing mitigation lands and managing those lands. The Natomas Basin Conservancy would then purchase mitigation lands at the .5-to-1 mitigation ratio. However, there is no evidence that the fees levied on a developer will prove to be sufficient to acquire the required habitat mitigation parcels in the future. The Metro Air Park HCP does not require that the mitigation land that is to be purchased and set aside be identified or that its price be known when the fee is paid and the permit is issued. FEIS Response to Comments at 23-24. Similarly, it is impossible to know the actual future costs of other mitigation measures such as restoration, management, and monitoring until the costs are actually incurred at a future time. These components are approximately 40% of the current Metro Air Park HCP projected fee. Metro Air Park HCP at 50. Once the fee has been paid, the developer has met his habitat mitigation obligation requirement and may complete the project even if the fee proves to be inadequate for the Natomas Basin Conservancy to buy the mitigation land. See Metro Air Park HCP at 46 (fees must be paid before landowner receives final grading permit) and 65 (Natomas Basin Conservancy has one year to purchase mitigation lands after payment of fees).

Under the former Natomas Basin HCP, only the City of Sacramento had the power to increase the mitigation fees. In an improvement over that plan, the Metro Air Park HCP allows the Service and the CDFG to direct the Applicant to increase the mitigation fees to future developers. Metro Air Park HCP at 52. However, such fee increases would apply only to land developed after the need for a greater fee becomes apparent. Id. Moreover, neither agency can know the actual price of future acquisitions of mitigation lands or the actual costs of future operation and maintenance, monitoring, and restoration until these costs have been incurred, after the mitigation fees have been paid.

Thus, because the actual mitigation costs will almost certainly be greater than costs projected when the fee is set, the plan's funding mechanism depends on continual infusion of new developable land to provide funding for mitigation necessitated by previous development. For this reason, among others, the court found the similar funding mechanism in the original Natomas Basin HCP to be deficient. See NWF v. Babbitt, 128 F.Supp.2d at 1294. As in the case of the Natomas Basin HCP, if most of the land within the Metro Air Park permit area has been developed by the time the need for additional mitigation funding becomes apparent, there may be little or no land left to which an increased fee may be applied. See id. at 1294-95.

The Metro Air Park HCP funding mechanism also fails to ensure adequate funding because the putative Applicant, Metro Air Park Property Owners Association, is a corporation without assets, controlled by the landowners who would be required to pay any assessments

levied by the Applicant. Metro Air Park HCP at 51; Declaration of Covenants, Conditions and Restrictions ("CC&Rs") at §§ 7.7, 7.9, *attached to* Metro Air Park IA at Exhibit G. However, the landowners themselves have no financial responsibility for the Applicant's obligations in the event that it defaults. Indeed, the Applicant can simply be dissolved at any time by vote of the landowners.

The Metro Air Park HCP authorizes the Service and the CDFG to order the Applicant to levy and collect assessments upon land owned by the Applicant's members. Metro Air Park HCP at 52; Metro Air Park IA at §4.5.7(3); CC&Rs at §§ 6.1, 8.1.2. However, it does not authorize the Service to levy assessments or proceed against landowners directly for collection of the amount of increased mitigation costs. The agency's remedy is exclusively against the Applicant, a shell corporation having no assets. See Metro Air Park HCP at 52. This "remedy" is further weakened by language in the Metro Air Park Implementation Agreement purporting to limit damages for breach of the Agreement:

Notwithstanding any other provision of the Agreement, the Parties shall not be liable in monetary damages . . . for any breach of this Agreement, in the performance or failure to perform a mandatory or discretionary obligation imposed by this Agreement, or any other cause of action arising from this Agreement.

Metro Air Park IA § 7.2.

Once the Metro Air Park site is built out, the landowners will have no motivation to remain exposed to potential assessments to cover funding shortfalls for purchases of mitigation lands and for operation and maintenance, monitoring, and adaptive management. At the same time, they will have strong motivation to end any exposure by dissolving the Applicant association. This could happen well before build-out, as the composition and control of the Applicant association shifts to owners of completed projects having no further need for the ITP. In addition, if development stalls mid-stream, the owners of remaining undeveloped land would have a powerful incentive to cut their losses in order to avoid increased fees.

While the Service retains authority to revoke the Applicant's permit if it dissolves itself, Section 10(a)(2)(B)(iii) requires that "the applicant," not the Service or some other third party, ensure that adequate funding will be available. 16 U.S.C. § 1539(a)(2)(B)(iii) (emphasis added). See also *NWF v Babbitt*, 128 F.Supp.2d at 1295 ("The Service's discretion to revoke a permit for violation of a condition, however, does not seem to satisfy the statute's requirement that the applicant ensure the adequacy of funding.").

In sum, the Service also had no basis for finding that the Applicant will ensure that adequate funding for the plan will be provided and its finding was, therefore, arbitrary and

capricious and in violation of 16 U.S.C. § 1539(a)(2)(B)(iii).

**Neither The Applicant Nor The Service Has Demonstrated that the Taking
Will Not Appreciably Reduce the Likelihood of the Survival and Recovery
of the Species in the Wild**

Section 10(a)(2)(B)(iv) of the ESA, 16 U.S.C. § 1539(a)(2)(B)(iv), requires the Service to find that “the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild.” Neither the Applicant nor the Service has demonstrated that the incidental taking allowed by the Metro Air Park ITP will not appreciably reduce the likelihood of the survival and recovery of the giant garter snake in the wild.⁵

As discussed above, the Metro Air Park HCP employs the same scheme of reliance on the future acquisition of unspecified habitat lands that was established in the original Natomas Basin HCP. This scheme assumes that the acquisition of unspecified land of unanalyzed quality as habitat will compensate for the destruction of known habitat and known populations of species within the Metro Air Park site. In making this assumption, the Metro Air Park HCP fails to explain adequately how the destruction of many acres of currently occupied habitat will be mitigated by the future purchase of a smaller amount of land in an unknown location. Not only does the plan fail to address the possibility that the future purchases will be habitat of lower quality, it also fails to demonstrate how giant garter snakes will relocate to these lands (which may be several miles distant), fails to demonstrate how a new giant garter snake population equal to a destroyed population will somehow regenerate at the new protected habitat, fails to address the likelihood that the corridors which connect habitat will be destroyed along with the rest of the habitat, and further fails to demonstrate that the species will be able to establish a viable population in the new habitat. Finally, if the mitigation habitat is truly suitable habitat for giant garter snakes, it will probably already be fully occupied by giant garter snakes. The Metro Air Park HCP fails to demonstrate how the new habitat will be able to support three times the original population of snakes. In short, the Metro Air Park HCP ignores the very real possibility that habitat lands will be set aside that will be of little or no use to covered species displaced by the Metro Air Park project.

In NWF v. Babbitt, the court found the Service’s decision to approve a similar scheme in the Natomas Basin HCP was arbitrary and capricious. Judge Levi stated, “It cannot be assumed that if valuable habitat lands . . . are developed, equally valuable habitat lands may be protected elsewhere in the Basin because those lands may be developed outside of the HCP and may not be protected.” NWF v. Babbitt, 128 F.Supp.2d at 1299. The Metro Air Park HCP has maintained this fatal flaw.

⁵ Moreover, destruction of the Natomas Basin population of Swainson’s Hawk would have such a deleterious effect on the species that it would require the CDFG to consider changing the species’ status from threatened to endangered. See 1997 Natomas Basin Biological Opinion at 17.

The Service maintains that because the quality of the habitat found within the Metro Air Park site has allegedly been degraded in recent years, the mitigation ratio is actually much higher than .5-to-1. See FEIS Response to Comments at 25; Biological Opinion at 13; Metro Air Park HCP at 54. This contention is without merit, because it requires an assumption that all of the land to be developed is poor habitat while all of the lands to be purchased for mitigation will be excellent habitat. However, no studies are cited and no data are provided to support this assumption; indeed, the assumption cannot be justified because it is not known what lands will be purchased for mitigation. In fact, all of the lands in the Natomas Basin have suffered degradation as the land is not in its pristine form, but has been almost entirely converted to agricultural uses, which provides habitat that is usable but not ideal. Metro Air Park HCP at 18, 23. It is therefore speculative at best to portray the unknown mitigation lands as superior habitat when those lands have not been identified and it has not been shown that any snakes do or could live there. Moreover, the Service relies on the science supporting the mitigation ratio of .5-to-1 from the former Natomas Basin HCP, which predates the supposed degradation of habitat on Metro Air Park lands. See Natomas Basin HCP (published in November, 1997 and therefore relying on data collected prior to 1997), and Metro Air Park HCP at 18 (prior to 1998, the majority of the Metro Air Park lands were maintained in irrigated rice cultivation).

Consequently, the Service's finding that the incidental taking will not appreciably reduce the likelihood of the survival and recovery of the giant garter snake in the wild is not supported by the record and therefore was arbitrary and capricious and in violation of 16 U.S.C. § 1539(a)(2)(B)(iv).⁶

⁶ The finding also violates section 7(a)(2) of the ESA, 16 U.S.C. § 1536(a)(2), which imposes a duty on all federal agencies, including the Service, to "insure" that any action authorized, funded or carried out by the agency "is not likely to jeopardize the continued existence" of any threatened or endangered species. As the court in NWF v. Babbitt noted, "[i]n most respects . . . the finding required by § 7(a)(2) is identical to that required by § 10(a)(2)(B)(iv)." NWF v. Babbitt, 128 F.Supp.2d at 1296 n.23; see also id. at 1286. The court treated what it called the two "no jeopardy findings," id. at 1295, together in the Natomas Basin case and found that the Service had violated both sections. See id. at 1295-1301. So here, the Service's arbitrary and capricious finding that the incidental taking of giant garter snakes will not appreciably reduce the likelihood of the survival and recovery of the species also violated Section 7(a)(2). In fact, the record indicates that the taking of giant garter snakes and loss of their habitat within the Metro Air Park site, in combination with related regional development throughout the entire Natomas Basin, could well cause the Natomas Basin giant garter snake population to decline "to the point of extirpation." See Natomas Basin HCP, V-9. The Natomas Basin population of giant garter snakes is a subpopulation of the American Basin population, one of twelve extant populations. NWF v. Babbitt, 128 F.Supp.2d at 1278. As the court in the Natomas Basin HCP case noted, nine of these twelve populations are "on the verge of extinction." Id. (citing Service's 1994 Biological Opinion regarding impact of flood control project on listed species, including the giant garter snake). The court further noted that in light of "the severe, declining trends in habitat suitability/availability and population levels throughout 25 percent of the range of the species," the American Basin population of giant garter snakes is "vital to the survival of the species." Id. (citing 1994 Biological Opinion).

Conclusion

We respectfully urge the Service to revoke the Metro Air Park ITP and to reopen discussions with the Applicant concerning the terms of the Metro Air Park HCP. In these renewed discussions, the Service should insist upon a conservation plan that fully complies with the requirements of Sections 7 and 10 of the ESA. If these steps are not taken, we intend to take appropriate legal action in United States District Court.

If you believe any of the foregoing to be in error, have any questions, or wish to discuss this matter, please do not hesitate to call us.

Sincerely yours,

LAURA M. ROBB
Associate Attorney
MICHAEL R. SHERWOOD
Staff Attorney
EARTHJUSTICE

JOHN F. KOSTYACK
Senior Counsel
NATIONAL WILDLIFE FEDERATION



Justin Ly
12/21/01 01:45 PM

To: Tom Last
cc:
cc:
Subject: South Sutter County Specific Plan DEIR

Dear Mr. Last,

The U.S. Fish and Wildlife Service (Service) has not received the South Sutter County Specific Plan Draft Environmental Impact Report (DEIR), and requests that an extension to the comment period be provided. Because our email server is down, this request is being faxed to you.

The Service has concerns on the proposed South Sutter County Specific Plan's potential effects to the federally threatened giant garter snake. Based on our correspondence with others familiar with the South Sutter County Specific Plan, the configuration of the Specific Plan area would create a 4-mile long barrier east-west from Natomas East Main Drainage Canal (NEMDC) to North Drainage Canal, between Riego Road and Sacramento County line. Remaining area between the end of the industrial area and Sacramento area is designated for the wastewater disposal area of the project, thereby completely destroying wildlife habitat connectivity within the Natomas Basin for giant garter snakes and other species. If there will be potential take of federally listed species, an incidental take permit would need to be obtained from the Service. We have reviewed some of the comments submitted by James Pachl on December 21, 2001, to Thomas Last of Sutter Planning Division and generally agree with the fish and wildlife concerns outlined in that letter. Until the Service receives a copy of the Draft EIS for the Plan, we would like Sutter Planning Department to consider the fish and wildlife issues raised by Mr. James Pachl. We look forward to receiving a copy of the DEIR. Thank you.



A



Justin Ly
US Fish and Wildlife Service

EXHIBIT 11

000722

Eric C. Hansen
Consulting Environmental Biologist

4001 S. Watt Ave. #122
Sacramento, CA 95826



Phone/Fax 916-361-9913
Mobil 916-214-7848

December 20, 2001

To: Mr. Thomas Last
Director, Planning Division
Sutter County Community Services Department
1160 Civic Center Boulevard
Yuba City, CA 95993

Fax: (530) 822-7109

Re: Proposed South Sutter County Specific Plan: Public Comment

Dear Mister Last,

I am an independent biologist specializing in the study of the Giant Garter Snake, and, as such, would like to officially comment on one of the more significant issues facing this animal in the Natomas Basin, particularly in regard to impacts that would be accrued should the South Sutter County Specific Plan be implemented as it is proposed. I have extensive experience working with Giant Garter Snakes within the Central Valley, and have focused considerable effort within the Natomas Basin. From March through September, I typically spend seven days per week in Natomas working with this animal, and my understanding of snake dynamics in this area leads me to conclude that this fracturing of habitat connectivity will have severe negative impacts to the survival of snakes displaced in Sacramento County, the successful establishment of snake population at Natomas Basin Conservancy preserves, and the persistence of any snakes remaining to the north of the proposed South Sutter County Specific Plan. The Natomas Basin is critical to the species' survival, and the proposed South Sutter Specific Plan will jeopardize the persistence of Giant Garter Snakes here.

The Giant Garter Snake is California's most aquatic snake, relying exclusively upon marshes, ditches and drains to make its' living. Giant Garter Snakes rely on this water for food, to escape from predators, and, most importantly in this instance, as a means of moving safely from one area to another.

At the boundary between Sacramento and Sutter Counties, the proposed footprint of the South Sutter County Specific Plan will bisect the Natomas Basin from the Natomas East Main Drainage Canal (NEMDC) to the North Drainage Canal west of Highway 99/70 (El Centro Boulevard). While this footprint will not physically bisect the Basin in its' entirety, the effect upon the giant garter snake will be the same. The footprint terminates at the North Drainage Canal to the west, and will interrupt all other canals east toward the

EXHIBIT 12

NEMDC. Any remaining rice or conveyance infrastructure to the west will be impacted by wastewater effluent, increased human activity, and urban infrastructure. These impacts will prevent the movement of Giant Garter Snakes from lost or degraded habitat in the southern Basin to mitigation and preserve lands in Sutter County.

In order to preserve the Giant Garter Snake, it is critical that areas maintained as habitat for the species are interconnected. Should aquatic connectivity be lost, the preserve system maintained by the Natomas Basin Conservancy, under the authority of the Natomas Basin Habitat Conservation Plan, will become no more than isolated patches, separated from one another by expansive tracts of urban land that block the snakes' passage amongst them. Why is this connectivity important? Preserves must have the capacity to support snake populations that are large enough to maintain genetic diversity. On small reserves, such as those maintained by the Natomas Basin Conservancy, genetic variety, or heterozygosity, can be lost to inbreeding that results from small population sizes. A loss in this variation translates into snakes that are less fit to survive. By these means, local populations can be lost.

Claims of these effects are not purely hypothetical. Existing genetic research conducted by Melanie Paquin at California State University, San Francisco, in conjunction with the U.S. Geological Survey, shows that variation of this kind has already occurred to some extent in Giant Garter Snakes at areas separated by the major highways within the Natomas Basin (M. Paquin 2001).

In addition to maintaining genetic variety, connectivity must be maintained from south to north to allow for the migration of snakes that are displaced by urbanization in Sacramento County. The largest identified populations of GGS within the Basin are being forced north. Displaced snakes must be preserved not only to keep population numbers high, but also to act as the seeds for populations at Natomas Basin Conservancy Preserves north or Riego and Sankey Roads.

The giant garter snake was listed as threatened by the California Department of Fish and Game in 1971, listed threatened by the U.S. Fish and Wildlife in 1993, and is a fully protected species. The Natomas Basin population is recognized as containing one of the largest existing populations of Giant Garter Snakes left in the world, and is acknowledged by the U.S. Fish and Wildlife Service as being critical to the preservation of the species (USFWS 1999). Impacts to this animal will be compounded by increased traffic and road mortality, wastewater effluent, and loss of habitat, but the effects of disrupted connectivity will reach far beyond the Plan's boundaries by interrupting migration dynamics. In addition, a lack of surveys of this species within the project footprint prevents any accurate assessment of immediate impacts to this and other protected species.

In the interest of sound environmental management, I strongly urge that Sutter County consider alternatives to this location for the proposed urban and industrial use, and that in the event that this Plan should receive approval for Natomas, that efforts be made to limit the footprint to the east of Pacific Road to the east of Highway 99/70, and that the Plan be

restructured to facilitate Giant Garter Snake habitat connectivity between southern and northern reaches of the Basin.

Thank you,

Eric C. Hansen

Consulting Environmental Biologist

US FISH AND WILDLIFE SERVICE RECOVERY PERMIT: 10(a)(1)(A) ESA
TE-018177-1
EXPIRES 05/15/2005

References

- Paquin, Melanie M. May 2001. Population structure of the Giant Garter Snake *Thamnophis gigas*. Thesis submitted to the faculty of San Francisco State University.
- U.S. Fish and Wildlife Service. 1999. Draft Recovery Plan for the Giant Garter Snake (*Thamnophis gigas*). U.S. Fish and Wildlife Service, Portland, Oregon. ix+ 192 pp.

Volume II
Infrastructure Master Plan
South Sutter County Specific Plan

Lead Agency:

Sutter County Community Services Dept.

1160 Civic Center Blvd.

Yuba City, CA 95993

(530)741-7400

Contact: Tom Last, Planning Division Chief

Submitted by:

Quad Knopf, Inc.

One Sierragate Plaza, Suite 270C

Roseville, CA 95678

(916) 784-7823

Contact: Eugene Smith, AICP

Adopted April 16, 2002



Quad Knopf

00277

EXHIBIT 13

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The following improvements will be required by phase:

Cost Area (Phase) I Improvements:

- 165 linear feet of 12" ductile iron pipe
- 34,000 linear feet of 12" PVC pipe
- One 2,500,000 gallon water storage tank with chlorination
- One booster pump with building and standby power
- Five wells with building standby power and chlorination
- 65 fire hydrants
- 59 gate values (12")

Cost Area (Phase) II Improvements:

- 165 linear feet of 12" ductile iron pipe
- 38,000 linear feet of 12" PVC pipe
- One 2,500,000 gallon water storage tank with chlorination
- One booster pump with building and standby power
- Four wells with building standby power and chlorination
- 73 fire hydrants
- 66 gate values (12")

Cost Area (Phase) III Improvements:

- 170 linear feet of 12" ductile iron pipe
- 17,000 linear feet of 12" PVC pipe
- One 2,500,000 gallon water storage tank with chlorination
- One booster pump with building and standby power
- Four wells with building standby power and chlorination
- 32 fire hydrants
- 29 gate values (12")

WASTEWATER

The preferred treatment/disposal option is activated sludge treatment plus filtration with storage and land application. The wastewater generation (flow) factor for both commercial and industrial use is 2,000 gallons per acre average daily flow. A conservative approach to hourly flows for sewer design purposes is to assume that all wastewater from the Plan's industrial and commercial development occurs during an eight-hour period, a flow rate of 250 gallons per acre per hour.

Initially, on-site sewage disposal systems may be permitted until such time as the community wastewater collection, treatment and disposal system can be financed, permitted and constructed. Once the community system is operational, the individual systems would be abandoned and connection to the new system required.

It is estimated that 1,400 acres of land will be needed for disposal of treated wastewater at Specific Plan buildout. Although the entire 1,400 acres will not be needed until the plant is at maximum capacity, consideration should be given to obtaining the full 1,400 acres in one contiguous location to eliminate the need for excessive infrastructure (conveyance pipelines) installation. Land used for wastewater disposal should be purchased outright by the County or leased on a long-term basis (minimum of 20 years). This will allow the County to control the cropping patterns on the disposal land, which is vitally important for efficient disposal of treated effluent. Crops such as corn and other feed crops, have higher nitrogen requirements for production. Additionally, cropping patterns should facilitate disposal. Because feed crops provide excellent foraging habitat for the Swainson's hawk, it may be feasible to combine wastewater disposal and mitigation land set aside as habitat.

Goals and Policies:

Goal: Development and maintenance of a reliable wastewater collection, treatment and disposal system.

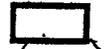
Policies:

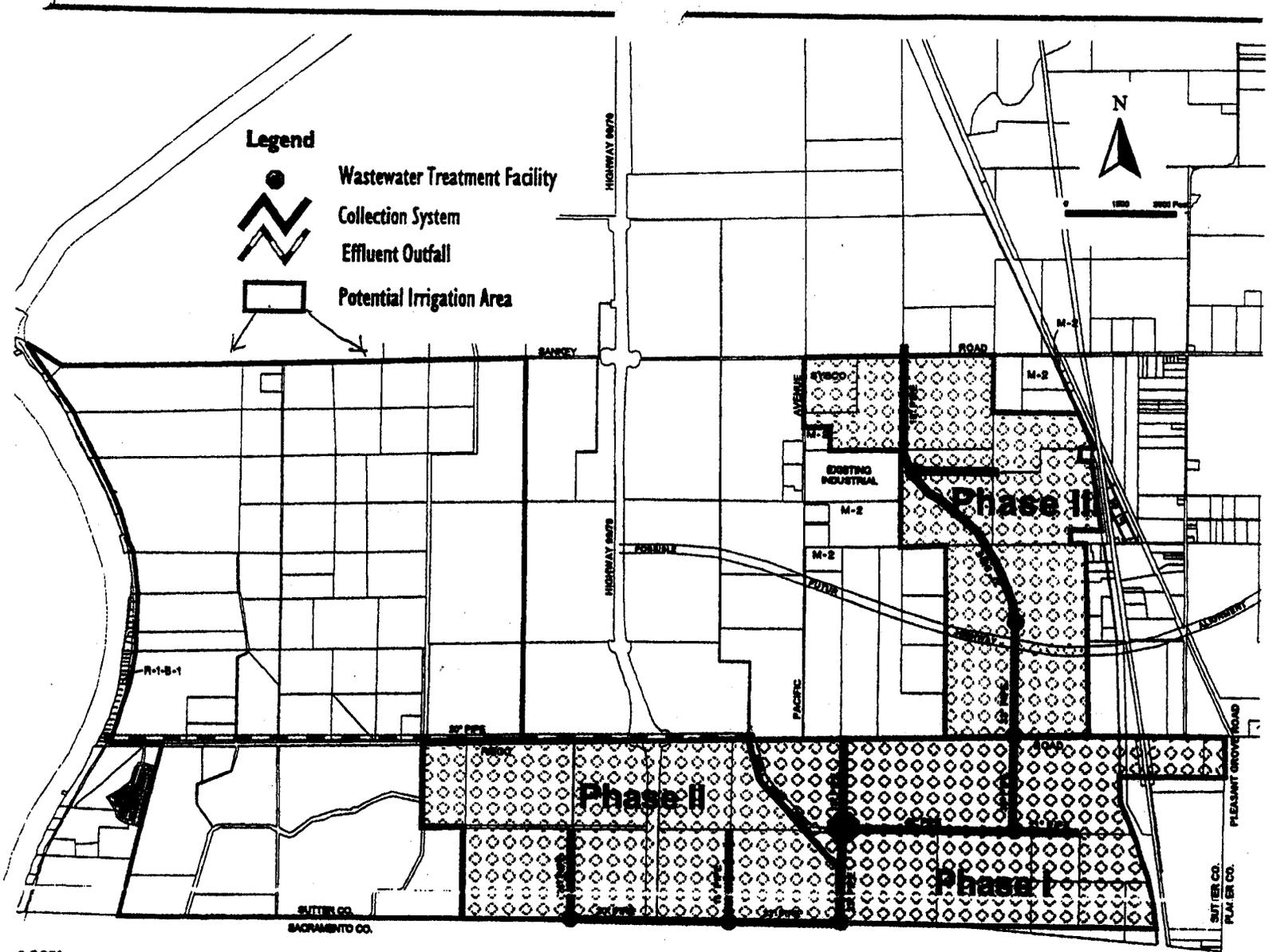
1. Individual wastewater treatment and disposal facilities meeting Sutter County standards may be utilized initially for development projects until a community wastewater collection, treatment and disposal system is operational and available to the development project.
2. When development projects occur prior to the development of the community wastewater collection, treatment and disposal system, "dry lines" shall be installed along abutting public streets in accordance with the planned ultimate wastewater system design.
3. Developers shall pay their fair share at the time of building permit issuance to ensure completion of a community wastewater collection, treatment and disposal system meeting County Standards.
4. Collection and transmission pipelines shall be located within road rights-of-way or dedicated easements.

Planned Wastewater System Improvements:

Planned wastewater system improvements are shown on Figure 8. The system includes collection, treatment and disposal of wastewater providing tertiary level treatment. The collection system includes pipelines, varying in size from 15 inches to 33 inches. The build out capacity for the wastewater treatment plant will be approximately 7 million gallons per day. A site of approximately 25 acres in size within the Specific Plan area will be required for the treatment facility. It is estimated that approximately 1,400 acres

Legend

-  Wastewater Treatment Facility
-  Collection System
-  Effluent Outfall
-  Potential Irrigation Area



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Source: Quad Knopf, 2001



Sewer Master Plan

Figure 8

would be needed to accommodate year-round land disposal, including a storage pond approximately 100 acres in size with 16 feet of depth. A portion of the pond depth would be accommodated above ground through construction of a levee utilizing earth borrowed from the storage pond. The storage pond would be come an integral part of the farming operations on the 1,400 acre site, similar to irrigation water storage ponds typically used in Central Valley agriculture.

Capital improvement costs for the wastewater treatment plant will be most intense in Cost Area (Phase) I, however, the plant will be developed incrementally, allowing deferral of costs related to unneeded capacity. The collection system will be developed as necessary for each phase.

Total system improvements include:

- Collection system
- 25 acres for location of Treatment Plant
- Treatment Plant with 7 million gallons per day capacity
- Agricultural irrigation/disposal area (1,400 acres)
- Effluent outfall line (23,000 feet of 20" pipe)

DRAINAGE

Drainage improvements proposed under the Project include both Type 1 and Type 2 facilities. Type 1 Drainage Facilities include channels, culverts associated with channels, bridges, detention ponds, pump stations, and levees. Type 2 Drainage Facilities include roadside ditches, storm drainage pipe systems, and overland conveyance systems. All urban runoff created within the Plan Area will be detained on-site and treated prior to being released into the conveyance facilities.

Initially, it may be feasible to accommodate development with on-site detention systems. However, for ultimate buildout, an areawide system will be necessary.

Goals and Policies:

Goal: Development and maintenance of a reliable drainage collection, storage and disposal system.

Policies:

1. Interim drainage facilities may be constructed for individual properties, providing that interim facilities will not result in risk to property damage from flooding and/or jeopardize public safety.
2. Any privately owned drainage facilities constructed prior to development of the community areawide system shall be designed to be integrated with the areawide



California Regional Water Quality Control Board

Central Valley Region

Robert Schneider, Chair



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14 February 2002

Ms. Lisa Wilson
Sutter County Community Services Department
1160 Civic Center Boulevard, Suite E
Yuba City, CA 95993

**PROPOSED PROJECT REVIEW, CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA),
DRAFT ENVIRONMENTAL IMPACT REPORT AND TECHNICAL APPENDICES FOR
SP#00-01 - SOUTH SUTTER COUNTY SPECIFIC PLAN, PLEASANT GROVE, SUTTER COUNTY,
STATE CLEARINGHOUSE # 2001032086**

Regional Board staff reviewed the Draft Environmental Impact Report (DEIR) for the South Sutter County Specific Plan (Specific Plan) and provided comments regarding the proposed project in a letter dated 26 December 2001. This letter serves to provide supplemental comments on the project, specifically with respect to the Specific Plan's proposed interim wastewater measures and *Volume VI, Technical Appendix C - Wastewater Collection, Treatment and Disposal Study (Appendix C)*.

As described in the Specific Plan, interim measures for wastewater treatment and disposal may include individual, onsite systems prior to development of regional infrastructure described in Appendix C. Section 13260 of the Porter-Cologne Water Quality Control Act requires any person discharging waste or proposing to discharge waste to file a Report of Waste Discharge (RWD) with the Regional Board. In many cases, the State Board has determined that the control of individual, onsite residential (or equivalent) waste treatment and disposal systems can best be accomplished by local County Environmental Health Departments if these departments are strictly enforcing an ordinance that is designed to provide complete protection to ground and surface waters and to the public health. However, the State Board has also determined that the installation of individual disposal systems in especially large numbers creates discrete discharges which must be considered by the Regional Board on an individual basis.

The anti-degradation directives of Section 13000 of the Water Code and the State Board Resolution No. 68-16 ("Statement of Policy With Respect to Maintaining High Quality Waters in California") require that high quality waters of the State shall be maintained "consistent with the maximum benefit to the people of the State." Such policies restrict dischargers such as the applicants from reducing the water quality of surface or ground waters even though such a reduction might still allow the protection of the beneficial uses associated with the water prior to the quality reduction. Pursuant to this policy, the applicant (or Discharger) must supply information regarding the impacts and potential impacts of the

California Environmental Protection Agency



EXHIBIT

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discharge on water quality, as measured by background concentrations ("pre-project" conditions should be established on a seasonal basis, typically requiring a minimum one full year of comprehensive groundwater monitoring prior to discharge) and applicable water quality objectives. Background and ongoing monitoring would be required to assure groundwater is not degraded as the discharges pass beneath the project area and to ensure that water quality is protected. If the discharge threatens to cause or causes an impact to groundwater quality, the Discharger would be required to cease the discharge, implement source control, alter the method of disposal, or take other actions as necessary to prevent degradation.

Regional Board staff is unable to provide explicit comments on the feasibility of such a proposal without further assessment of specific site characteristics as well as the intended treatment and disposal system design. In general, Regional Board staff is concerned with the potential impacts from land disposal to groundwater quality, particularly the cumulative impacts from land disposal practices without assurance through advanced treatment and extensive monitoring that water quality will not be degraded. This concern is further elevated given such waste contributors as industrial and commercial dischargers. Staff is concerned about the waste characteristics associated with the different types of domestic, commercial and industrial/manufacturing discharges to the proposed disposal facilities. A detailed assessment of both the individual and cumulative wastewater characteristics must be completed in order to determine the appropriateness of combining such waste streams, identify the potential threats to water quality, and determine the required level of treatment to eliminate such threats.

With respect to the proposal for interim onsite wastewater treatment and disposal facilities, Regional Board staff questions the decision to forgo immediate construction or connection to a regional sewer system. As expressed previously, Regional Board staff is concerned about the potential direct and cumulative impacts to water quality from subsurface disposal and is not certain that pollution and/or nuisance conditions will be avoidable. A public entity should be formed to ensure continued protection of water quality. According to Board policy, the objective of a public entity is to ensure that an entity with (1) adequate financial resources and expertise, (2) a degree of permanency, and (3) the ability to implement management functions relating to the system, has the primary responsibility for its operation and maintenance.

Regional Board staff concerns regarding the proposed interim disposal practices are exemplified by the historical and ongoing problems in portions of Sutter County with groundwater contamination in locations of high-density individual wastewater systems. As a result of reliance on individual onsite septic systems in certain portions of Sutter County, a number of domestic water wells have been impacted by elevated nitrate concentrations above the Maximum Contaminant Level for drinking water standards.

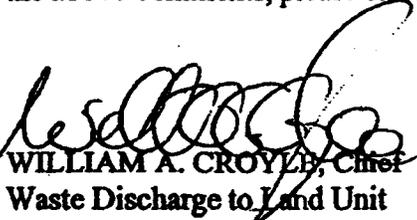
There is limited hydrological and site-specific characterization regarding the potential for drainage problems and changes in absorption rates associated with high ground water tables during wet years. Regional Board staff is particularly concerned regarding the potential impacts from subsurface or percolation-driven disposal systems with minimal separation from the ground water table. Site-specific information regarding the potential for flooding and the seasonal depth to zones of saturation needs to be identified. Based upon Board guidelines, it must be demonstrated that a minimum of 5-feet of

separation is maintained between the base of the disposal system and the uppermost groundwater aquifer at all times, including during periods of extremely wet weather conditions. Test pit and soil profiling assessments should extend beyond 5 feet below grade. Given the prevalence of clayey soils within the profile of the effective soil depths at the site project, plasticity index testing, particle size analysis and/or site-specific percolation testing (during wet weather) is warranted.

Based on the project description and limited project-specific information provided, alternative onsite disposal systems without substantial advanced treatment should not be considered acceptable as either an interim or long-term waste disposal alternative. Regardless, it must be demonstrated that any proposed interim onsite disposal systems will be in compliance with County and State (Regional Board) guidelines. The Regional Board encourages the pursuit and establishment of long-term infrastructure prior to any substantial development within the project area. Such infrastructure should provide a higher level of treatment and ensure the protection of water quality and beneficial uses.

Staff has been in contact with engineering consultants for the project and recognize that attempts are being made to address the Regional Board's concerns. Land discharge of wastewater shall only occur upon the adoption of Waste Discharge Requirements by the Regional Board with demonstration that the proposed discharge will not impact water quality or present a condition of pollution or nuisance. Staff will continue to work with the County, project applicant(s) and interested parties to address issues relating to water quality and the Regional Board's permitting process.

Thank you for the opportunity to provide comments on this project. We ask that the comments and issues raised herein be considered in the preparation of the Final EIR. If you have any questions about the above comments, please call me at (916) 255-3809 or Sherry Constancio at (916) 255-3048.


WILLIAM A. CROYLE, Chief
Waste Discharge to Land Unit
Lower Sacramento River Watershed

SKC

cc: Ms. Katie Shulte Joung, State Clearinghouse, Sacramento
Sutter County Board of Supervisors, Yuba City
Sutter County Planning Commission, Yuba City
Mr. Tom Last, Sutter County Community Services Department, Yuba City
Mr. Jeff Williams, Sutter County Department of Environmental Health, Yuba City
Mr. James P. Pacht, Attorney at Law, Sacramento
Mr. David Mogavero, Environmental Council of Sacramento, Sacramento
Ms. Wendy Anderson, Attorney, Sacramento
Mr. William Kopper, Attorney, Davis
Mr. Eugene Smith, Quad Knopf, Inc., Roseville

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California Regional Water Quality Control Board
Central Valley Region



Winston H. Hicks
 Secretary for
 Environmental
 Protection

Robert Schneider, Chair

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Gruy Davis
 Governor

11 April 2002

Ms. Lisa Wilson
 Sutter County Community Services Department
 1160 Civic Center Boulevard, Suite E
 Yuba City, CA 95993

Sutter County Board of Supervisors
 1160 Civic Center Boulevard, Suite A
 Yuba City, CA 95993

SOUTH SUTTER COUNTY SPECIFIC PLAN, PLEASANT GROVE, SUTTER COUNTY, STATE CLEARINGHOUSE # 2001032086

In letters dated 26 December 2001 and 14 February 2002, Regional Board staff provided comments on the Draft Environmental Impact Report (DEIR) for the South Sutter County Specific Plan (Specific Plan). Such comments were primarily related to the Specific Plan's proposed interim wastewater measures (individual, onsite systems prior to development of regional infrastructure) and *Volume VI, Technical Appendix C - Wastewater Collection, Treatment and Disposal Study*.

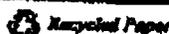
The Regional Board has been made aware of a Sutter County staff report to the Board of Supervisors (BOS), dated 21 March 2002, which recommends agricultural irrigation and wintertime storage for effluent disposal. Given such a recommendation, Regional Board staff feels it is appropriate to provide further comments on the potential ramifications of such a proposal.

Although Regional Board staff was previously unable to provide explicit comments on the feasibility of the wastewater proposals without further assessment of site-specific characteristics and actual treatment and disposal system design, concerns were raised regarding the potential impacts from land disposal to groundwater quality. Staff particularly stressed concerns regarding the cumulative impacts from land disposal practices without assurance through advanced treatment and extensive monitoring that water quality would not be degraded.

Based on the project description and limited project-specific information provided, land disposal systems without substantial advanced treatment should not be considered acceptable as either an interim or long-term waste disposal alternative. A detailed assessment of both the individual and cumulative wastewater characteristics, identification of the potential threats to water quality, and determination of the required level of treatment to eliminate such threats, needs to be conducted prior to any decision regarding final effluent storage and disposal.

California Environmental Protection Agency

EXHIBIT 15



The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web site at <http://www.energy.ca.gov/>

Sent By: RWOCB SACRAMENTO;

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Ms. Lisa Wilson
Sutter County Board of Supervisors

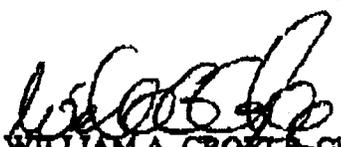
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11 April 2002

As stated in our 14 February 2002 letter, it is difficult to ascertain the feasibility of land discharge alternatives given limited hydrological and site-specific characterizations. Regional Board staff is particularly concerned regarding the potential impacts from subsurface (i.e.: leachfields, etc.) or percolation-driven (i.e.: unlined ponds, etc.) disposal systems with insufficient pretreatment and minimal separation from the ground water table. Wastewater storage and disposal in unlined pond systems are considered to pose a much greater potential threat to groundwater quality than a fully-lined pond and/or irrigated reclamation at reasonable loading rates. It should therefore be noted that, depending on the existing site conditions (i.e.: existing soil and groundwater quality) and quality of effluent to be discharged, the use of unlined ponds for wastewater storage and/or disposal might ultimately not be allowable.

Regional Board staff concurs with the County staff report indicating that a follow-up, tiered environmental evaluation of the wastewater treatment and disposal facilities will be required when specific designs and locations of such facilities are available. At such a time, Regional Board staff will be able to provide more specific comments on the proposal. However, staff feels that it is appropriate to caution the BOS that it is unlikely that the Regional Board would approve of a proposal for discharge of wastewater to unlined ponds without implementation of extensive treatment and disinfection processes (which may or may not be technically and/or economically feasible), and demonstration of appropriate site conditions.

Thank you for the opportunity to provide further comments on this project. If you have any questions about the above comments, please call me at (916) 255-3809 or Sherry Constanacio at (916) 255-3048.


WILLIAM A. CROYLE, Chief
Waste Discharge to Land Unit
Lower Sacramento River Watershed

SKC

cc: Ms. Katie Shulte Jung, State Clearinghouse, Sacramento
Sutter County Planning Commission, Yuba City
Mr. Darrell Larsen, Sutter County Counsel, Yuba City
Mr. Tom Last, Sutter County Community Services Department, Yuba City
Mr. Jeff Williams, Sutter County Department of Environmental Health, Yuba City
Mr. James P. Pacht, Attorney at Law, Sacramento
Mr. David Mogavero, Environmental Council of Sacramento, Sacramento
Ms. Wendy Anderson, Attorney, Sacramento
Mr. William Kopper, Attorney, Davis
Mr. Eugene Smith, Quad Knopf, Inc., Roseville



RD1000

RECLAMATION
DISTRICT 1000

By Hand Delivery, Facsimile [(530) 822-7109], and United States Mail.

December 21, 2001
Tom Last
Sutter County
1160 Civic Center Boulevard
Yuba City, CA 95993

Re: South Sutter County Specific Plan and Draft Environmental Impact Report

Dear Mr. Last:

On behalf of Reclamation District No. 1000 ("RD 1000") I am writing regarding Sutter County's (the "County") South Sutter County Specific Plan dated October 2001 (the "Specific Plan" or the "Project"), and the accompanying Draft Environmental Impact Report ("DEIR"). The DEIR reviews the Specific Plan, which implements the County General Plan (the "General Plan"), creates development and design criteria for 3,500 acres in the South Sutter County area, and rezones 3,500 acres from General Agriculture to either South Sutter County Industrial ("SSCI") or South Sutter County Commercial ("SSCC") districts.

The Project lies within RD 1000's jurisdiction, and within a portion of South Sutter County that was designated under the 1996 General Plan as the "Industrial/Commercial Reserve" area (the "I-C Reserve"). Approximately one third of the Project's area lies within the 100 Year flood plain.

RD 1000's most significant concerns regarding the Specific Plan and DEIR are their failure to:

- (1) Analyze, and mitigate for, impacts resulting from inadequate drainage and flood control infrastructure;
- (2) Plan for, analyze, and mitigate, off-site and pre-development improvements;

See p.p. 11-15

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EXHIBIT 16

- (3) Provide for a comprehensive drainage agreement with RD 1000 regarding the implementation and financing of the drainage improvements.
- (4) Require phased development to ensure that some portion of the community infrastructure is constructed prior to full build-out; and
- (5) Provide a Financing Plan that provides an alternative to the Specific Plan's current "pay as you go" strategy, and that demonstrates how the costs of the Specific Plan's implementation will be covered. Such a plan is critical given the unusually high infrastructure costs associated with implementation of the Specific Plan. The costs included in the Technical Appendices (Volume VI) indicate that the cost per acre for Traffic, Water, Wastewater and Drainage facilities, combined for Phase I is \$85,2555, for Phase II is \$78,141, and for Phase III is \$61,995, *with a combined total for all phases of \$74,664 per acre.*

RD 1000 is concerned that the Specific Plan's and DEIR's inadequate analysis of drainage implementation, impacts, and financing, will create a piecemeal drainage and flood control system that will cause significant impacts upon water resources, public utilities, and wildlife in the region. These impacts, together with an analysis of feasible mitigation measures or alternatives to substantially lessen or avoid such impacts, must be evaluated in order to provide a legally and technically adequate environmental analysis. As the agency responsible for providing drainage and flood control protection to the I-C Reserve and the rest of the Natomas Basin, the District is deeply concerned that the County is proceeding with approval of the Specific Plan and DEIR prior to completion of a comprehensive drainage agreement with RD 1000, a phased implementation plan, and a financing plan. RD 1000's specific comments on the DEIR and Specific Plan are set forth below.

I. **THE DRAFT ENVIRONMENTAL IMPACT REPORT.**

A. **Chapter 1: Environmental Review Process.**

1. **Only the Public Distribution of the *Complete* Specific Plan and DEIR Can Trigger the Beginning of the Public Comment Period.**

The DEIR's representation of the Environmental Review Process is not accurate, and, as a result, we request that the county defer the close of the public comment period until at least 45 days after the County publicly distributes the Financial Plan. The public comment period cannot legally commence, much less close,

until complete copies of the Specific Plan and the DEIR have been made available to the public. The California Environmental Quality Act ("CEQA") states that the public comment period cannot begin until the complete DEIR has been distributed to the public. [See Pub. Resources Code § 21091(b); 14 C.C.R. §(a); 14 C.C.R. § 15205(d); *Ultramar, Inc. v. South Coast Air Quality Management District* (2d Dist. 1993) 17 Cal. App. 4th 689, 700]. In the case at hand, the County has not made the Specific Plan and DEIR available to the public, and, as a result, the public comment period required by CEQA cannot yet begin.

The Financial Plan (Volume 3) is a foundation piece of the other Specific Plan and the DEIR. The volumes of the Specific Plan and DEIR that are available to the public refer repeatedly to Volume 3 as a basis for analysis. [See Specific Plan/DEIR Volume 5 at page 2-1 (stating that The South Sutter Specific Plan is "Volume 1 of a series of six volumes that comprise the Specific Plan and EIR.... Volume III is the Financing Plan for constructing and operating the public services and utilities necessary to serve the Specific Plan Area."); Notice of Completion/Availability, October 23, 2001 (stating that the "project" is a Specific Plan, Infrastructure Master Plan, Financing Plan, and Rezone."); November 28, 2001 Sutter County Staff Report (stating that "There are several documents related to this project. Together the documents...describe the project and evaluate the potential impacts that may result. Specifically, the related documents are:... Volume III...Financing Plan.")].

This Financial Plan is necessary both practically and legally to evaluate the feasibility of the mitigation for the Project's impacts upon the environment and, specifically, upon the flood control and water supply activities of RD 1000 and Natomas Mutual. [See Govt. Code § 65451]. For instance, the DEIR's mitigation measures 3.8-5, 3.9-1, and 3.9-2 explicitly rely upon the Financing Plan and mitigation measure 3.6-3 implicitly relies upon the Financing Plan. Without the Financial Plan, it is impossible to analyze whether substantial evidence supports a finding that the DEIR's mitigation measures are feasible. [See Pub. Resources Code § 21081(a); 14 C.C.R. § 15091(a)]. Should these mitigation measure not be feasible, there is no support for a finding that the Specific Plan's impacts have been mitigated to a less than significant level.

2. If the County Does Not Extend the Comment Period Until After the Distribution of the Financial Plan, CEQA will Require Recirculation.

The distribution of the Financial Plan late in a public comment period will trigger a recirculation requirement under CEQA. If, subsequent to the commencement of public review and interagency consultation but prior to final EIR certification, the

lead agency adds "significant new information" to an EIR, the agency must issue new notice and must "recirculate" the revised EIR, or portions thereof, for additional commentary and consultation. [See Pub. Resources Code, § 21092.1; 14 C.C.R. § 15088.5]. The revised environmental document must be subjected to the same "critical evaluation that occurs in the draft stage," so that the public is not denied "an opportunity to test, assess, and evaluate the data and make an informed judgment as to the validity of the conclusions to be drawn therefrom." [Sutter Sensible Planning, Inc. v. Board of Supervisors (3d Dist. 1981) 122 Cal. App. 3d 813, 822, quoting *Appalachian Mountain Club v. Brinegar* (D.N.Y. 1975) 394 F. Supp. 105, 121-22 and analogizing from the National Environmental Policy Act. See also 14 C.C.R. § 15088.5(a)(4) (stating that recirculation is required when the DEIR is "so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.")] Recirculation of an EIR requires notice and consultation pursuant to Pub. Resources Code §15086 and §15087. [See 14 C.C.R. § 15088.5(d)]. Thus, in issuing a recirculated EIR for public review, the lead agency must publish a new "notice of availability," and must consult with, at a minimum, all responsible agencies, trustee agencies, "[a]ny other state, federal, and local agencies which have jurisdiction by law with respect to the project or which exercise authority over resources which may be affected by the project," and "[a]ny city or county which borders on a city or county within which the project is located." [14 C.C.R. § 15086(a)].

B. Chapter 3.2 Impacts Upon Agricultural Resources.

The DEIR does not adequately analyze the Project's impact upon agricultural resources, which include Prime Farmland as well as Farmland of Statewide Importance, as designated by the Farmland Mapping and Monitoring Program (Sutter County Important Farmland 1998).¹ Although the DEIR recognizes that the Project will have significant impacts upon agricultural resources within the Natomas Basin, the DEIR neither recognizes the full extent of those impacts, or adequately analyzes mitigation and alternatives to those impacts.

¹Because the Sutter County General Plan Environmental Impact Report ("General Plan EIR") found the impacts to agricultural resources to be significant and unavoidable, under *Communities for a Better Environment, et al. v. California Resources Agency*, Sacramento Superior Court Case No. 00CS 00300, the Specific Plan EIR may not rely upon the General Plan EIR's analysis of those impacts or mitigation for those impacts.

The DEIR fails to adequately analyze the Project's off-site impacts. For instance, the Specific Plan and DEIR do not consider the fact that the Natomas Basin is operated as a "closed system," during the summertime. Because waters are not released during the summertime, additional precautions must be taken to avoid the build-up of salt content and other heavy minerals deleterious to agriculture that will be a part of the effluent disposed. Such build-up could impair agricultural activities throughout the Natomas Basin. Necessary mitigation includes setbacks from irrigation and drainage canals and use of groundwater monitoring wells.

The DEIR also fails to address any impacts to agriculture caused by the Project's off-site improvements. Significant Specific Plan off-site improvements that could further farmland conversion include:

- (1) The Sankey Detention Basin (about 640 acres) construction [DEIR at page 4.4.3];
- (2) The proposed 1400-acre wastewater disposal area [DEIR at page 3.9.2.2];
- (3) The dedication of mitigation land to Natomas Basin Conservancy (up to 1750-acres) [DEIR at page 3.4.2]; and
- (4) The incorporation of buffers.

In part because of the DEIR's failure to recognize the impacts of the Specific Plan's improvements, the DEIR's mitigation measures for impacts to agricultural resources are inadequate. The DEIR does not consider mitigation measures that will expand or improve agriculture uses in the surrounding areas. Such measures could include the improvement of marginal lands within the basin for agriculture and the provision of a reliable surface water supply to areas that have marginal irrigation supply. Examples of feasible mitigation measures that should be included in the DEIR.

- (1) Irrigation facilities should be maintained, re-located or modified as necessary to provide continuous irrigation services during the development process. The facilities include the irrigation canals, turnouts, lift pumps and return drains
- (2) Development planning should anticipate irrigation service needs both within and outside of the Plan area. The irrigation facility modifications should be designed and phased accordingly.
- (3) Irrigation services shall be maintained during construction. For example, accommodations would be required during culvert construction to maintain continuous irrigation service.

- (4) Drainage canals should be maintained as part of the supply, circulation and drainage system for irrigation farmland.
- (5) The DEIR should require procedures into the planning process that permit for Natomas Mutual's input during the planning and design phases, whenever those entities' facilities may be impacted.
- (6) Development fees should include the full direct and in-direct costs of any impacts to the Natomas Mutual's conveyance system, on or off-site, that result from implementation of the Specific Plan.
- (7) Where irrigation facilities remain within or adjacent to developed areas, the County should implement practices that will prevent potential conflicts, and allow irrigation service to continue unimpeded. General guidelines are as follows:
 - a. Provide a minimum 20' buffer beyond toe of canal embankments. Such a buffer would provide for maintenance practices similar to farmland buffers and provide for maintenance access.
 - b. Provide fencing and access control along limits of irrigation facilities. Change in land use adjacent to irrigation facilities will result in an increase liability to Natomas Mutual and should be mitigated by providing access control for public safety reasons. Fencing should be set at the limits of buffers, to avoid maintenance restrictions, and should close off access to the Plan Area.

C. Chapter 3.6: Chapter 3. 6: Drainage.

The DEIR and the Specific Plan allow, but fail to analyze the impacts of, development of 3,500 acres without specifying that a community water supply and drainage system *ever* be constructed, and without providing any financing plan for the significant costs associated with the necessary drainage, including, but not limited to, the significant pre-development and off-site improvements to RD 1000's infrastructure. The DEIR's failure to analyze the Project will result in an inadequate, costly set of drainage improvements that will unduly stress RD 1000's system. Such stresses include increasing the area of the existing flood plain, increasing the amount of energy required to evacuate drainage water, and increasing the time required to evacuate drainage water. Without a comprehensive analysis of drainage and flooding impacts, decision makers and members of the public do not have a meaningful opportunity to review and evaluate the impacts of the Project or the effectiveness of the proposed mitigation measures

To ensure that there is adequate drainage, and adequate mitigation for impacts from drainage activities, the Specific Plan and the DEIR must require the County to:

- (1) Analyze, and mitigate for, impacts resulting from inadequate drainage and flood control infrastructure;
- (2) Plan for, analyze, and mitigate, off-site and pre-development improvements;
- (3) Provide for a comprehensive drainage agreement with RD 1000 regarding the implementation and financing of the drainage improvements.
- (4) Require phased development to ensure that the community infrastructure is constructed prior to full build-out;
- (5) Provide a Financing Plan demonstrating how the costs of the Specific Plan's implementation will be covered. *Such a plan is critical given the unusually high infrastructure costs associated with implementation of the Specific Plan.* The costs included in the Technical Appendices (Volume VI) indicate that the cost per acre for Traffic, Water, Wastewater and Drainage facilities, combined for Phase I is \$85,255, for Phase II is \$78,141, and for Phase III is \$61,995, with a combined total for all phases of \$74,664 per acre; and
- (6) Require pre-development financing of all drainage improvements

1. **Financing.**

RD 1000 is particularly concerned that the DEIR reviews the Specific Plan *in the absence of any Financing Plan for the development of 3500 acres within an area that requires extensive infrastructure improvements.* Failure to provide the financing plan causes the DEIR to ignore reasonably feasible alternatives to the Project or its location that could mitigate significant impacts. The DEIR must not only analyze alternative development scenarios for the Project; because a cumulative analysis of drainage and flooding impacts has never been conducted, the DEIR also must consider alternatives that substantially lessen or avoid such significant effects. Specifically, the DEIR must examine all potential development scenarios and provide thorough analysis of the drainage-related impacts and infrastructure requirements associated with each scenario.

The Specific Plan and DEIR must require a Financing Plan and a Drainage Agreement with RD 1000, to address the following issues related to the Specific Plan's drainage system.

- (1) The County's reliance on payment of "fair share fees" as a "primary" basis for mitigation of drainage impacts is inadequate. [DEIR at page 4-68; DEIR at 2-11]. Neither the Specific Plan nor the DEIR recognize or evaluate the extensive additional drainage and flood control facilities and improvements that will be required to mitigate impacts. The County's commitment to work cooperatively with the District in developing a plan for such facilities and improvements is essential *prior to proceeding with any individual project* within the Specific Plan. Consequently, as has been required for development within the portion of the District located in the City and County of Sacramento, *the District will require a comprehensive agreement with the County to provide for payment by Specific Plan property owners/developers of all design and construction costs for District facilities and improvements necessary to mitigate drainage and flooding impacts.*
- (2) The Specific Plan and DEIR must recognize RD 1000's ownership of land underlying the Specific Plan's drainage system. Currently, the DEIR at page 2-11 states that, "[A]t the County's discretion, at the time an area wide drainage system is created, the facility shall be dedicated to the County along with the underlying land and access." In fact, all property underlying any improvement of RD 1000's facilities related to the Specific Plan must be transferred to the District in fee or easement prior to construction of the improvement.
- (3) The Financial Plan and Drainage Agreement must condition any approval of specific development projects within the Specific Plan area upon RD 1000's approval of the area wide drainage system and its financing, as well as the criteria for all "private facilities," as described at page 2-33 of the DEIR.
- (4) The Financial Plan and Drainage Agreement must specify that the Specific Plan will be developed in phases, and that 50% of each phase must be built out prior to proceeding to the next phase.

2. **The Specific Plan's Drainage Plan, and the DEIR's Analysis of that Plan's Impacts, are Inaccurate and Inadequate.**

The Specific Plan's and DEIR's discussions of drainage are inaccurate and inadequate for the following reasons.

- (1) The DEIR fails to analyze the Specific Plan's impact upon off-site drainage systems. Page 44 of the Specific Plan (Volume I) states that,

“[I]nitially, it may be feasible to accommodate development with on-site detention systems.” [See also Specific Plan (Volume I) at page 46 (stating that “[I]nterim drainage may be constructed...”); Infrastructure Master Plan (Volume II) at page 23; DEIR at 2-11]. In fact, development will increase run-off via detention basins or otherwise. Consequently, *prior to any development* within the Specific Plan area, RD 1000 requires significant improvements to its drainage facilities to accommodate the Project’s increased run-off. The County must provide a drainage plan, which includes phasing and a payment plan, for those initial improvements.

- (2) The Plan and DEIR must provide more specifics as to the method of treatment for urban runoff prior to release into conveyance facilities. [See DEIR at 2-11].
- (3) The Technical Appendices (Volume VI) states that Phase III improvements include a 60 acre pond on the north side of Riego Road. However, the map indicates that the pond is 50 acres rather than 60 acres. [See Technical Appendices at page 24].
- (4) RD 1000 does not have a “Montna Drainage Canal” but has canals in the vicinity known as G1, G2 and G3. The Specific Plan and DEIR must clarify whether those are the canals that are proposed for alignment of the “Montna Drainage Canal.” [See Infrastructure Master Plan (Volume II) at page 25; Technical Appendices (Volume VI) at page 12 and 31].
- (5) *RD 1000 will require an analysis of seepage expected to infiltrate into detention basins and pumped into RD 1000’s system. If that seepage is significant, RD 1000 must be compensated for increased pumping costs. This reimbursement must be a component of the drainage agreement that RD 1000 expects to execute with the County.* [See Technical Appendices Volume VI page 20].
- (6) The total Unit Cost provided Technical Appendices Tables 5 and 6 are incorrect.
- (7) Spills have occurred twice at the Sankey Gap, February 1986 and January 1997, since the Reclamation District No. 1000 (RD1000) levees were constructed in the early 1900’s. In both events, the spilling was caused by the Sacramento River backing up into the Pleasant Grove Canal and not due to a lack of Pleasant Grove Canal capacity. [See Volume V DEIR at pages 3-52].

- (8) Detention to prevent runoff in excess of the rate of agricultural runoff is not a requirement of RD1000. The appropriate combination of on-site detention and pumping as well as off-site improvements to RD1000's system is based on economics. The on-site detention could be higher or lower depending on optimization runs. [See Volume V, DEIR, pages 3-53, last bullet on page; Volume VI, Appendix D, Master Drainage Plan at page 4].
- (9) The statement in the last sentence in the second paragraph on page 33 of Volume VI, Appendix D, Master Drainage Plan appears to be based on setting the maximum on-site Detention Basin pumping rate equal to agricultural runoff without optimization. This results in holding all on-site (land, storage, detention pumping plant) costs constant and varying only improvements to RD1000 drainage facilities. The optimization of the drainage facilities should include improvements to RD1000's facilities (channel improvements and/or increased pumping capacity) and on-site detention and pumping capacity. For example, high land costs would tend to reduce the acreage and detention storage resulting in higher detention pumping and RD1000 Pumping.
- (10) The costs for SPA detention basins and detention pumping are only the same if the selected on-site pumping is required to be a constant value. [See Volume VI, Appendix D, Master Drainage Plan, page 35, last sentence; page 37, first sentence]. RD1000 does not require an on-site pumping value to be equal to agricultural runoff. The value used for on-site pumping should be the result of optimizing all of the appropriate drainage components that would vary with on-site detention pumping capacity. The costs for the SPA storm drainage system for each of the drainage basin areas being served will not vary significantly because the design tailwater will not change very much for large or small detention basins. Thus, the available head to size the storm pipe system draining to the detention basin will not change significantly.
- (11) The 0.1 cfs/acre value selected by the Developers for the Natomas project was close to the optimized value of 0.12 cfs/acre. [See Volume VI, Appendix D, Master Drainage Plan at Page 37]. The 0.12 optimized value was based on specific costs for RD1000 channel improvements, RD1000 pump station additional capacity, and on-site detention and pumping facilities. The 0.10 cfs/acre value may not be appropriate for the costs of the drainage facilities being considered at this site.

- (12) The preferred plan, Alternative No. 2, includes the Sankey Basin facilities with detention storage of 1,800 acre-feet. [See Volume VI, Appendix D, Master Drainage Plan at page 48]. The Specific Plan's drainage discussion must include facilities to handle events greater than a 100-year event, and must state whether the Basin meet California Division of Safety of Dams requirements.
- (13) The information on the Sankey Spill structure should be modified to reflect a 5-foot x 5-foot box culvert be included only in Alternatives 1 and 3 and a 4-foot x 4-foot box culvert be included only in Alternative 2. [See Volume VI, Appendix D, Master Drainage Plan, Table 2].
- (14) The Specific Plan provides that the Phase 1 and Phase 3 drainage areas are being discharged into the Montna Drain. As shown on Table 2, the Montna Drain will be improved until the drain ties into the East Drainage Canal at Elverta Road within Sacramento County. [See Volume VI, Appendix D, Master Drainage Plan, Table 2]. There are restrictive culverts on the Montna Drain south of the Sutter County line that should be improved to be consistent with the improved Montna Drain.
- (15) A 6-foot x 6-foot box culvert is proposed at the county line levee crossing at the junction with the realigned west branch of the East Drainage Canal. [See Volume VI, Appendix D, Master Drainage Plan, Table 2]. This proposed culvert was not included in the RD1000 model during the review of the Draft Drainage Master Plan dated May 16, 2001. The 6-foot x 6-foot box culvert was added to the model and tested. The results indicated that a larger box culvert was required to minimize impacts upstream from Riego Road. Two box culverts of approximately 8-foot x 8-foot should be included in the planning documents subject to refinement at a later date.

3. **The DEIR Does Not Adequately Mitigate The Impacts of the Drainage Plan Upon Agriculture.**

The Drainage Master Plan generally protects or preserves facilities required for conveyance that run through the Specific Plan Area (e.g. Northern Main Canal, East Drainage Canal), but does not provide for implementation of the drainage modifications while maintaining service to lands within the Specific Plan Area.

C. **Chapter 3.9: Wastewater Collection, Treatment and Disposal.**

1. **Financing**

As in its analysis of Specific Plan's drainage system, the DEIR fails to adequately analyze: (1) the impacts of Specific Plan's "pay as you go" financing strategy for wastewater collection, treatment, and disposal; (2) the absence of any requirement for the completion of a comprehensive wastewater collection system. Consequently, the Specific Plan and the DEIR must be revised to include the following:

- (1) Analyze, and mitigate for, impacts resulting from inadequate wastewater collection, treatment, and disposal infrastructure;
- (2) Plan for, analyze, and mitigate, off-site and pre-development improvements for wastewater collection, treatment, and disposal;
- (3) *Provide for a comprehensive agreement with RD 1000 to hold harmless and indemnify RD 1000 from impacts caused by inadequacies of the wastewater collection, treatment, and disposal system;*
- (4) Require phased development to ensure that some portion of the community wastewater infrastructure is constructed prior to full build-out;
- (5) Require that 50% of each phase is completed prior to proceeding to the next phase; and
- (6) Provide a Financing Plan demonstrating how the costs of the Specific Plan's wastewater implementation will be covered. As with drainage, such a plan is critical given the unusually high infrastructure costs associated with implementation of the Specific Plan.

RD 1000 will not accept treated sewage into its drainage system *without a complete and comprehensive drainage agreement that will hold harmless and indemnify RD 1000.*

The Specific Plan encourages a piecemeal approach to wastewater treatment and does not recognize that initial phases of the collection, treatment and disposal system must be designed, constructed, and permitted before the first connection to the community system can be made. For instance, the Specific Plan allows individual wastewater systems may be utilized for development projects until a community wastewater collection treatment and disposal system is developed. [See Specific Plan (Volume I) at page 43 (stating that, "[I]nitially, on-site sewage disposal systems may be permitted until such time as the community wastewater collection, treatment and disposal system can be financed, permitted and constructed."). See also Infrastructure Master Plan (Volume III) at page 21]. The Specific Plan does not identify how these *already developed* parcels will be assessed for their fair share of the community wastewater system.

The Specific Plan and DEIR must identify:

- (1) The location of the "interim" effluent discharge;
- (2) The volume of the "interim" effluent;
- (3) Who will monitor effluent quality;
- (4) The incentive for a property owner to connect to the community system, once that property owner is relying upon on-site treatment. Once a property owner has constructed an on site disposal system it is often difficult to enforce connection to a community system when it comes available. The Specific Plan should identify the enforcement mechanisms that would be used by the County to ensure that on site systems are properly abandoned and connection of the community sewer system made when the community wastewater system is available.
- (5) Financing for the initial, on and off-site pre-development facilities. Will Sutter County "front the cost" of initial facilities and be reimbursed when industrial building permits and fees are paid? Will an assessment district be formed using the future value of improved property with the Specific Plan area as a basis for assessment?
- (6) The entity responsible for the long term operation and maintenance of the wastewater facilities. Will Sutter County be the responsible agency or will a separate District be formed within the Specific Plan area to operate and maintain the community wastewater collection, treatment and disposal facilities?
- (7) The impacts of the proposed wastewater treatment disposal and discharge system on groundwater or surface water resources.
- (8) The feasibility of the "preferred" wastewater treatment disposal alternative identified in the Specific Plan includes an activated sludge type treatment facility with filtration. Disposal of treated effluent with summer irrigation and winter discharge to the Sacramento River is proposed. A 25-acre treatment plant site is proposed together with a 1400-acre disposal site. The treatment and disposal facility is designed for a buildout capacity of 7 million gallons per day. This capacity is based on a wastewater generation rate of 2000 gallons per acre per day for the 3500 acre Specific Plan Area.
- (9) The impact of delay in completion of a community wastewater system. The financing, permitting and construction of a community wastewater system could take several years to complete. The Specific Plan should

identify what level of development would be permitted within the Specific Plan area prior to the completion of a community wastewater system.

- (10) For planning purposes the 2000 gallon per acre day average daily flow generation rate seems reasonable for industrial and commercial uses, however, no specific allowance has been made for infiltration and inflow and therefore there is no estimate of the wet weather collection, treatment and disposal flow rates.
- (11) The impacts of wet weather discharge of treated wastewater to the Sacramento River is proposed. Beneficial uses of the Sacramento river downstream of the South Sutter Specific Plan area include domestic water supply, recreation, irrigation and industrial supply. The Specific Plan should clearly identify the levels of treatment proposed. A secondary level of treatment with filtration and disinfection is implied but the draft Specific Plan is not conclusive as to the discharge standards proposed.
- (12) A water quality monitoring plan upstream and downstream of the proposed discharge point.
- (13) Alternatives to the proposed Sacramento River Discharge Plan should be further explored. These should include use of treated wastewater for industrial use such as cooling tower makeup water. Are there energy projects proposed in the South Sutter area that could put the treated wastewater to beneficial use? In the technical appendices cost estimates are provided for both the proposed winter discharge/summer irrigation plan and the winter storage/summer irrigation alternative. Costs for either plan are very nearly the same (\$46 to \$47 million each with contingencies). There does not appear to be a significant cost savings associated with the proposed plan and permitting is expected to be much more difficult. The feasibility and cost associated with connection to the Sacramento County Regional Wastewater System should be further explored.
- (14) In the Specific Plan text a 25-acre site is proposed for the wastewater treatment plant site. In the technical appendices six fully redundant treatment "trains" of 1.16 MGD capacity, each, are proposed to meet the 7 MGD plant capacity at buildout. A minimum 40-acre plant site area is recommended in the appendices. With perimeter buffers (typically minimum 100 feet) and construction of the plant in phases, a 25-acre site is believed to be too small for the proposed 7 MGD capacity treatment plant. A 40 to 50 acre site should be planned.

- (15) A gross disposal area of 1400 acres is proposed. This is based on a net irrigation area of 1300 acres plus perimeter buffers. A minimum 100-foot buffer is typically required at the perimeter of spray fields. In addition, a minimum 100-foot setback is required from drainage courses and waterways located within a disposal area. To achieve a net spray field area of 1300 acres a total (gross area) of not less than 1700 to 1800 acres should be anticipated. Existing drainage courses or waterways within the proposed disposal area should be identified.
- (16) The application rate of 3.5 feet per year is reasonable for agronomic rates. This application rate should, however, be checked against nitrogen loading limits to ensure that the proposed treated effluent application rate is not nitrogen limited.
- (17) In the Specific Plan, it is suggested that land used for wastewater disposal be purchased outright by the County or leased on a long term basis (20 years). A 20-year lease is not a good alternative for the proposed wastewater disposal facilities and should not be considered. In 20 years build out of the Specific Plan area is proposed. If the County's long term lease for the disposal area has expired at that time, the County's disposal options will be limited and costly. The proposed areas shown in the Specific Plan suggests a that a number of contiguous parcels need to be aggregated to form the proposed 1400 acre spray field. The Specific Plan should indicate how many property owners are included in the proposed spray field area and the present use of these parcels.

D. Chapter 5: Cumulative Impacts.

The DEIR does not analyze *any* of the Specific Plan's cumulative impacts related to drainage. The DEIR's analysis of cumulative impacts to agricultural resources is limited to the following:

Development within the Plan Area will convert approximately 3,500 acres of agriculturally productive land to industrial and commercial uses. The conversion of agricultural land to other uses represents a cumulative effect of long-term growth. This impact is reflective of regional and statewide trends of declining agricultural acreage.

DEIR at 5-10.

In contrast, CEQA requires an EIR to analyze the cumulative effects of *past, present and reasonably foreseeable future projects*. [CEQA Guidelines sections

15355, 15130; *Laurel Heights Improvement Association v. Regents of the University of California*, 47 Cal. 3d 376 (1988)]. Accordingly, in addition to the off-site impacts to agriculture and groundwater described above, the DEIR's analysis of cumulative impacts must extend beyond the initial 3500-acre threshold-level of development included in the Specific Plan. Cumulative effects of development within the region, including development within the entire Natomas Basin, must be evaluated prior to Project approval. The DEIR's failure to evaluate the cumulative effects of development of the Specific Plan renders the analysis inadequate for approval of the Project or any development within the Specific Plan.

II. CONCLUSION.

RD 1000 understands the County's desire to proceed with development of the Specific Plan area. However, in its haste to approve the Project, the County is failing to comply with the obligations established by CEQA and other environmental laws. Given the lack of comprehensive drainage, flooding and other natural resource mitigation strategies for the area, consideration of approvals for the Project is premature.

We strongly urge the County to work with RD 1000 to develop a comprehensive plan to address drainage-related impacts and mitigation requirements for development within the Specific Plan area. The Project cannot proceed prior to completion of such a plan, together with a thorough evaluation of mitigation measures and alternatives to address those impacts. In order to comply with CEQA's requirements, the DEIR and the Specific Plan must be substantially revised to include this analysis and recirculated for further public review and comment prior to any approvals for the Project.

We appreciate the opportunity to comment on the DEIR and look forward to working with the County in addressing the concerns raised in this letter.

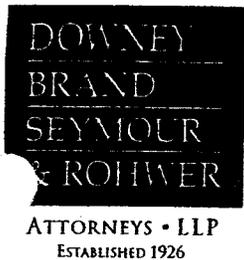
Sincerely,

A handwritten signature in black ink, appearing to read "J. N. Clifton", with a long horizontal line extending to the right from the end of the signature.

J. N. Clifton

District Engineer

cc: Larry Combs (Sutter County)
Lisa Wilson (Sutter County)
Peter J. Hughes (Natomas Mutual)
Jim Day (DBSR)
Kevin O'Brien (DBSR)
Pat Mitchell (DBSR)
Wendy Anderson (DBSR)



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APR 17 2002
COMMUNITY SERVICES DEPT.
WENDY LEE ANDERSON
WANDERSON@DBSR.COM

April 16, 2002

Tom Last
Sutter County
1160 Civic Center Boulevard
Yuba City, CA 95993

Board of Supervisors
Sutter County
1160 Civic Center Boulevard
Yuba City, CA 95993

Re: South Sutter County Specific Plan Draft Environmental Impact Report and Financing Plan
Our Ref.: 00725.00000

Dear Mr. Last:

On behalf of Reclamation District No. 1000 ("RD 1000") I am writing regarding Sutter County's (the "County") South Sutter County Specific Plan dated October 2001 (the "Specific Plan" or the "Project"), the accompanying Draft Environmental Impact Report ("DEIR"), the Financial Plan dated February 8, 2002 ("Financing Plan"), and the Sutter County Community Services Department's April 12, 2002 Staff Report ("Staff Report").

This letter incorporates by reference the comments of RD 1000's December 5, 2001, December 21, 2001, and February 20, 2002 letters to the County. This letter focuses upon new concerns raised in response to: (1) the Financing Plan, which was made available to the public on February 11, 2002, and which has been peer reviewed by EPS at the request of RD 1000; and (2) William A. Croyle's April 11, 2002 letter to Lisa Wilson ("RWQCB's April 11, 2002 Letter"), expressing the Regional Water Quality Control Board's ("RWQCB") continued concerns regarding the County's plan for effluent disposal.

I. THE FINANCING PLAN

A. Financing Plan: Land Use Scenarios

As the Financing Plan's land use analysis states, the plan will initially present minimal opportunities for high-value development, and, rather, will depend on attracting projects that are depending upon low land costs (e.g., warehousing,

See p. 4 EXHIBIT 17

etc.). Accordingly, the plan identifies the importance of minimizing initial infrastructure costs.

However, the necessity of minimizing initial infrastructure costs conflicts with the likelihood that the earliest developers will need to fund and construct a substantial portion of the infrastructure costs for the entire Specific Plan area. The prolonged buildout period increases the likelihood that later development will occur too far out in the future to offer any significant value to the earlier developers. Consequently, it is necessary to assume that the earliest development will bear the entire infrastructure burden. The disproportionate burden upon early developments, along with the low value of the land, cast doubt on the assumption that the Specific Plan presents competitive opportunities that can fund the buildout of a comprehensive drainage system.

B. Financing Plan: Infrastructure Costs

The Financing Plan covers only major backbone infrastructure costs and excludes cost estimates of minor infrastructure costs and developer-funded frontage and in-tract infrastructure. Specifically, the Financing Plan does not sufficiently address the following:

- Road costs – it is not clear if the road costs include the 15% engineering and 15% contingency allowances.
- Landscaping costs – it is not clear if the roadway and drainage costs include the costs of landscaping roadway medians, setbacks, or drainage corridors.
- Fire Stations – Fire station and equipment costs are lower than typical costs, and require supporting documentation.
- Habitat Conservation – The Natomas Basin Habitat Conservation Plan (HCP) is under a court ordered review. The Financing Plan should discuss the possibility of fee increases.

C. Financial Plan: Financial Feasibility

The Financial Plan's feasibility analysis includes inappropriate comparables. The feasibility analysis should highlight the fact that the industrial land comparison is the most critical comparison since land zoned for industrial uses constitutes 97% of the developable land within the Specific Plan area. Accordingly, the analysis of competing areas includes a number of projects that should not be compared. Areas that should be deleted from the analysis are:

- North Natomas – this project has very little industrial acreage (less than 120 acres) and even that area may be rezoned.
- Folsom Broadstone – This project has very little industrial acreage and it will be virtually built out before the South Sutter project begins development.
- Laguna West – this project also has very little industrial acreage remaining.

With these projects deleted, the South Sutter project is at the upper end of competitive projects.

One additional project that should be added to the comparison is the Metro Airpark project. This project has a substantial amount of industrial land and is within close proximity of the South Sutter project. Metro Airpark's backbone infrastructure cost burden is approximately \$74,000 per gross developable acre.

Similar comments about deleting competitive areas apply to the commercial land comparison. As stated above, Laguna West and Folsom should be deleted, as they will not be competitive projects. North Natomas will be a competitive area and will have higher infrastructure costs burdens than the South Sutter Specific Plan.

D. Financing Plan: Funding and Financing Strategy

The Cash Flow analysis relies heavily on developer advances and bond financing in the first two sub-phases of development. Under the base case scenario, \$19 million of developer financing advances is needed in Phase 1a and \$22 million in public debt financing (\$16.9 million in construction proceeds) is needed in Phase 1b to reimburse the developers and construct facilities. The Financing Plan states that the land values at the start of Phase 1B should be able to support the public debt necessary to repay the initial developer advances. This means that the first 220 acres would be required to support approximately \$22 million in debt and represents \$100,000 per acre in debt. Since land values must be 3 times the debt under state guidelines for land secured debt, the land value for industrial land would need to be \$300,000 per acre or nearly \$7 per land square foot. CB Richard Ellis reported in their 2002 Market Outlook that industrial land sales ranged from \$2.50 to \$4.50 per land square foot in 2001. More in-depth evaluation of the bond financing capacity of the early stages of development is warranted to back up the cash flow projections provided in the Financing Plan.

II. CONTAMINATION OF RD 1000's SYSTEM

RD 1000 continues to be concerned about contamination of RD 1000's system by sewage effluent and other wastewater, treated or untreated. The RWQCB's April 11, 2002 Letter underscores the fact that the Specific Plan's proposed measures for wastewater disposal are inadequate. In that letter, the RWQCB calls for "[a] detailed assessment of both the individual and cumulative wastewater characteristics identification of the potential threats to water quality, and determination of the required level of treatment to eliminate such threats." The RWQCB also calls into question the adequacy of the County's proposal for disposal into unlined ponds. In addition, as pointed out in RD 1000's December 20, 2002 letter to the County, the Specific Plan and DEIR do not consider the fact that the Natomas Basin is operated as a "closed system," during the summertime. Because waters are not released during the summertime, additional precautions must be taken to avoid the build-up of contaminants.

Consequently, RD 1000 continues to request that the County provide: (1) a comprehensive agreement with RD 1000 to hold harmless and indemnify RD 1000 from impacts caused by inadequacies of the wastewater collection, treatment, and disposal system; (2) phased development to ensure that some portion of the community wastewater infrastructure is constructed prior to full build-out; and (3) provide an updated Financing Plan that reflects the concerns raised herein, as well as the costs of the wastewater system that is necessary given the RWQCB's April 11, 2002 Letter.

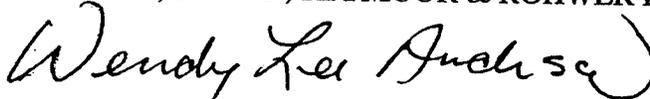
III. CONCLUSION

RD 1000 supports, in concept, the County's desire to proceed with development of the Specific Plan area. However, RD 1000 continues to be concerned with the absence of feasible implementation plans for infrastructure, including but not limited to drainage and wastewater disposal, as well as with the threat to water quality presented by the discharge of sewage effluent, either treated or untreated, into the RD 1000 system. At a minimum, RD 1000 will require a drainage agreement that includes the phasing of development and payment by the County for any improvements to RD 1000's system necessitated by activities implementing the Specific Plan, as well as comprehensive indemnification provisions.

We appreciate the opportunity to comment on the Specific Plan including its Financing Plan, as well as the DEIR, and look forward to working with the County in addressing the concerns raised in this letter.

Sincerely,

DOWNEY, BRAND, SEYMOUR & ROHWER LLP



Wendy Lee Anderson

cc: J.N. Clifton (RD 1000)
Larry Combs (Sutter County)
Lisa Wilson (Sutter County)
Peter J. Hughes (Natomas Mutual)
Jim Day (DBSR)
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5 Attorneys for Real Party in Interest
6 Reclamation District 1000

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SUTTER

11 SIERRA CLUB, FLOYD FRANZ, et al.,
12 Petitioners,
13 v.
14 COUNTY OF SUTTER,
15 Respondent.

CASE NO. CVCS02-0909

**OPENING BRIEF OF RECLAMATION
DISTRICT 1000, REAL PARTY IN
INTEREST**

16 RECLAMATION DISTRICT 1000,
17 Real Party in Interest,
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8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF SUTTER

10
11 SIERRA CLUB, FLOYD FRANZ, et al.,

12 Petitioners,

13 v.

14 COUNTY OF SUTTER,

15 Respondent.

16 RECLAMATION DISTRICT 1000,

17 Real Party in Interest,
18

CASE NO. CVCS02-0909

**OPENING BRIEF OF RECLAMATION
DISTRICT 1000, REAL PARTY IN
INTEREST**

19 **I. Introduction**

20 On April 16, 2002, Sutter County ("County"): (1) certified an environmental impact report
21 ("EIR") for the South Sutter County Specific Plan ("Specific Plan" or "Project"); (2) adopted
22 findings and a mitigation monitoring plan; and (3) approved a Specific Plan that rezones 3500
23 acres from agricultural land to commercial and industrial development.

24 Reclamation District ("RD 1000") does not oppose the development of an
25 industrial/commercial area to serve and employ the people of Sutter County; however, RD 1000
26 believes that infrastructure, including an adequate wastewater treatment facility and drainage
27 implementation plan, must be put into place prior to the construction of the industrial and
28 commercial facilities. Without the proper infrastructure in place, it is likely that development

1 within the Specific Plan area will result in significant environmental impacts.

2 RD 1000 was joined in this litigation as a real party in interest because of the potential
3 impacts that the implementation of the Specific Plan will have on RD 1000's facilities. RD 1000
4 provides drainage for the Specific Plan area by moving agricultural drainage and stormwater
5 through a system of RD 1000 canals and discharging them through RD 1000 pumping plants into
6 the Sacramento River. RD 1000 is concerned that it will be significantly impacted by the Specific
7 Plan's inadequate plan for: (1) the treatment of the industrial and commercial wastewater that will
8 be generated as the Specific Plan is developed; and (2) the implementation of the Specific Plan's
9 drainage plan.

10 RD 1000 supports Petitioners' request for a Writ of Mandate, which would require the
11 County to vacate its approval of the Specific Plan and require the County to prepare and circulate
12 a new, legally adequate EIR. The County prejudicially abused its discretion by: (1) deferring
13 analysis of the wastewater treatment and drainage systems necessary to support the buildout of
14 the Specific Plan; (2) issuing the Draft EIR prior to completion of the Financing Plan; and (3)
15 approving the Specific Plan despite its inconsistencies with the Sutter County General Plan.

16 II. Statement of Fact

17 The entirety of the Specific Plan area is within the jurisdiction of RD 1000. RD 1000 was
18 created April 8, 1911, by a Special Act of the California State Legislature, with a mandate to
19 provide agricultural drainage, flood control and levee maintenance. RD 1000 is bounded on the
20 west by the Sacramento River, on the north by the Natomas Cross Canal, on the east by the
21 Natomas East Main Drainage Canal and on the south by the American River. RD 1000's system
22 consists of: (1) approximately 30 miles of main canals and 150 miles of drainage ditches that
23 drain specific parcels and connect to the main canals; and (2) eight pumping plants that pump
24 agricultural irrigation tailwater and urban stormwater into the Sacramento River, the Natomas
25 Cross Canal, and the Natomas East Main Drainage Canal.

26 Beginning in December 2001, RD 1000 submitted letters to the County commenting on
27 the proposed Specific Plan and expressing concerns about the Project's impact on RD 1000's
28 ability to carry out its drainage and flood control obligations. Specifically, RD 1000 noted that

1 “the Specific Plan’s and DEIR’s inadequate analysis of drainage implementation, impacts, and
2 financing, will create a piecemeal drainage and flood control system that will cause significant
3 impacts upon water resources, public utilities, and wildlife in the region.” (II:781.)¹ As the
4 agency responsible for providing drainage and flood control protection to the Specific Plan area,
5 RD 1000 expressed concern “that the County is proceeding with approval of the Specific Plan and
6 DEIR prior to completion of a comprehensive drainage agreement with RD 1000, a phased
7 implementation plan, and a financing plan.” (*Id.*)

8 RD 1000 was not the only agency to express concerns about the Specific Plan’s lack of
9 infrastructure and the absence of the financing plan during the public review period. Comments
10 by Natomas Mutual Water Company (II:754), the County of Sacramento’s Department of
11 Environmental Review and Department of Planning and Community Development (II:723; 725),
12 the City of Sacramento (II:644), the Sacramento County Airport System (II:746), and the
13 Natomas Community Association (II:854) expressed similar concern that a full review of the
14 project could not occur until there was an opportunity to review the Financing Plan. Without the
15 financing plan, it was impossible for RD 1000 to determine whether the mitigation proposed in
16 the Specific Plan EIR could operate as claimed. The Financing Plan was particularly critical
17 because significant portions of the Specific Plan Area are within the 100 year flood plain and
18 isolated from other development, making infrastructure improvements unusually costly relative to
19 current land values. RD 1000, therefore, requested that the public comment period be extended to
20 give agencies the opportunity to review a full copy of the Draft EIR, including the Financing
21 Plan. The County, however, refused to allow public comment on the financing plan, and did not
22 release it to the public until February 11, 2002, several months after the close of the public
23 comment period on the Draft EIR.

24 In subsequent letters to the County, dated February 20 and April 16, 2002, RD 1000
25 reiterated its concerns that the Specific Plan and Draft EIR provide inadequate analysis of: (1)
26 the environmental impacts of the Specific Plan’s proposed infrastructure; and (2) the feasibility of
27 project mitigation. At the request of RD 1000, Economic and Planning Systems (EPS) peer

28 _____
¹ Designates the volume and page number of the Administrative Record.

1 reviewed the County’s Financing Plan, released February 11, 2002. That review highlighted the
2 inherent problems with the County’s plan for financing the community wastewater treatment
3 facility and reinforced the uncertainty of whether it would ever be built. Despite attempts to
4 discuss these concerns with the County, RD 1000’s concerns about the lack of proper
5 infrastructure to accommodate commercial and industrial development within the Specific Plan
6 area have not been addressed.

7 **III. SUMMARY OF ARGUMENT**

8 The County prejudicially abused its discretion by approving the Specific Plan and
9 certifying the EIR for the Project. Both Government Code section 65451 and the California
10 Environmental Quality Act (“CEQA”) require that the Specific Plan and the EIR provide
11 information and environmental analysis of the Specific Plan’s wastewater treatment and drainage
12 facilities. The County, however, deferred analysis of the wastewater treatment and drainage
13 systems necessary to support the buildout of the Specific Plan. The EIR did not analyze the
14 Specific Plan’s required infrastructure as part of the Project, but instead characterized the
15 wastewater treatment and drainage plans as mitigation for the Project. Even if these elements of
16 the Project could be considered “mitigation,” the County had an obligation under CEQA to find
17 that the “mitigation measures” were feasible. There is nothing in the record, however, to support
18 a conclusion that either the onsite interim wastewater facilities or the proposed area-wide
19 community wastewater facility are feasible.

20 The County also prejudicially abused its discretion by not circulating the Draft EIR in a
21 manner required under CEQA. The Draft EIR was circulated prior to completion of the
22 Financing Plan, which was required to be included as part of the Draft EIR. Without the
23 Financing Plan it was impossible to assess whether the County would be able to implement the
24 infrastructure essential to protecting RD 1000’s drainage canals. At the very least, however, the
25 release of the Financing Plan required recirculation of the EIR, as it contained significant new
26 information, demonstrating the infeasibility of the County’s plan to implement the wastewater
27 and drainage plans. Additionally the County prejudicially abused its discretion by approving the
28 Specific Plan despite its inconsistencies with the Sutter County General Plan, in contradiction

1 to California Planning and Zoning Law.

2 **IV. Standard of Review**

3 **A. *The standard of review of a traditional mandamus proceeding is governed by***
4 ***Public Resources Code section 21168.5.***

5 Under that section, a reviewing court determines whether the respondent agency
6 prejudicially abused its discretion (a) by failing to proceed in the manner required by law or (b)
7 because its determination or decision is not supported by substantial evidence.² (Pub. Resources
8 Code, § 21168.) Substantial evidence is defined as “enough relevant information and reasonable
9 inferences from the information that a fair argument can be made to support a conclusion, even
10 though other conclusions might also be reached . . .” It includes “facts, reasonable assumptions
11 predicated upon facts, and expert opinion support by facts.” (14 Cal. Code Regs. § 15384
12 (“CEQA Guidelines”).)

13 **B. *Although a court will generally defer to the agency’s substantive judgments, it***
14 ***demands strict compliance with procedures required by law, including***
15 ***circulation requirements.***

16 In *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564; the
17 California Supreme Court stated that although courts should not substitute their own judgments
18 for that of the local representatives of the people, “We can and must, however, scrupulously
19 enforce all legislatively mandated CEQA requirements.” Additionally, a court owes no deference
20 to an agency where the law has been misapplied. “The interpretation and applicability of a statute
21 is a question of law requiring an independent determination by the reviewing court.” (*East*
22 *Peninsula Education Council, Inc. v. Palos Verdes Peninsula Unified School District* (1989) 210
23 Cal. App. 3d 155, 165.)

24 **V. Argument**

25 **A. *The County Inappropriately Deferred Analyses of the Wastewater Treatment***
26 ***and Drainage Facilities.***

27 Both Government Code Section 65451 and CEQA require that the Specific Plan and its

28 ² There is no practical difference between the standard of review applied under traditional or administrative
mandamus in CEQA cases. *Friends of Old Trees v. Department of Forestry and Fire Protection* (1st Dist. 1997) 52
Cal. App. 4th 1383, 1389.)

1 EIR provide more detailed descriptions and environmental analyses of the Specific Plan's
2 wastewater treatment and drainage facilities than the County has provided.

3 1. **Government Code Section 65451 Requires Details of the Specific**
4 **Plan's Drainage, Wastewater Disposal and Financing Plans**

5 Section 65451 provides the required contents of a specific plan. Subsection (a) of that
6 statute requires that a specific plan "include a text or diagram or diagrams which specify all of the
7 following in detail:

- 8 (1) "The distribution, location and *extent of the uses of land*, including open space,
9 within the area covered by the plan.
- 10 (2) The proposed distribution, location, and extent and intensity of major components
11 of public and private transportation, sewage, *water drainage, solid waste disposal*,
12 energy, and other essential facilities proposed to be located within the area covered
13 by the plan and needed to support the land uses described in the plan.
- 14 (3) Standards and criteria by which the development will proceed, and standards for the
15 conservation, development, and utilization of natural resources, where applicable.
- 16 (4) *A program of implementation measures including regulations, programs, public*
17 *works projects, and financing measures necessary to carry out paragraphs (1), (2),*
18 *and (3)."*

19 (emphasis added).

20 The County has failed to meet these requirements. First, it has not adequately described
21 the proposed location of major components of its sewage facilities. The County intends to
22 dispose of wastewater through land application (crop irrigation) during summer months and use
23 unlined ponds to store water during the winter. An essential part of this plan will be obtaining the
24 necessary acreage on which to apply the wastewater. (III:1400 (Technical Appendices,
25 describing requirements for land disposal of treated effluent.) No such acreage has been
26 identified; and, in fact, it appears that twice the amount of land originally described will now be
27 required, given that the County will have to dispose of both wastewater generated in the summer
28 and that stored during the winter. (I:862) (noting that the location has not yet been determined
and that selection of the site will be determined by a number of factors including soils,
groundwater elevations, land availability, and costs of land and pipelines.)

Second, section 65451 requires that the specific plan include "a program of

1 implementation measures” including financing measures necessary to carry out the requirements
 2 of the specific plan, such as the major components of “transportation, sewage, water, waste
 3 disposal” and other “essential facilities proposed to be located within the area covered by the plan
 4 and needed to support the land use described in the Specific Plan.” The County’s Financing Plan,
 5 provided to the public on February 11, 2002, did not fulfill this requirement. The financing plan
 6 does not provide a realistic plan to carry out the construction of the community wastewater
 7 treatment facility. As explained in an April 16, 2002 letter sent by RD 1000 to the County, there
 8 is an inherent conflict within the financing plan that casts serious questions upon its feasibility.

9 “[T]he necessity of minimizing initial infrastructure costs conflicts
 10 with the likelihood that the earliest developers will need to fund and
 11 construct a substantial portion of the infrastructure costs for the
 12 entire Specific Plan area. The prolonged buildout period increases
 13 the likelihood that later development will occur too far out in the
 14 future to offer any significant value to the earlier developers.
 15 Consequently, it is necessary to assume that the earliest
 16 development will bear the entire infrastructure burden. The
 17 disproportionate burden upon early developments, along with the
 18 low value of the land, cast doubt on the assumption that the Specific
 19 Plan presents competitive opportunities that can fund the buildout
 20 of a comprehensive drainage system.”

21 (I:146). As explained below in section (2)(b)(iii), the County’s plan for funding the wastewater
 22 treatment facility is not workable. The Specific Plan cannot, therefore, meet the requirements of
 23 section 65451 that the Specific Plan include financing measures necessary to carry out the
 24 required components of the Specific Plan.

25 2. CEQA Requires That the County More Fully Analyze Wastewater 26 Treatment and Drainage Facilities and Implementation Plans

27 Under CEQA, the County must include a more detailed analysis of the wastewater
 28 treatment and drainage facilities. The EIR for the Specific Plan analyzes the wastewater
 treatment and drainage facilities as “mitigation” for the Project although they are clearly essential
 elements of the Project. (II:1013, 1016 (mitigation measures 3.6-4 and 3.9-2).) The EIR
 characterizes the proposed community wastewater disposal system as mitigation for Impact 3.9-2,
 which states that, “[d]evelopment of the Plan Area will require the development of new
 wastewater treatment facilities or expansion of existing facilities.” Mitigation Measure 3.9-2

1 provides for:

2 “Development of wastewater treatment facilities as established in
3 the Infrastructure Master Plan (Volume II) and preparation and
4 certification of additional tiered environmental documentation to
5 achieve compliance with the California Environmental Quality Act
6 when the system is designed. The system will be developed by the
County through establishment of a County Service Area. A plan
for funding recommended facilities, equipment and operations shall
be included in the Financing Plan (Volume III).”

7 (II:1016.) The Infrastructure Master Plan for Wastewater states that “Initially, on-site sewage
8 disposal systems may be permitted until such time as the community wastewater collection,
9 treatment and disposal system can be financed, permitted and constructed.” (II:1163.) Nowhere,
10 however, are impacts of either the community wastewater system or the onsite systems actually
11 discussed. As discussed below, regardless of whether the wastewater treatment and drainage
12 facilities constitute part of the “project” or “mitigation measures,” CEQA requires more detailed
13 analyses of those systems.

14 a. **Impacts of the Wastewater Treatment and Drainage Facilities
15 Must Be Analyzed as Part of the Project.**

16 To the extent that the wastewater treatment and drainage facilities are part of the “Project”
17 under CEQA, CEQA requires the County to provide an analysis of the significant environmental
18 impacts of those facilities. In *Stanislaus Natural Heritage Project v. County of Stanislaus* (1996)
19 48 Cal. App. 4th 182, the court addressed a situation in which a lead agency similarly deferred
20 analysis of the environmental impacts. The court held that a County’s EIR was inadequate
21 because it did not address the impacts of obtaining a permanent water supply for a new
22 development. Instead the county had deferred analysis of significant environmental impacts of
23 supplying water, stating that such impacts would be addressed in a later EIR. (*Id.* at 199.) The
24 court rejected the County’s plan to postpone the review of the project’s water needs to the
25 subsequent site-specific review of each of the future phases of development. The court found that
26 “tiering” the environmental review was not appropriate when what was at issue was “one of the
27 most fundamental and general ‘general matters’ that should be addressed in the first phases of the
28 project.” (*Id.*) The court explained the importance of not deferring the a project’s key

1 components:

2 “No matter what subsequent environmental review might take
3 place, and no matter what additional mitigation measures might be
4 adopted to ameliorate adverse environmental impacts on each of the
5 four ‘phases’ of planned development, the project was going to
6 need water from some source or sources. To defer any analysis
7 whatsoever of the impacts of supplying water to this project until
8 after the adoption of the specific plan calling for the project to be
9 built would appear to be putting the cart before the horse.”

7 (*Id.* at 199-200.) The court concluded that the County was, therefore, incorrect in asserting that it
8 could “(1) deem the environmental effects of adopting the specific plan, whatever those effects
9 may be, to be significant, then (2) approve the specific plan, and (3) at some later time determine
10 what the significant environmental effects are of the specific plan that has already been
11 approved.” (*Id.* 202-203.)

12 Like the water supply at issue in *Stanislaus Heritage*, analysis of the potentially
13 significant impacts associated with the development of wastewater treatment facilities cannot be
14 postponed to a later review. Here, the County has stated that it will review the environmental
15 impacts of the proposed wastewater treatment facility at a later time. The wastewater treatment
16 facility, however, is a major and critical part of the industrial and commercial development
17 proposed for the Specific Plan area. (I:469.) Although the County has stated roughly what it
18 plans for its community wastewater facility, there has been no analysis of the potential impacts of
19 the community system. For example, there has been no analysis of how disposing of treated
20 wastewater on land during the summer will impact the surrounding area. The limited discussion
21 of the County’s plan to dispose of treated wastewater by irrigating farmland fails to consider the
22 fact that the Natomas Basin drainage system is operated as a closed system during the
23 summertime, and that irrigation using wastewater could result in “the build-up of salt content and
24 other heavy minerals deleterious to agriculture.” (II:749.) In addition, the County provides no
25 analysis of the potential environmental impacts to water resources from holding wastewater
26 created during wintertime in unlined ponds. Instead of considering the potential impacts of its
27 plan to create a community wastewater treatment facility, the County has stated that it will
28 perform environmental review of those impacts in a subsequent EIR. This, however, is not

1 consistent with the requirements of CEQA and the case law that has interpreted those statutes and
2 guidelines.

3 In addition, the County has ignored the impacts of the proposed individual septic systems
4 that will be developed prior to the creation of the community wastewater system. The analysis of
5 the potential impacts associated with the use of individual onsite wastewater disposal systems is
6 incomplete. There is no discussion in the EIR that recognizes that the use of on-site septic
7 systems for an industrial and commercial development has consequences that are strikingly
8 distinct from the traditional use of on-site septic systems for rural communities. With the 3,500
9 acres developed to commercial and industrial use, the concerns of contaminants are in some ways
10 more severe. Chemicals and industrial solvents used in the industries to be developed in the
11 Specific Plan area will inevitably make their way into the groundwater and to RD 1000's canals
12 and drainage facilities. In the Hazardous Materials section of the DEIR, the only potential impact
13 from hazardous materials that is recognized is the accidental release of chlorine from the
14 wastewater treatment facility. (I:394.) This failure of the EIR to discuss the use of onsite
15 wastewater treatment facilities to handle potentially hazardous byproducts of industrial and
16 commercial development planned for the Specific Plan area is a fatal flaw in the County's EIR for
17 the project

18 b. **If the Wastewater Treatment and Drainage Facilities are**
19 **Considered Mitigation for Project Impacts, the County Must**
20 **Determine Mitigation Is Feasible.**

21 Assuming, arguendo, that the wastewater treatment and drainage are considered to be
22 "mitigation" rather than part of the Project itself, the County is still required under CEQA to
23 analyze the environmental impacts, described above, of those systems. (CEQA Guidelines, §
24 15126.4.) *In addition, if the wastewater treatment and drainage facilities are "mitigation," the*
25 *County must provide substantial evidence that the measures are feasible, fully enforceable and*
26 *could mitigate adverse impacts to a less than significant level.* (Pub. Resources Code, §§ 21081,
27 21081.6; CEQA Guidelines, § 15091(b).) A mitigation measure is feasible if it is "capable of
28 being accomplished in a successful manner within a reasonable period of time, taking into
account economic, environmental, legal, social, and technological factors." (CEQA Guidelines,

1 § 15364.). Mitigation measures must be fully enforceable through permit conditions, agreements,
 2 or other legally-binding instruments. (CEQA Guidelines, § 15126.4.) Where there is uncertainty
 3 whether the mitigation measure would ever be funded or implemented, there can be no evidence
 4 on which to conclude that the mitigation measures have been “required in, or incorporated into”
 5 the project, and will be carried out. (*Federation of Hillside & Canyon Associations, v. City of Los*
 6 *Angeles* (2000) 83 Cal. app. 4th 1252, 1261.)

7 Concern as to whether the wastewater and drainage mitigation measures will ever be
 8 carried out are first raised by the fact that neither the Specific Plan nor the EIR commit to any
 9 deadline by which the County must implement the wastewater and drainage plans. The
 10 Infrastructure Plan is noncommittal, stating that onsite drainage and sewage systems will be used,
 11 but does not include anything to trigger implementation of the area-wide systems. For example,
 12 the Infrastructure Master Plan for wastewater states that onsite systems will be used “until such
 13 time as community wastewater collection, treatment and disposal system can be financed,
 14 permitted, and constructed.” (II:1163.) Second, assuming that the County does eventually
 15 implement the community-wide wastewater and drainage facilities within the life of the Project,
 16 the following discussion demonstrates that there is significant uncertainty as to whether the plans
 17 are feasible.

18 (i) **There is No Evidence that Interim Onsite Wastewater**
 19 **Facilities Can Comply With Regional Water Quality**
 20 **Control Board Requirements.**

21 Development within the Specific Plan area will rely on individual onsite wastewater
 22 treatment and disposal facilities until the community system is built. As noted above, there is no
 23 discussion of the design of these onsite systems and whether they can adequately accommodate
 24 the proposed industrial and commercial development. Instead, there is substantial evidence
 25 within the record to suggest that onsite wastewater disposal systems are not appropriate and will
 26 be unable to meet safety standards.

27 The Background Report for the Sutter County General Plan notes many of the problems
 28 and constraints associated with on-site sewage disposal systems. The high groundwater levels in

1 the area, combined with the high clay content of the area's soils make finding appropriate
 2 locations for on-site sewage systems problematic. (IV:2165.) In addition, septic systems can
 3 contaminate groundwater by subsurface contact. (IV:2166.) For example, the Background
 4 Report notes that, "Many wells in the community of Sutter and the greater Yuba City areas are
 5 known to have been contaminated with nitrate at levels higher than the Maximum Contaminant
 6 Levels established by the State Department of Health Services and the Federal EPA." (*Id.*)

7 In response to concerns raised about the use of on-site wastewater disposal facilities for
 8 individual development projects, the County has responded that such concerns are adequately
 9 addressed because "[a]ny onsite systems that may be utilized will be installed in full compliance
 10 with Regional Water Quality Control Board and local Health Department requirements."
 11 (II:902.) The County assumes that compliance with those regulations will "ensure that the
 12 disposal system will not have any significant impacts to ground or surface waters." (II:862
 13 (Regional Board Comment Letter on Draft EIR).) However, the Regional Water Quality Control
 14 Board has expressed concern about whether the onsite wastewater treatment facilities can meet
 15 the necessary requirements. "Regional Board staff is concerned about the potential direct and
 16 *cumulative* impacts to water quality from subsurface disposal and is not certain that pollution
 17 and/or nuisance conditions will be avoidable." (II:839 (emphasis in original).) In support of that
 18 conclusion, the Regional Board notes historical and ongoing problems in portions of Sutter
 19 County with groundwater contamination in locations of high-density individual wastewater
 20 systems. "As a result of reliance on individual onsite septic systems in certain portions of Sutter
 21 county, a number of domestic water wells have been impacted by elevated nitrate concentrations
 22 above the Maximum Contaminant Level for drinking water standards." (*Id.*)

23 Although a condition requiring compliance with environmental regulations is a common
 24 and reasonable mitigation measure, a lead agency cannot rely upon such mitigation measures
 25 where there is no "'meaningful information' reasonably justifying an expectation of compliance."
 26 *Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296, 308. In *Sundstrom*, the court
 27 found that it was a violation of CEQA for the County to approve a private sewage treatment plan
 28 that would use irrigation to dispose of treated water. The County approved of the project with a

1 number of conditions, including that the applicant conduct additional hydrological studies and
 2 that the Regional Water Quality Control Board and the Department of Health approve the sludge
 3 disposal plan for the project. (*Id.* at 302, 304.) Although at issue in this case was whether or not
 4 the County should have prepared an EIR, part of the court's holding that the County improperly
 5 approved the private treatment plant's use permit was based upon the fact that the County relied
 6 upon a condition requiring future regulatory compliance, where it had no relevant data on which
 7 to base a conclusion that compliance with the regulations was possible. (*Id.* at 309.)

8 Here, the County of Sutter concluded that the onsite wastewater disposal systems will
 9 comply with applicable environmental standards set forth and enforced by the Regional Board,
 10 without any basis on which to conclude that the project could meet those standards. In fact,
 11 serious questions have been raised about the ability of the onsite wastewater disposal systems to
 12 meet Regional Board requirements.

13 (ii) **There is No Evidence that Sufficient Land Exists for**
 14 **Disposal of Wastewater.**

15 In addition to questions about the feasibility of the onsite wastewater disposal facilities,
 16 there are questions about the feasibility of the community wastewater treatment facility the
 17 County plans to eventually build as mitigation for the Project when it has sufficient financing.
 18 Because the County concluded that its preferred alternative for wastewater disposal would be
 19 "more difficult and costly than originally projected," the County proposed adopting one of the
 20 alternatives evaluated in the EIR: agricultural irrigation with wintertime storage.³ This
 21 alternative is described in the DEIR as treating the wastewater, and disposing of it all by land
 22 application during the summertime, and storing the wastewater in ponds during the winter when it
 23 is impractical to irrigate. (I:472.) Originally, the County had planned to obtain 1,400 acres of
 24 land to use for disposal of the treated wastewater. No land, however, has been identified or
 25 secured for this purpose. Because the alternative of "agricultural irrigation with wintertime
 26 storage" requires that wastewater generated during the summer, as well as wastewater generated

27
 28 ³ The preferred alternative incorporated "a tertiary wastewater facility with effluent reuse for agricultural irrigation, coupled with wintertime discharge to the Sacramento River." (VI:3273.) Discharge into the river, however, would require "Basin Plan" modification, which the County concluded would be more problematic than previously realized.

1 and stored during winter, must be disposed of by land application rather than discharged to the
2 Sacramento River, the District will undoubtedly need to obtain twice the amount of land
3 originally believed to be required to get rid of the treated wastewater - approximately 2,800 acres
4 as opposed to the 1,400 acres.⁴

5 There is no evidence in the record, however, to indicate that the County will be able to
6 obtain the amount of land necessary to dispose of all the treated wastewater on land, and in fact,
7 there is much to suggest the contrary. The County has not identified the location of the 1,400
8 acres it originally required to make its plan work, let alone the 2,800 acres now needed. If the
9 County plans to lease the needed land, the Regional Board requires it to lease the land for a
10 minimum of 20 years, as a condition to its waste discharge permit. (III:1400 (Technical
11 Appendices).) It does not appear that there will be many landowners volunteering their land. In
12 fact, farmers have expressed their concern that the use of such water on their crops would hurt the
13 market value of their crops, and are not interested in having their land included in such a program.
14 The Natomas Basin Conservancy has pointed out that companies such as Anheuser-Busch,
15 Gerber's, Beech-Nut and Kellogg's will not buy rice irrigated with effluent. "In most cases,
16 severe financial penalties are assessed against marketers if such rice is shipped to these buyers."
17 (II:743.) Therefore, it appears unlikely that the County would be able to find 1,400 acres, let
18 alone the 2,800 acres now required.

19 (iii) **The Financing Plan Is Inadequate to Implement**
20 **Wastewater and Drainage Plans.**

21 (a) **Land Use Scenarios Are Not Realistic.**

22 In addition to questions about the County's ability to obtain land to carry out the land
23 disposal portion of its wastewater treatment plan, there are serious questions about the ability of
24 the proposed Financing Plan to support the construction of the wastewater and drainage
25 infrastructure necessary for the Specific Plan. First, proposed land use scenarios are unrealistic.

26 _____
27 ⁴ The Staff Report implies that no additional land is required, but offers no basis for that decision. It states that "Such
28 [wintertime] storage facilities, their concomitant usage for routing and timing of effluent reuse for agricultural
irrigation, and the evaporation and percolation incidental thereto, make it possible to effectively utilize the originally-
projected 1,400 acres for agronomic reuse of all project effluent." Not only is it not supported by any sort of
evidence, it makes no sense.

1 The Financing Plan's land use analysis states that the plan will initially present minimal
2 opportunities for high-value development, and, rather, will rely on attracting projects that depend
3 upon low land costs (e.g., warehousing, etc.). Accordingly, the plan identifies the importance of
4 minimizing initial infrastructure costs. However, the necessity of minimizing initial infrastructure
5 costs conflicts with the likelihood that the earliest developers will need to fund and construct a
6 substantial portion of the infrastructure costs for the entire Specific Plan area. The prolonged
7 buildout period increases the likelihood that later development will occur too far out in the future
8 to offer any significant contribution to the infrastructure construction. Consequently, it is
9 necessary to assume that the earliest development will bear the entire infrastructure burden. *The*
10 *disproportionate burden upon early developments, along with the low value of the land, cast*
11 *doubt on the assumption that the Specific Plan presents competitive opportunities that can fund*
12 *the buildout of a comprehensive drainage system.*

13 (b) **The Financing Plan Underestimates**
14 **Infrastructure Costs.**

15 Another problem with the Financing Plan is that it underestimates infrastructure costs by
16 omitting several infrastructure items. For instance, the Financing Plan does not sufficiently
17 address: (1) whether the estimates of road costs include the 15% engineering and 15%
18 contingency allowances; (2) whether the estimates of roadway and drainage costs include the
19 costs of landscaping roadway medians, setbacks, or drainage corridors; (3) the fact that the
20 estimated fire station and equipment costs are lower than typical costs, and require supporting
21 documentation; and (4) the fact that the Natomas Basin Habitat Conservation Plan (HCP) is under
22 a court ordered review that could result in fee increases.

23 (c) **The Financing Plan's Feasibility Analysis**
24 **Includes Inappropriate Comparables.**

25 The feasibility analysis should highlight the fact that the industrial land comparison is the
26 most critical comparison since land zoned for industrial uses constitutes 97% of the developable
27 land within the Specific Plan area. Accordingly, the analysis of competing areas includes a
28 number of projects that should not be compared. Areas that should be deleted from the analysis

1 are: (1) North Natomas – this project has very little industrial acreage (less than 120 acres) and
2 even that area may be rezoned; (2) Folsom Broadstone – this project has very little industrial
3 acreage and it will be virtually built out before the South Sutter project begins development;
4 Laguna West – this project also has very little industrial acreage remaining. With these projects
5 deleted, the South Sutter project is at the upper end of competitive projects. One additional
6 project that should be added to the comparison is the Metro Airpark project. This project has a
7 substantial amount of industrial land and is within close proximity of the South Sutter project.
8 Metro Airpark’s backbone infrastructure cost burden is approximately \$74,000 per gross
9 developable acre. (I:147.)

10 Similar comments about deleting competitive areas apply to the commercial land
11 comparison. As stated above, Laguna West and Folsom should be deleted, as they will not be
12 competitive projects. North Natomas will be a competitive area and will have higher
13 infrastructure costs burdens than the South Sutter Specific Plan.

14 (d) **Financing Plan’s Funding and Financing**
15 **Strategy Relies on Unrealistic Land Values.**

16 The Cash Flow analysis in the Financing Plan relies heavily on developer advances and
17 bond financing in the first two sub-phases of development. Under the base case scenario, \$19
18 million of developer financing advances is needed in Phase 1a and \$22 million in public debt
19 financing (\$16.9 million in construction proceeds) is needed in Phase 1b to reimburse the
20 developers and construct facilities. The Financing Plan states that the land values at the start of
21 Phase 1b should be able to support the public debt necessary to repay the initial developer
22 advances. This means that the first 220 acres would be required to support approximately \$22
23 million in debt, which represents \$100,000 per acre in debt. Since land values must be 3 times
24 the debt under state guidelines for land secured debt, the land value for industrial land would need
25 to be \$300,000 per acre or nearly \$7 per land square foot. CB Richard Ellis reported in their 2002
26 Market Outlook that industrial land sales in the area ranged from \$2.50 to \$4.50 per land square
27 foot in 2001. More in-depth evaluation of the bond financing capacity of the early stages of
28 development is warranted to back up the cash flow projections provided in the Financing Plan

1 **B. County Failed to Proceed in Manner Required by Law by Not Circulating**
2 **Complete EIR**

3 Analysis of the Financing Plan is important to assessing the impacts of the project and
4 judging the effectiveness of the proposed mitigation measures. As demonstrated above, there are
5 serious concerns whether the County's Financing Plan will be able to support the infrastructure
6 necessary for the Specific Plan area, or, as characterized by the County, mitigation for the
7 Specific Plan. Whether considered part of the Project or mitigation for the Project's impacts, the
8 Financing Plan for the Specific Plan's infrastructure should have been circulated with the EIR as
9 part of the public review of the Specific Plan.

10 Nothing cited by the County supports its assertion that the County did not need to include
11 details of its financing plan in the EIR. The County's reliance on CEQA Guidelines 15631(a) and
12 *Goleta Union School District v. Regents of University of California* (1995) 37 Cal. App. 4th
13 1025, is misplaced. These authorities stand for the rule that "economic or social effects of a
14 project shall not be treated as significant effects on the environment." They do not state that
15 financing plans need not be detailed, especially when they are critical to demonstrating the
16 success of the mitigation proposed for the project, and providing substantial evidence that impacts
17 of the project will be mitigated to insignificant levels.

18 Even if the court were to accept the argument that the Financial Plan did not need to be
19 included during the public review period of the EIR, it should, nonetheless, find that the County
20 had to recirculate the EIR because the financing plan offered significant new information. CEQA
21 Guidelines section 15088.5 requires that a lead agency recirculate an EIR when "significant new
22 information is added to the EIR after public notice is given of the availability of the draft EIR for
23 public review under Section 15087, but before certification." Information is "significant" if it the
24 new information "deprives the public of a meaningful opportunity to comment upon a substantial
25 adverse environmental effect of the project, or a meaningful way to mitigate or avoid such an
26 effect ... that the project's proponents have declined to implement." (CEQA Guidelines, §
27 15088.5.) Here, the release of the Financing Plan to the public added significant new information
28 to the County's analysis of the project. Although RD 1000 had doubts and questions about the

DOWNEY, BRAND, SEYMOUR & ROHWER LLP

1 County's ability to finance the necessary infrastructure for the project, it was not until the release
2 of the financing plan that RD 1000 was able to provide concrete criticism of the County's
3 proposed plan. The release of the Financing Plan confirmed that the County did not have
4 sufficient resources to address the wastewater and drainage issues that the Specific Plan created.
5 By denying the public the opportunity to comment upon the Financing Plan, the County denied
6 RD 1000 and others the opportunity to address the adequacy of the wastewater and drainage
7 plans.

8 **C. *The Specific Plan Violates Land Use Planning Law Because the Specific Plan Is***
9 ***Inconsistent with the General Plan.***

10 The Specific Plan is not valid because it is inconsistent with the Sutter County General
11 Plan, dated November 25, 1996. A specific plan is only valid to the extent that it is consistent
12 with the County's General Plan, i.e. to the extent that it is compatible with the General Plan's
13 objectives, policies, general land uses and programs. (*Napa Citizens for Honest Government v.*
14 *Napa County Bd. of Supervisors* (2001) 91 Cal. App. 4th 342, 355.) To be consistent with a
15 general plan, a project must be compatible with objectives, policies, general land uses, and
16 programs specified in the general plan. (*Id.*) If a specific land use plan will frustrate the general
17 land use plan's goals and policies, it is inconsistent with the general plan unless it also includes
18 definite affirmative commitments to mitigate the adverse effect or effects. (*Id.*) Here, the
19 County's proposed use of on-site disposal systems is inconsistent with the policies stated in the
20 General Plan and the EIR failed to discuss those inconsistencies.

21 General Plan Policy 3.A-2(a) require that the "County not approve new development
22 where existing infrastructure is inadequate" unless "the applicant can demonstrate that all
23 necessary public facilities will be installed prior to the issuance of a certificate of occupancy or
24 adequately financed through fees or other means." (IV:1870.) The Specific Plan, however,
25 allows development to occur prior to the construction of public facilities, and includes no time
26 lines or dates for construction of the wastewater and drainage facilities

27 In addition, the Project is inconsistent with General Plan Policy 3.A-1, which requires the
28 County to obtain easements or land dedications from developers to accommodate public facilities.

1 (IV:1869-1870.) The Specific Plan and DEIR allow development to proceed without requiring
2 such easements or dedications. For example, the Specific Plan does not specify the location of
3 the proposed wastewater treatment plant, thus precluding the possibility of land dedication.

4 **VI. Conclusion**

5 For the reasons described above, RD 1000 respectfully requests that the County revise the
6 Specific Plan to provide more detail as to the wastewater treatment and drainage facilities and
7 plans for their implementation, and revise and recirculate a corresponding Draft EIR.

8
9 DATED: November 22, 2002

DOWNEY, BRAND, SEYMOUR & ROHWER LLP

11
12 By: 

13 STEVEN P. SAXTON
14 Attorney for Real Party in Interest
15 Reclamation District 1000
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COPY

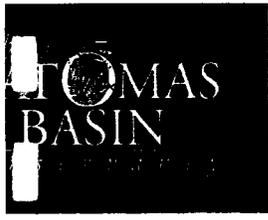
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E: 916.264.8245
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December 21, 2001

Mr. Thomas A. Last, Environmental Control Officer
Sutter County Community Services Department
1160 Civic Center Blvd., Suite E
Yuba City, CA 95993

RE: South Sutter County Specific Plan and Draft EIR

Dear Mr. Last:



The Board of Directors of the Conservancy asked that I write to the County to share with it the Conservancy's concerns about the Draft Environmental Impact Report (Draft EIR) and related documents associated with the South Sutter Specific Plan. The Conservancy has worked well with the County and this letter is submitted in the spirit of maintaining this good working relationship.

1. Acceptance and approval of projects and mitigation through the Conservancy. On page 3-45 of the Draft EIR, South Sutter County Specific Plan, various methods are outlined as to how projects will be mitigated. Under this scenario, we believe the Natomas Basin Habitat Conservation Plan (NBHCP) cannot be implemented.

The NBHCP relies on certain ratios and targets in order to be accepted by the relevant resources agencies as well as to meet the requirements asserted in the recent federal law suit (National Wildlife Federation v. Babbitt). As the Sutter County mitigation structure is outlined in the Draft EIR, very significant acreage volumes can be excluded from meeting those requirements. We feel certain the lost habitat caused by the proposed projects would not be deemed mitigated under one or more of the mitigation scenarios set forth in the Draft EIR.

We encourage Sutter County to link its Specific Plan, Draft EIR and all related documents directly--without the exceptions currently listed--with the NBHCP mitigation procedures. Only in this manner do we believe the NBHCP implementation can be completed. If Sutter County continues to proceed with the mitigation procedures outlined on page 3-45 of the Draft EIR, it should evaluate the impact doing so would have on NBHCP implementation.

2. Flood, drainage and wastewater. The Draft EIR and related documents discuss the following drainage and waste water issues:

- a. Phase One of the proposed industrial park shows a large, open drainage ditch aligned southward from the park, across the county line into Sacramento County, and then bisecting the Conservancy's 338-acre Betts-Kismat-Silva refuge. However, the Draft EIR does not evaluate either the cost of acquiring land for or the cost of building this large, open drainage (labeled the "Montna Drain") through the Conservancy's preserve. We believe these costs would be high, both because the impact on the value of the Conservancy's land would be significant, and because this south flowing drainage bisects three east-to-west flowing

See p.p 2 & 4

EXHIBIT 19

MEMBERS AND
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OFFICER

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Director

drains as well as a large water pump and a large diameter underground irrigation line.

- b. The project is also shown as requiring the Conservancy's Brennan preserve for a detention basin for flows from the Sankey area. The Conservancy has spent a great deal of money dealing with drainage on this low-lying area. We were disheartened to learn that despite these efforts, Sutter County intends to use this property for a flood water detention basin.

Moreover, several years ago, the federal government determined that the last remnant of Curry Creek, which flows through the Conservancy's Brennan tract, was to enjoy federal protection, according to the previous owner. The Draft EIR fails to discuss how use of the Conservancy's Brennan tract for detention purposes would impact this protected resource.

- c. Both the Specific Plan and the Draft EIR discuss the need for a 1,400-acre area to dispose of sewage that cannot be pumped to the Sacramento River. The Conservancy's Bennett South and Lucich South tracts are included on Sutter County's map as an area where this sewage would be disposed of. Some mention is made of the land as being able to produce field crops with this sewage as irrigation water. It is also suggested that this method of disposal/irrigation would be beneficial to the Swainson's hawk. However, we believe these assertions deserve a great deal more biologic support.

Moreover, the impact on the Conservancy's farming operations would be dramatic and adverse. There is extensive literature and testimony easily available to show that farmers growing rice irrigated with effluent would have a severe challenge finding a market for their crops. Companies such as Anheuser-Busch, Gerber's, Beech-Nut and Kellogg's regularly assert their food quality and food safety assurance programs, and remind California rice marketers that they will not accept such rice. In most cases, severe financial penalties are assessed against marketers if such rice is shipped to these buyers.

3. Timing of Public Circulation of Finance Plan. We understand that the County intends to make the Finance Plan element of the Specific Plan available for public review in early 2002, after the close of the comment period on the Draft EIR. The Conservancy expects to rely quite heavily upon the details of the Finance Plan in determining whether it can support the Specific Plan and the EIR. We will not be able to fully understand the ultimate impacts upon the Conservancy (both in its landowner capacity and in its role as executor of the NBHCP) until we understand the financial mechanisms that will be established to mitigate the impacts of the Specific Plan.

We agree with individuals and agencies that have recommended deferring any action on the Draft EIR (including closing public comment opportunities) until the entire Specific Plan document is available.

4. Alternatives Analysis. The Conservancy is very interested in the development intensity alternatives and in the infrastructure alternatives discussed in the Draft EIR. At this point in time, we believe that we will be better able to manage our land under the less intensive/more protective alternatives.

The analysis of the reduced intensity alternatives (both reduced commercial intensity and reduced overall acreage) is not sufficiently detailed to allow us to make meaningful judgments about the residual effects of these environmental impacts to the Conservancy's core interests.

We would have to express much the same concern with respect to the discussion of infrastructure alternatives. We note that this concern is only heightened by the absence of a Finance Plan.

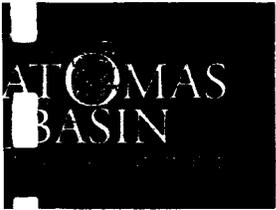
The Conservancy would note, however, that based on the infrastructure information that is available now, we strongly prefer infrastructure alternatives which minimize ground water usage and avoid drainage and wastewater impacts to Conservancy lands.

Conclusion. The issues raised in the Specific Plan and Draft EIR which most concern the Conservancy are:

- a. The apparent severe financial impact placed directly on the Conservancy as a landowner;
- b. The need for coordination of the Specific Plan implementation with NBHCP implementation which, given Sutter County's involvement in the new NBHCP, should very much be in its interest;
- c. Designation of numerous Conservancy properties as wastewater, drainage water and water retention areas and the expected adverse impact of such water on the Conservancy's ability to put its land to beneficial use, and
- d. Introduction of wastewater to the Conservancy lands and possible latent liability for water quality violations and damage (seepage, aquifer contamination, plant and animal disease, agronomic impacts of effluent, etc.).

One last note: We have exerted significant effort to improve communications with Sutter County in the recent past. Therefore, we confess to being more than a bit surprised to see Sutter County advance a plan with Conservancy lands mapped as being drainage areas, flood detention ponds and sewage disposal areas. Even more of a surprise is that there was no communication from Sutter County with regard to the use of its land prior publishing and circulating the Draft EIR and related documents.

Therefore, we encourage Sutter County to work more closely with the Conservancy. We are convinced that working more closely together, these



types of issues can be avoided and Sutter County's efforts can be more likely to be efficient and cost effective.

Thank you for the opportunity to share with you our concern about this document. We look forward to doing what we can to assist the County resolve these differences and moving forward.

Sincerely,

The Natomas Basin Conservancy



by: John R. Roberts
Executive Director



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Farm water could be southbound

Sacramento Valley farmers may be asked for \$20 million worth.

By **Stuart Leavenworth** -- Bee Staff Writer

Published 2:15 a.m. PDT Wednesday, November 20, 2002

Southern California's main water agency agreed Tuesday to negotiate an unprecedented deal with Sacramento Valley rice growers that could result in \$20 million of farm water being sent south by 2003.

Leaders of the Metropolitan Water District of Southern California said they have received offers from 14 Sacramento Valley water districts to sell up to 205,000 acre-feet of water -- enough to serve 410,000 households for a year.

Metropolitan officials say they are pursuing the one-year water sale in case a tenuous deal with the Imperial Irrigation District isn't sewn up by year's end and the federal government follows through on a threat to cut California's supplies from the Colorado River.

"We are covering all the bases to secure and protect the water reliability for more than 17 million Southern Californians," said Phillip Pace, chairman of the Metropolitan Water Board.

If the Sacramento Valley deal goes forward, however, it would mark the first time rice farmers have sold water directly to Southern California, which has a voracious thirst that still makes many Northern Californians nervous.

Rules would put damper on fireplaces

It seems like a comforting winter ritual. Arrange kindling and rough-cut logs in a fireplace, light a match, and settle back to gaze into the flames.

New demand threatens water deal

Hinting they may squelch a massive water sale that's crucial to California's water future, Imperial Valley farmers are pressing the U.S. government for extra water to get through this year's growing season.

Salvage logging plan OK'd, assailed

FORESTHILL -- The Tahoe National Forest approved a major salvage logging plan Thursday for 17,000 acres burned in last year's Star fire, setting the stage for another legal dispute over how to manage lands following a wildfire.

Senate OKs protection of 55,000 acres

WASHINGTON -- Legislation extending wilderness protection to some 55,000 acres of federal lands in the Big Sur area is on its way to President Bush's desk after passage by the Senate on Wednesday.

No promises for state

EXHIBIT 20

The water sale also would depend on farmers idling thousands of acres in order to free up water that could then be marketed.

"Undoubtedly, there will be some people who will look at this and have some concerns," said Van Tenney, general manager of the Glenn-Colusa Irrigation District, one of the rice-farming areas that is negotiating with Metropolitan.

Tenney, however, said the Valley water districts are planning several safeguards to ensure that any idling of land doesn't hurt farm businesses and other "third parties." Officials also said the ultimate size of the water sale will depend on individual water districts and the desires of local communities.

"We are going to meet local needs in the Sacramento Valley first," said David Guy, director of the Northern California Water Association, which represents 68 water districts that irrigate about 900,000 acres in the region.

One-time adversaries, Northern California farmers and south state water agencies have increasingly become collaborators in recent years. Southern California has helped finance fish screens and other improvements that farm districts need to meet environmental regulations.

Meanwhile, farmers have become more amenable to selling water because of declining prices for rice and other commodities.

"The bottom line is the ag economy is at an all-time low," Guy said.

Under the proposed deal, farmers would be paid about \$100 an acre-foot for their water, Tenney said. In addition, Metropolitan would pay \$5 an acre-foot into a "mitigation fund" to compensate any businesses or interests hurt by the idling of farmland.

Such sales have occurred previously. Two years ago, several Valley water districts sold water to Westlands Water District in a one-time deal. They also sold water indirectly to Southern California through a state water bank established during the drought of the early 1990s.

This time, farmers are negotiating directly with their old nemesis in talks that could lay the groundwork for water deals beyond 2003.

In addition, Metropolitan is pursuing several other ventures to prepare for possible water shortfalls.

On Tuesday, the agency's board approved its largest water conservation program since the last drought. Metropolitan officials said they plan to use advertising and marketing to reduce outdoor water use, with a goal of saving 100,000 acre-feet each summer.

The agency's board Tuesday also approved a 25-year plan to store water underground at the Kern Delta Water District, retrieving it in dry years.

in water bill

WASHINGTON -- A behemoth California water plan gets at most a trickle under a late-night Senate deal that puts off the toughest questions until later.

Farm water could be southbound

Southern California's main water agency agreed Tuesday to negotiate an unprecedented deal with Sacramento Valley rice growers that could result in \$20 million of farm water being sent south by 2003.

Nature waits on fate of dam

LOS PADRES NATIONAL FOREST -- So much water leaks from the cracks in Matilija Dam that clumps of grass and moss have sprouted on its concrete face.

Lion-proof pens called new fix for old problem

TAYLORSVILLE -- Shelby Howe, 10, keeps his 4-H goats in a pen built in a clump of 100-foot pine and fir trees at the base of Mount Hough.

Placer Legacy eyes Spears Ranch

With steelhead swimming in its creek and cattle, deer, wild turkeys, squirrels and even bobcats among the animals roaming its oak-covered hills, the 1,132-acre Spears Ranch seems a sort of Shangri-La.

Planners approve mining proposal

Teichert Inc.'s proposal to take sand, gravel and granite from a site near Lincoln has crossed its first major hurdle and heads now to the Placer County Board of Supervisors for final approval.

Of all the deals, however, the Sacramento Valley transfer has the largest potential for controversy. Various farm groups and environmentalists have protested past water sales, arguing that a public resource shouldn't be sold like a commodity. Some deals also have come under scrutiny from the California Department of Water Resources.

"A decade ago, my farmers would have hung me from the highest tree if I suggested fallowing (idling) land," said Tenney. But times have changed, he said. "Farmers realize they can use this money to reinvest in their farms."

About the Writer

The Bee's Stuart Leavenworth can be reached at (916) 321-1185 or sleavenworth@sacbee.com.

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From: James Pachl <jpachl@sbcglobal.net>
To: Judith Lamare <judlam@sbcglobal.net>, James Pachl
<jpachl@sbcglobal.net>
Date: Monday, November 25, 2002 5:28 PM
Subject: FW: water transfer from rice to MWD

From: Barclay.Rogers@sierraclub.org
Date: Mon, 25 Nov 2002 17:27:06 -0800
To: James Pachl <jpachl@sbcglobal.net>
Subject: Re: water transfer from rice to MWD

Jim,

I'm not in a position to sign this type of letter. However, I don't see any problem with you signing the letter on the chapter's behalf. That assumes, of course, that the chapter supports the letter.

barclay

Barclay Rogers
Associate Attorney
Sierra Club Environmental Law Program
85 Second Street, 2d Floor
San Francisco, CA 94105-3441
Phone: (415) 977-5646
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barclay.rogers@sierraclub.org

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James Pachl
<jpachl@sbcgl
obal.net>

To: Mike Sherwood
<msherwood@earthjustice.org>, John

Kostyack

<kostyack@nwf.org>,
<Barclay.Rogers@sierraclub.org>
cc: Judith Lamare

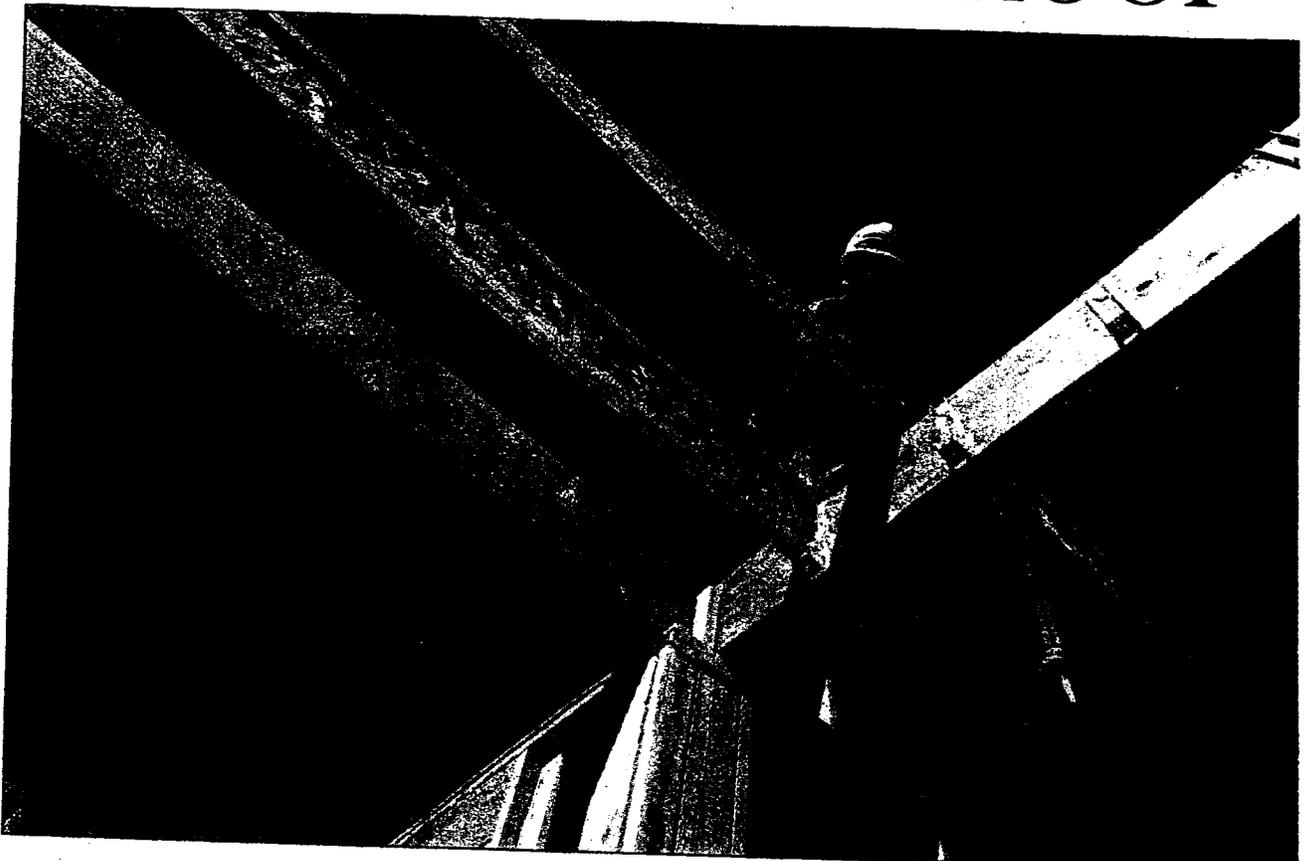
11/23/2002
12:09 PM

<judlam@sbcglobal.net>

Subject: water transfer from

rice to MWD

THROUGH THE ROOF



Steve Waligora of Orangevale works on a new home Monday in Lincoln, one of the region's fastest-growing communities. The thousands of construction jobs generated by the housing boom have helped keep the capital area's economy growing this year. Sacramento Bee/Brian B...

New-home sales, prices set records in capital region

By Andrew LePage
BEE STAFF WRITER

The median price of a newly built home in the capital region has hit an unprecedented \$325,000, pushed higher by robust sales that have already eclipsed the record for any previous full year, a new report shows.

Several factors are fueling the price increases: The lowest mortgage rates in nearly 40 years, a continued influx of equity-rich Bay Area buyers, and many locals who are tapping gains in the value of their homes.

A recently completed survey found that nearly a third of all new-home buyers - 21 percent from the Bay Area and 9 percent from

other parts of California - came from outside the capital region.

Many industry experts, though, predict slower sales and single-digit - if any - price appreciation next year if the local job market doesn't rebound.

The Sacramento area's median price has risen 12 percent, or \$35,000, over the past year and 32 percent, or 78,000, over the past two years.

In the home-buyer survey, respondents said they were primarily motivated to purchase out of concern that prices will continue to rise and a desire to take advantage of mortgage rates.

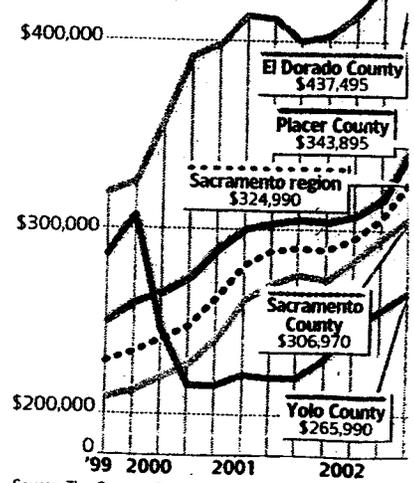
Many buyers who were polled also felt that real estate would outperform stocks as an investment, and others wanted to capitalize on their equity in existing homes, according to preliminary findings from the housing survey conducted by Roseville-based Market Perspectives. It polled 451 buyers over the past month.

The seemingly sure-fire investment poten-

► HOMES, page A25

Prices higher for new homes

Median prices quarterly



Source: The Gregory Group Sacramento Bee/Scott Flodin

EXHIBIT 21

Capital region new home sales

The number of sales and the median price of newly built homes in the Sacramento area rose during the third quarter of 2002 compared with the third quarter of 2001. Third quarter 2001 sales were particularly low because the Sept. 11 terrorist attacks hurt the real estate market.

THIRD QUARTER 2002	Sales	Change from year ago	Median Price	Change from year ago
El Dorado County	191	85%	\$437,495	9%
El Dorado Hills	147	194%	\$469,000	13%
Placer County	1,190	86%	\$343,895	13%
Lincoln	317	45%	\$267,350	12%
Rocklin	235	4%	\$333,690	17%
Roseville	591	225%	\$349,990	5%
Sacramento County	2,105	43%	\$306,970	11%
Elk Grove	545	91%	\$318,990	9%
Folsom	133	-10%	\$340,990	10%
Laguna	419	51%	\$289,990	8%
Natomas	503	14%	\$315,990	20%
Yolo County	181	10%	\$265,990	21%
West Sacramento	165	-2%	\$265,995	25%
Capital region	3,667	54%	\$324,990	12%

Note: Sales refer to the balance of new sales contracts signed during the period, minus any buyer cancellations. The median sale price is the point where half of the homes sold for more and half for less.

Source: The Gregory Group

Sacramento Bee/Scott Flojin

Homes: Higher rates are big fear

▶ CONTINUED FROM A1
 tial of a new home in fast-growing Lincoln spurred Mark Seidl, a 26-year-old car salesman, to buy last month.

He's jointly purchasing a \$305,000 house with a co-worker, also in his 20s. Although he's got a roommate, neither will be cramped with 2,400 square

"I wouldn't be gloomy about the new-home market over the next year, but I'd also be

stabilize or decline if the job market doesn't rebound and mortgage rates rise above 7 percent.

If the job market does rebound and rates don't rise much next year, he said, new-home prices could jump 10 percent.

But Schleimer also said the region's builders are nearing a price wall, given the constraints

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