



EXECUTIVE DIRECTOR'S REPORT

DECEMBER 2, 2020
BOARD OF DIRECTORS MEETING

STATUS OF CEO'S PERCEPTION REGARDING RISKS TO CONSERVANCY OPERATIONS

EVER- CHANGING ERM RISK CHART

WINTER
2020/21

*Natomas
Conservancy*

Date:
November 2020

Characterization

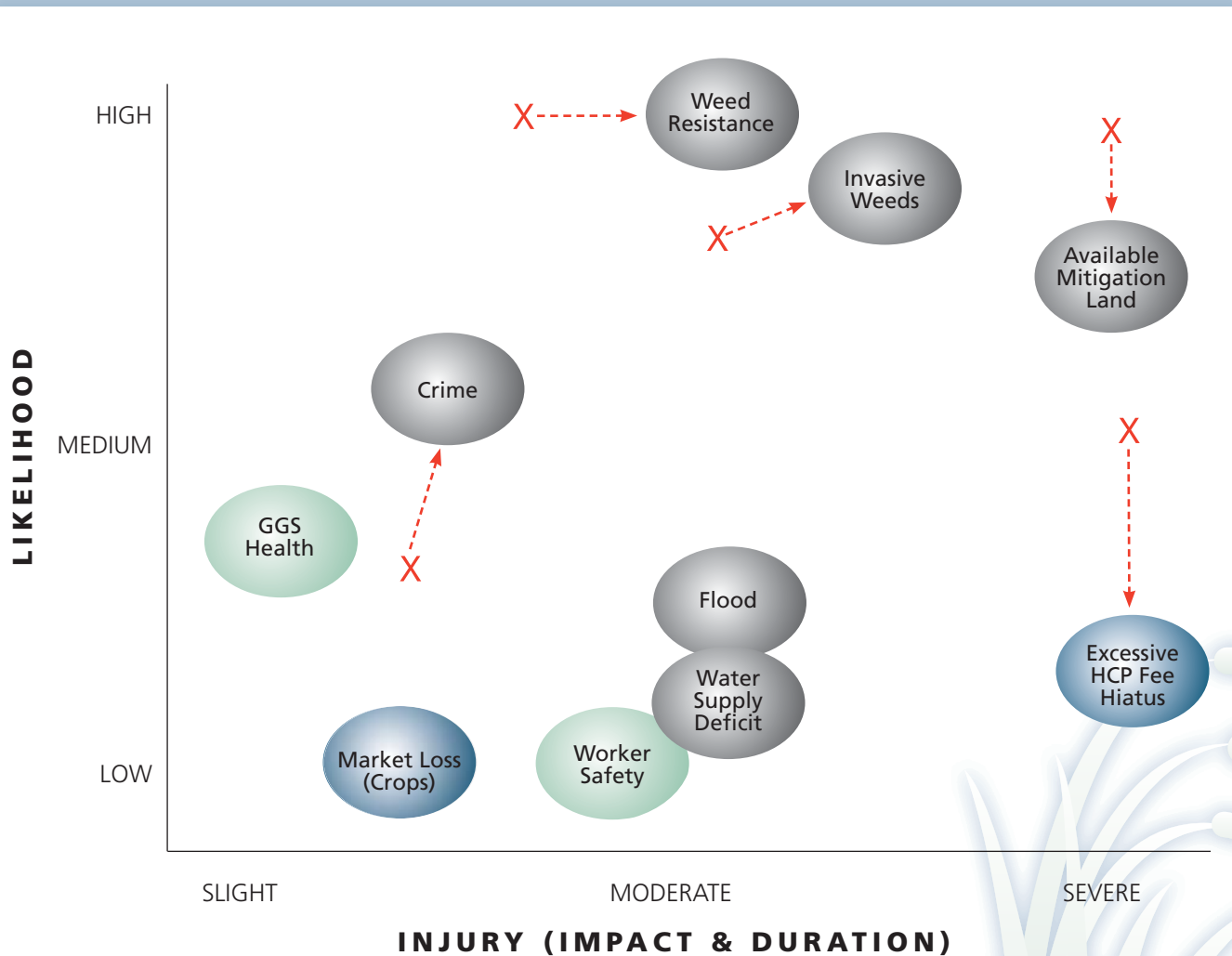
Issue is mostly:

■ Economic

■ Biological

■ Both

X Former Position



November 20, 2020

Todd Smith, Acting Environmental Coordinator
Office of Planning and Environmental Review
827 7th Street, Room 225
Sacramento, CA 95814

Subject: **COMMENTS ON THE NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR UPPER WESTSIDE SPECIFIC PLAN (PLNP2018-00284).**

Dear Mr. Smith,

On October 5, 2020, the City of Sacramento Community Development Department received the Revised Notice of Preparation (NOP) for the Upper Westside Plan (UWSP). The proposed UWSP would include development of approximately 1,532± acres within a 2,066 acres project area located north and west of Interstate 80 and north Specific and east of Garden Highway. The proposal includes the addition of 9,356 dwelling units (58,671 population) and 3,096,245± square feet of commercial uses into the unincorporated Natomas area immediately adjacent to the City's North Natomas Community Plan Area. The project plan includes development consisting of residential, neighborhood mixed-use, neighborhood commercial, community mixed-use, office mixed-use and health & hospitality mixed-use. The plan includes three K-8 school sites, one high school site, several parks, and a 10.0± acre urban farm site on property owned by the Los Rios Community College District that is envisioned to be part of a 16.0± vocational training campus.

The City of Sacramento has previously provided initial comments regarding the proposed development in the project area and has been in contact with County staff since the application was initiated with the County on February 26, 2019. The City's comments below are preliminary in nature and respond specifically to the information presented and scope of analysis proposed. The Planning Division of the Community Development Department presents the comments below as single letter representing multiple City departments.

300 Richards Blvd., 3rd Floor
Sacramento, CA 95811

Help Line: 916-264-5011
CityofSacramento.org/cdd

Memorandum of Understanding between City & County

On December 10, 2002, the City & County entered into a Memorandum of Understanding (MOU) (City Resolution 2002-830 and County Resolution 2002-1566) regarding Principles of Land Use and Revenue Sharing for the Natomas Area. The MOU specifically calls for any future urbanization efforts in the Natomas Joint Vision Area (NJVA) to be processed through the City, with the County remaining a steward of agricultural lands and open spaces.

The City is proposing that the NJVA be identified as an Area of Concern as part of the City's update to the General Plan currently in process. The designation formally represents the City's interest for development in the area and would be an initial step towards a possible Sphere of Influence (SOI) amendment. While no formal application for an SOI amendment has been filed with the Local Agency Formation Commission (LAFCo) by the City, it is the City's intent to fully adhere to the MOU and carry forth the vision found within its mutually affirmed policies.

Economic

Locating retail, hospitality, and other commercial uses adjacent to the City boundary may cause secondary physical and economic impacts within the City. In reviewing the plan, it seems nearly all of proposed retail is concentrated on either side of a westerly extension of El Camino west of I-80, and thus be largely regional in nature with freeway access and not neighborhood serving. The 2002 City/County MOU recognized that the City and County have mutual economic interests in the future of NJVA and a revenue sharing framework was outlined as a component of the MOU. As the MOU pointed out, 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. The City requests that the County address these issues now while the EIR is being prepared especially in light of the entitlements that are being sought by project proponents.

Growth Inducement

CEQA recognizes that the extension of urban infrastructure to a site or area may lead to future development in nearby areas that, as a result of the infrastructure extension, may now feasibly extend and connect, thus leading to additional new development. The proposed UWSP project would remove barriers to development and bring development to an area that has not been included in the long-range plans approved by the County or the City. The project is not anticipated in the Region's Sustainable Communities Strategy. In addition to analyzing the effects of the project itself, the EIR should carefully evaluate these growth inducing effects. For example, the project would require at least the extension of urban utilities to the site, which lacks sufficient water, wastewater, storm water and energy infrastructure to support the proposed development. CEQA recognizes that the extension of urban infrastructure to a site or area may lead to future development in nearby areas that, as a result of the infrastructure extension, may now feasibly extend and connect, thus leading to additional new development. This should be analyzed in the EIR.

Habitat Conservation Plan

While the County is not a party to the Natomas Basin Habitat Conservation Plan (NBHCP), activities that could affect the success of the conservation strategy established in the NBHCP should be considered in the EIR. In the Natomas Basin, any future development not covered by an existing Habitat Conservation Plan (HCP) must obtain take authorization under the Endangered Species Act (ESA). The NBHCP along with the Metro Airpark HCP require that a total of 8,750 acres of mitigation be located within Natomas Basin and the mitigation must adhere to specific requirements of the HCP. How will the County ensure that the required mitigation acreage of 8,750 acres will in fact be able to occur within the Natomas Basin if the County allows both Upper Westside and the Grandpark projects to develop in the future? The HCP provides a conservation strategy for the protection of 22 covered species. The implementation of the NBHCP has been underway for over 20 years. While the County is considering significant land use development proposals, how will the County ensure that the requirements of the NBHCP (and Metro Air Park HCP) including the respective conservation strategies will be met by the HCP parties? The City of Sacramento requests that the EIR include an analysis of:

- a. Location and quality of proposed mitigation sites (including those within the Natomas Basin), including an analysis of the effect of market competition and price increases resulting from the UWSP project and its effect on the HCP conservation strategy;
- b. Hydrological connectivity to existing preserves in the Basin;
- c. Effects of a reduction in the inventory (supply) of land available for mitigation, while also increasing the demand for mitigation land, driving up the price of mitigation for the existing permit holders;
- d. Appropriate mitigation ratio assuming development of the plan, which would appear to substantially change the assumptions that supported a 0.5:1 ratio for the Metro Air Park HCP and the NBHCP, and a 1:1 ratio for Greenbriar;
- e. The Natomas Joint Vision Area is approximately 18,424 acres in size. This unincorporated area is located within Sacramento County and makes up a portion of the Natomas Basin. The County approved-Metro Air Park area and Sacramento County Airport-owned lands together represent approximately 7,983 acres. With the two pending development proposals under consideration by the County, a total of 15,766 acres of the 18,424 NJVA would be allocated for urban development if the County were to approve the proposed development. Both the EIR's for UWSP and Grandpark need to address how and where HCP parties with authorized development are to find land for mitigation.

Agricultural, Prime Farmland and Open Space

The Sacramento County General Plan land use designation for a majority of the project area is Agricultural Cropland. This designation represents agricultural lands most suitable for intensive agricultural activities, including row crops, tree crops, irrigated grains, and dairies. One single-family dwelling unit per 40 acres is also considered suitable in this designation.

The UWSP includes preservation of 636.2± acres as Agricultural Cropland, Agricultural Residential, and Open Space. Continued planning and coordination regarding preservation of these uses within the UWSP area will be crucial during the environmental review and overall master planning processes. The Natomas Basin HCP requires that 50% of habitat mitigation lands remain in rice cultivation for the Giant Garter Snake. As such, the HCP requires that 4,375 acres remain in rice cultivation in perpetuity in the Natomas Basin. Continued agricultural uses, farmland and open space are a critical component to the success of the HCP's conservation strategy. The EIR should include an analysis that not only addresses impacts to agricultural lands but also how this potential loss impacts the ability for the NBHCP requirements to be met by the City of Sacramento, Sutter County and the other parties.

Transportation

Initial comments from the City's Public Works Department were transmitted via email on April 17, 2020 (attached) with regards to scope of improvements and coordination with the City. Staff recognizes the ongoing technical coordination with County staff and consultants and wishes to continue technical assistance throughout the analysis and formal review of the UWSP.

The City continues to be concerned about the proposed approach in the EIR where the project's fair share funding would be identified to widen impacted roadways within City limits and the assumption it would be the City's responsibility and a City project to implement those roadway widenings. How substantial roadway widening projects would be implemented is unclear as the City should not be assumed to have any matching funds. Also, generally speaking, the City's current focus is on reducing the number of lanes on City roadways to align with Climate Change goals and provide bike lanes/buffered bike lanes. The City has reduced the number of vehicular travel lanes in several recent Complete Street projects within City Limits including Freeport Boulevard, Franklin Boulevard, Riverside Boulevard, and numerous lettered and numbered street in the Central Business District.

The City is also concerned about how the UWSP and Grandpark would redistribute growth away from the City. Where would this growth be coming from? Does this growth create a better and more efficient VMT outcome for the City and the Region? We request that the EIR model scenarios to see how the projects may impact the City of Sacramento's VMT relative to the regional average.

Sewer System

The City of Sacramento believes the impacts from additional sewer flows to the Sacramento Regional County Sewer Interceptor should be analyzed to ensure there is adequate sewer capacity in the interceptor to accommodate the build-out of the existing Natomas area and the Natomas Joint Vision area (including this plan and other proposed master development plans).

Drainage - Long term maintenance & funding

The EIR should review long term maintenance mechanisms and associated funding that are established for the drainage facilities including flood control basins, water quality treatment, hydro-modification basins, and low impact development measures.

Flood Control and Flood Plain Management

How will flood control and flood plain management be addressed on- and off-site? Remaining levee improvements & phased development should be identified. This development may put people and infrastructure at risk of flooding. Will the County have any milestones for allowing development as the remaining levee work (by the Corps) is completed in Natomas Basin? The EIR should include an analysis of flood protection, resources that would be needed in response to a major flood, and any potential impacts to the Natomas Basin Plan or the City's flood fight plan resources.

Storm Drainage

What is the plan for storm drainage on and off-site? There is no capacity in the current Natomas Drainage System for storm drainage from this or other developments.

Water Supply

The Project area is currently served by the Natomas Central Mutual Water Company (NCMWC) with agricultural water drawn from the Sacramento River from existing pump stations located outside the 2,066± acre Project area to the northwest. Additionally, the Project area is located within the City of Sacramento's American River

Place of Use. The NOP identified the following three alternatives to provide needed domestic water to serve the proposed UWSP area:

- 1. Alternative No. 1 – NCMWC via City of Sacramento. NCMWC has water rights that could be utilized if converted from agricultural use to municipal and industrial use. NCMWC water would be conveyed via the Sacramento River to the City's intake system at the Matsui Waterfront Park or other location for treatment. Treated water would then be conveyed via existing City infrastructure to the Project.*
- 2. Alternative No. 2 – NCMWC with Onsite Treatment. Similar to Alternative No. 1, NCMWC water rights would be converted. NCMWC water would be conveyed via existing and proposed facilities to the Project area for treatment. This alternative would require a new domestic water treatment plant.*
- 3. Alternative No. 3 – Utilize Place of Use Water. Utilize excess water rights held by the City of Sacramento. Delivery of City treated water to the Project would be by existing City infrastructure. The anticipated Project water use is approximately 3% of the City's unused available water supply.*

The EIR should include an analysis that addresses what the delivery system will be engineered for: size of mains, distribution, volume, and future capacity. How will the system be pressurized and what will be the storage capacity and type in ground, above ground or combination. How will the water supply be protected? What reassurances does the City have the delivery system will not contaminate the City's existing water supply

The UWSP would need a retailer to deliver the treated water. The NOP noted several options that include City of Sacramento, Sacramento County Water Agency or the creation of an independent water district or annexing to an existing water district. It is clear from the NOP that water supply, treatment and delivery is highly dependent on the City of Sacramento.

The only option that does not heavily rely on the City is another entity obtaining new domestic water rights, construction of an on-site treatment plant and all the conveying the water via new infrastructure that does not tie into the City system. According to Senate Bill 610, a water supply assessment is required for proposed

residential developments with more than 500 units. In addition, SB 221 requires written verification of sufficient water supply before a project is approved.

Fire Protection

The City of Sacramento currently provides emergency medical care, fire prevention inspections, rescue, and fire protection services to the Natomas Fire Protection District (NFPD) under contract with the County Board of Supervisors (acting as the governing body for the dependent special district). The City of Sacramento and the Natomas Fire Protection District initially entered into an agreement in August 1984 (City Agreement 84-037) for the City to provide fire protection services within the District. The contractual arrangement has been mutually beneficial and has proven to be an efficient and effective way to provide fire protection and emergency medical services within the District. At present, the land uses within the Natomas Fire Protection District are predominantly agricultural.

Some residential development has occurred along the Garden Highway, as well as agricultural uses with related single-family residential land uses. Non-residential developments within the District include the Sacramento International Airport, Metro Air Park, Northgate I-80 Business Park (aka: The Pan), and Camino Norte an area on the east side of El Centro Road. New development in the Natomas Joint Vision Area will result in an increase in service demand for Fire and Emergency Medical Services (EMS). How will the project proponent mitigate the service demand impacts and the City's ability to maintain current levels of service? The 2002 MOU identified the City as the appropriate entity for planning new growth in the NJVA and can better provide a full range of municipal services. The City has been providing municipal services for over 100 years and is already providing fire protection services to the NJVA area. The EIR should include an analysis that address fire protection services and facilities.

Law Enforcement

Police protection services in the City of Sacramento are provided by the City of Sacramento Police Department (SPD). Additionally, the CHP responds to all incidents on the state highways, state-owned buildings, and state property within the City. Given the geographical location which is adjacent to the City but isolated from the County unincorporated developed areas receiving services, the SPD has concerns regarding the impacts to City law enforcement. The EIR should provide

an evaluation of how and when services and facilities will be provided so that impacts to the City of Sacramento will not occur.

Parks & Recreation

1. Consistency with the City of Sacramento's level of service for the adjacent planning areas, at 3.5 acres of neighborhood/community parks per 1,000, and 8 acres of regional park acres per 1,000.
2. Will detention basins to be considered for joint use as a park(s)?
3. Parks located in areas around residential land uses that would be within a 10-minute walkshed should have limited barriers to access.
4. The parks that are located on the western boundary should be located close to the agricultural properties with trail connections to the open space, greenbelt.
5. Project design should incorporate connections to the existing off-street trails and pedestrian/bicycles paths that connect to the North and South Natomas parks and parkways.
6. A community center and library should be provided for in this new plan area. Until library and recreational facilities are constructed and operational in the project area, what service impacts will be borne by the City and how will these services be funded?
7. The proposed Urban Farms should operate as a private facility.

Schools

The NOP identifies three K through 8 school sites, one high school site, and one community college/vocational school in the Plan Area within specifically designated areas. The Natomas Unified School District (NUSD) boundaries include the UWSP area in addition to the City of Sacramento (Natomas Communities). What schools would serve the residents that may be located outside of the UWSP development plan area including those that may serve the area while the schools are built?

Thank you for the opportunity to comment and we ask that the NOP comments be included in the EIR, and corresponding responses in the analysis. If you have follow-up questions or seek clarifications on any of the above issues, please contact me at chodge@cityofsacramento.org or 916-808-5971.

Sincerely,

Cheryle L. Hodge

Cheryle L. Hodge
New Growth Manager, Community Development Department

Cc: Howard Chan, City Manager
Michael Jasso, Assistant City Manager
Hector Barron, Assistant City Manager
Tom Pace, Director, Community Development Department
Greg Sandlund, Acting Planning Director
Ryan Moore, Director, Dept. of Public Works
Bill Busath, Director, Dept. of Utilities
Melissa Anguiano, Economic Development Manager
Gary Loesch, Fire Chief

From: Cheryle Hodge
Sent: Friday, April 17, 2020 11:45:19 AM
To: Taylor. Todd <taylor@taylor@taylor@taylor.net>
Subject: Upper Westside

Todd,

Per my previous email, I indicated that we will need more time to provide comprehensive comments as our General Plan Update evaluation progresses. However, I do want to pass along the very preliminary feedback that I received from Dept. of Public Works staff:

The implementation of the Upper Westside Development Project (Project) will significantly change the traffic patterns on West El Camino Avenue. The daily traffic volumes will more than double on West El Camino Avenue between I-80 WB Ramps and I-80 EB Ramps per the information provided in "Upper Westside – Traffic Conceptual Feasibility Analysis" (Wood Rodgers, March 6, 2020). West El Camino roadway and the interchange with I-80 will operate unacceptably.

Sacramento County must coordinate with Caltrans and City of Sacramento to design and build appropriate improvements to the offsite facilities. For I-80 and West El Camino interchange a new Project Study Report (PSR) should be prepared as soon as the Project EIR Transportation section is completed, and future traffic volumes confirmed. Based on the preliminary forecasts provided in "Upper Westside – Traffic Conceptual Feasibility Analysis", a 6+ lane overpass will be necessary to accommodate the Project generated traffic volumes.

City of Sacramento neighborhoods and planned development consistent with the City of Sacramento 2035 General Plan zoning were never anticipated to generate the traffic volumes of such magnitude east of I-80 and West El Camino interchange. City has always anticipated this interchange to be a 4-lane facility.

Let me know if you have any questions. Hope you have a great weekend.

Cheryle Hodge, LEED Green Associate
Principal Planner/New Growth Manager
300 Richards Blvd. 3rd Floor
Sacramento, CA 95811
(916) 808-5971



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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 6, 2020

Todd Smith
Sacramento County Planning
827 7th Street, Suite 225
Sacramento, CA 95814
ceqa@saccounty.net

Subject: Upper Westside Specific Plan - Notice of Preparation
SCH# 2020100069

Dear Mr. Smith:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) from Sacramento County for the Upper Westside Specific Plan (Project) in Sacramento County (the County) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.¹ CDFW previously submitted comments in response to the County's request for comments on the Project's application to the County dated March 6, 2020.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, plants and their habitats. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code (Fish & G. Code).

CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802.). Similarly, for purposes of CEQA, CDFW provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW may also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

The Project is a Specific Plan that encompass approximately 2,066 acres in the unincorporated Natomas community of Sacramento County, approximately 3.5 miles from downtown Sacramento. The Project area is bounded by Interstate 80 to the south, the West Drainage Canal to the east, Fisherman's Lake Slough to the north, and Garden Highway to the west. The Project is located outside of the County's Urban Policy Area (UPA) and Urban Services Boundary (USB), but is bounded on three sides by the City of Sacramento, bordering the communities of North and South Natomas.

The Project's Preliminary Land Use Plan envisions a community with a 1,532± acre Development Area and a 534± acre Ag Buffer Area that is located west of the Development Area. Within the Development Area, the applicant has proposed an urban, commercial mixed-use town center district near the intersection of El Centro Road and West El Camino Avenue surrounded by neighborhoods. The Development Area includes 9,356± dwelling units and 3,096,245± square feet of commercial uses, with three K-8 school sites, one high school site, and several parks.

The Project description should include the whole action as defined in the CEQA Guidelines § 15378 and should include appropriate detailed exhibits disclosing the Project area including temporary impacted areas such as equipment stage area, spoils areas, adjacent infrastructure development, staging areas and access and haul roads if applicable.

As required by § 15126.6 of the CEQA Guidelines, the EIR should include appropriate range of reasonable and feasible alternatives that would attain most of the basic Project objectives and avoid or minimize significant impacts to resources under CDFW's jurisdiction.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations presented below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, impacts on biological resources. The comments and recommendations are also offered to enable CDFW to adequately review and comment on the proposed Project with respect to impacts on biological resources. CDFW recommends that the forthcoming EIR address the following:

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Assessment of Biological Resources

Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts and that special emphasis should be placed on environmental resources that are rare or unique to the region. To enable CDFW staff to adequately review and comment on the Project, the EIR should include a complete assessment of the flora and fauna within and adjacent to the Project footprint, with emphasis on identifying rare, threatened, endangered, and other sensitive species and their associated habitats. CDFW recommends that the EIR specifically include:

1. An assessment of all habitat types located within the Project footprint, and a map that identifies the location of each habitat type. CDFW recommends that floristic, alliance- and/or association-based mapping and assessment be completed following *The Manual of California Vegetation*, second edition (Sawyer et al. 2009). Adjoining habitat areas should also be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions.
2. A general biological inventory of the fish, amphibian, reptile, bird, and mammal species that are present or have the potential to be present within each habitat type onsite and within adjacent areas that could be affected by the Project. CDFW recommends that the California Natural Diversity Database (CNDDDB), as well as previous studies performed in the area, be consulted to assess the potential presence of sensitive species and habitats. A nine United States Geologic Survey (USGS) 7.5-minute quadrangle search is recommended to determine what may occur in the region, larger if the Project area extends past one quad (see *Data Use Guidelines* on the Department webpage www.wildlife.ca.gov/Data/CNDDDB/Maps-and-Data). Please review the website for information on how to access the database to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code, in the vicinity of the Project. CDFW recommends that CNDDDB Field Survey Forms be completed and submitted to CNDDDB to document survey results. Online forms can be obtained and submitted at: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

Please note that CDFW's CNDDDB is not exhaustive in terms of the data it houses, nor is it an absence database. CDFW recommends that it be used as a starting point in gathering information about the *potential presence* of species within the general area of the Project site. Other sources for identification of species and habitats near or adjacent to the Project area should include, but may not be limited to, State and federal resource agency lists, California Wildlife Habitat Relationship (CWHR) System, California Native Plant Society (CNPS) Inventory, agency contacts, environmental documents for other projects in the vicinity, academics, and professional or scientific organizations.

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3. A complete, recent inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern and California Fully Protected Species (Fish & G. Code § 3511). Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). The inventory should address seasonal variations in use of the Project area and should not be limited to resident species. The EIR should include the results of focused species-specific surveys, completed by a qualified biologist and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable. Species-specific surveys should be conducted in order to ascertain the presence of species with the potential to be impacted directly, indirectly, on or within a reasonable distance of the Project activities. CDFW recommends the lead agency rely on survey and monitoring protocols and guidelines available at: www.wildlife.ca.gov/Conservation/Survey-Protocols. Alternative survey protocols may be warranted; justification should be provided to substantiate why an alternative protocol is necessary. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. Some aspects of the Project may warrant periodically updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought or deluge.
4. A thorough, recent (within the last two years), floristic-based assessment of special-status plants and natural communities, following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (see www.wildlife.ca.gov/Conservation/Plants).
5. Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region (CEQA Guidelines § 15125[c]).

Analysis of Direct, Indirect, and Cumulative Impacts to Biological Resources

The EIR should provide a thorough discussion of the Project's potential direct, indirect, and cumulative impacts on biological resources. To ensure that Project impacts on biological resources are fully analyzed, the following information should be included in the EIR:

1. The EIR should define the threshold of significance for each impact and describe the criteria used to determine whether the impacts are significant (CEQA Guidelines, § 15064, subd. (f)). The EIR must demonstrate that the significant environmental impacts of the Project were adequately investigated and discussed, and it must permit the significant effects of the Project to be considered in the full environmental context.

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2. A discussion of potential impacts from lighting, noise, human activity, and wildlife-human interactions created by Project activities especially those adjacent to natural areas, exotic and/or invasive species occurrences, and drainages. The EIR should address Project-related changes to drainage patterns and water quality within, upstream, and downstream of the Project site, including: volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project outcome of runoff from the Project site. The EIR should address sources of wildlife mortality such as human introduction of domestic cats (as it relates to bird mortality), bird strikes with Project buildings, increased wildlife control, and vehicle strikes.
3. A discussion of potential indirect Project impacts on biological resources, including resources in areas adjacent to the Project footprint, such as nearby public lands (e.g. National Forests, State Parks, etc.), open space, adjacent natural habitats, riparian ecosystems, wildlife corridors, and any designated and/or proposed reserve or mitigation lands (e.g., preserved lands associated with a Conservation or Recovery Plan, or other conserved lands).
4. A cumulative effects analysis developed as described under CEQA Guidelines section 15130. The EIR should discuss the Project's cumulative impacts to natural resources and determine if that contribution would result in a significant impact. The EIR should include a list of present, past, and probable future projects producing related impacts to biological resources or shall include a summary of the projections contained in an adopted local, regional, or statewide plan, that consider conditions contributing to a cumulative effect. The cumulative analysis shall include impact analysis of vegetation and habitat reductions within the area and their potential cumulative effects. Please include all potential direct and indirect Project-related impacts to riparian areas, wetlands, wildlife corridors or wildlife movement areas, aquatic habitats, sensitive species and/or special-status species, open space, and adjacent natural habitats in the cumulative effects analysis.

Mitigation Measures for Project Impacts to Biological Resources

The EIR should include appropriate and adequate avoidance, minimization, and/or mitigation measures for all direct, indirect, and cumulative impacts that are expected to occur as a result of the construction and long-term operation and maintenance of the Project. CDFW also recommends that the environmental documentation provide scientifically supported discussion regarding adequate avoidance, minimization, and/or mitigation measures to address the Project's significant impacts upon fish and wildlife and their habitat. For individual projects, mitigation must be roughly proportional to the level of impacts, including cumulative impacts, in accordance with the provisions of CEQA (Guidelines § § 15126.4(a)(4)(B), 15064, 15065, and 16355). In order for mitigation measures to be effective, they must be specific, enforceable, and feasible actions that will improve environmental conditions. When proposing measures to avoid, minimize, or mitigate impacts, CDFW recommends consideration of the following:

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1. *Fully Protected Species*: Several Fully Protected Species (Fish & G. Code § 3511) have the potential to occur within or adjacent to the Project area, including, but not limited to: white-tailed kite (*Elanus leucurus*). Fully protected species may not be taken or possessed at any time. Project activities described in the EIR should be designed to completely avoid any fully protected species that have the potential to be present within or adjacent to the Project area. CDFW also recommends that the EIR fully analyze potential adverse impacts to fully protected species due to habitat modification, loss of foraging habitat, and/or interruption of migratory and breeding behaviors. CDFW recommends that the Lead Agency include in the analysis how appropriate avoidance, minimization and mitigation measures will reduce indirect impacts to fully protected species.
2. *Sensitive Plant Communities*: CDFW considers sensitive plant communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S-1, S-2, S-3, and S-4 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by querying the CNDDDB and are included in *The Manual of California Vegetation* (Sawyer et al. 2009). The EIR should include measures to fully avoid and otherwise protect sensitive plant communities from Project-related direct and indirect impacts.
3. *Mitigation*: CDFW considers adverse Project-related impacts to sensitive species and habitats to be significant to both local and regional ecosystems, and the EIR should include mitigation measures for adverse Project-related impacts to these resources. Mitigation measures should emphasize avoidance and reduction of Project impacts. For unavoidable impacts, onsite habitat restoration, enhancement, or permanent protection should be evaluated and discussed in detail. If onsite mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. Any mitigation proposed outside the Natomas Basin and within the jurisdiction of a different local government, should be supported by robust scientific reasoning and such a strategy should contemplate local degradation of Natomas Basin fish, wildlife, or plant resources and potential land use authority.

The EIR should include measures to perpetually protect the targeted habitat values within mitigation areas from direct and indirect adverse impacts in order to meet mitigation objectives to offset Project-induced qualitative and quantitative losses of biological values. Specific issues that should be addressed include restrictions on access, proposed land dedications, long-term monitoring and management programs, control of illegal dumping, water pollution, increased human intrusion, etc.

4. *Habitat Revegetation/Restoration Plans*: Plans for restoration and revegetation should be prepared by persons with expertise in the regional ecosystems and native plant restoration techniques. Plans should identify the assumptions used to develop the proposed restoration strategy. Each plan should include, at a

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minimum: (a) the location of restoration sites and assessment of appropriate reference sites; (b) the plant species to be used, sources of local propagules, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) a local seed and cuttings and planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity. Monitoring of restoration areas should extend across a sufficient time frame to ensure that the new habitat is established, self-sustaining, and capable of surviving drought.

Onsite vegetation mapping at the alliance and/or association level should be used to develop appropriate restoration goals and local plant palettes. Reference areas should be identified to help guide restoration efforts. Specific restoration plans should be developed for various Project components as appropriate. Restoration objectives should include protecting special habitat elements or re-creating them in areas affected by the Project. Examples may include retention of woody material, logs, snags, rocks, and brush piles. Fish and Game Code sections 1002, 1002.5 and 1003 authorize CDFW to issue permits for the take or possession of plants and wildlife for scientific, educational, and propagation purposes. Please see our website for more information on Scientific Collecting Permits at www.wildlife.ca.gov/Licensing/Scientific-Collecting#53949678-regulations-.

5. *Nesting Birds*: It is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Migratory nongame native bird species are protected by international treaty under the federal Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 *et seq.*). CDFW implemented the MBTA by adopting the Fish and Game Code section 3513. Fish and Game Code sections 3503, 3503.5 and 3800 provide additional protection to nongame birds, birds of prey, their nests and eggs. Sections 3503, 3503.5, and 3513 of the Fish and Game Code afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by the Fish and Game Code or any regulation made pursuant thereto; section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by the Fish and Game Code or any regulation adopted pursuant thereto; and section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the MBTA or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the MBTA.

Potential habitat for nesting birds and birds of prey is present within the Project area. The Project should disclose all potential activities that may incur a direct or

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indirect take to nongame nesting birds within the Project footprint and its vicinity. Appropriate avoidance, minimization, and/or mitigation measures to avoid take must be included in the EIR.

CDFW recommends that the EIR include specific avoidance and minimization measures to ensure that impacts to nesting birds or their nests do not occur. Project-specific avoidance and minimization measures may include, but not be limited to: Project phasing and timing, monitoring of Project-related noise (where applicable), sound walls, and buffers, where appropriate. The EIR should also include specific avoidance and minimization measures that will be implemented should a nest be located within the Project site. In addition to larger, protocol level survey efforts (e.g. Swainson's hawk surveys) and scientific assessments, CDFW recommends a final preconstruction survey be required no more than three (3) days prior to vegetation clearing or ground disturbance activities, as instances of nesting could be missed if surveys are conducted earlier.

6. *Moving out of Harm's Way*: The Project is anticipated to result in the clearing of habitats that support native species. To avoid direct mortality, the Lead Agency may condition the EIR to require that a qualified biologist with the proper permits be retained to be onsite prior to and during all ground- and habitat-disturbing activities. The qualified biologist with the proper permits may move out of harm's way special-status species or other wildlife of low or limited mobility that would otherwise be injured or killed from Project-related activities. Movement of wildlife out of harm's way should be limited to only those individuals that would otherwise be injured or killed, and individuals should be moved only as far as necessary to ensure their safety (i.e., CDFW does not recommend relocation to other areas). It should be noted that the temporary relocation of onsite wildlife does not constitute effective mitigation for habitat loss.
7. *Translocation of Species*: CDFW generally does not support the use of relocation, salvage, and/or transplantation as the sole mitigation for impacts to rare, threatened, or endangered species as these efforts are generally experimental in nature and largely unsuccessful.

The EIR should incorporate mitigation performance standards that would ensure that impacts are reduced to a less-than-significant level. Mitigation measures proposed in the EIR should be made a condition of approval of the Project. Please note that obtaining a permit from CDFW by itself with no other mitigation proposal may constitute mitigation deferral. CEQA Guidelines section 15126.4, subdivision (a)(1)(B) states that formulation of mitigation measures should not be deferred until some future time. To avoid deferring mitigation in this way, the EIR should describe avoidance, minimization and mitigation measures that would be implemented should the impact occur.

California Endangered Species Act

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal

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species, pursuant to CESA. CDFW recommends that a CESA Incidental Take Permit (ITP) be obtained if the Project has the potential to result in “take” (Fish & G. Code § 86 defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”) of state-listed CESA species, either through construction or over the life of the Project. CESA ITPs are issued to conserve, protect, enhance, and restore State-listed CESA species and their habitats.

The Project area has the following State-listed species that are known to be present:

- Swainson’s hawk (*Buteo swainsoni*)
- Giant garter snake (*Thamnophis gigas*)

The Project area as shown in the NOP also may include habitat for these State and/or federally listed species: bank swallow (*Riparia riparia*), California tiger salamander (*Ambystoma californiense*), tricolored blackbird (*Agelaius tricolor*), valley elderberry longhorn beetle (*Desmocerus californicus dimorphous*), vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardii*), Bogg’s Lake hedge-hyssop (*Gratiola heterosepala*), Sacramento Orcutt grass (*Orcuttia viscida*), and slender orcutt grass (*Orcuttia tenuis*).

The EIR should disclose the potential of the Project to take State-listed species and how the impacts will be avoided, minimized, and mitigated. Please note that mitigation measures that are adequate to reduce impacts to a less-than significant level to meet CEQA requirements may not be enough for the issuance of an ITP. To issue an ITP, CDFW must demonstrate that the impacts of the authorized take will be minimized and fully mitigated (Fish & G. Code §2081 (b)). To facilitate the issuance of an ITP, if applicable, CDFW recommends the EIR include measures to minimize and fully mitigate the impacts to any State-listed species the Project has potential to take. CDFW encourages early consultation with staff to determine appropriate measures to facilitate future permitting processes and to engage with the U.S. Fish and Wildlife Service to coordinate specific measures if both State and federally listed species may be present within the Project vicinity.

Native Plant Protection Act

The Native Plant Protection Act (NPPA) (Fish & G. Code §1900 *et seq.*) prohibits the take or possession of State-listed rare and endangered plants, including any part or product thereof, unless authorized by CDFW or in certain limited circumstances. Take of State-listed rare and/or endangered plants due to Project activities may only be permitted through an ITP or other authorization issued by CDFW pursuant to California Code of Regulations, Title 14, section 786.9 subdivision (b).

Lake and Streambed Alteration (LSA) Program

The EIR should identify all perennial, intermittent, and ephemeral rivers, streams, lakes, other hydrologically connected aquatic features (such as ditches), and any associated biological resources/habitats present within the entire Project footprint (including utilities, access and staging areas). The EIR should analyze all potential temporary, permanent,

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direct, indirect and/or cumulative impacts to the above-mentioned features and associated biological resources/habitats that may occur because of the Project. If it is determined that the Project will result in significant impacts to these resources, the EIR shall propose appropriate avoidance, minimization and/or mitigation measures to reduce impacts to a less-than-significant level.

Section 1602 of the Fish and Game Code requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water or some agricultural drainages.

If CDFW determines that the Project activities may substantially adversely affect an existing fish or wildlife resource, an LSA Agreement will be issued which will include reasonable measures necessary to protect the resource. CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, the EIR should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the Project may avoid or reduce impacts to fish and wildlife resources. To obtain an LSA notification package, please go to <https://www.wildlife.ca.gov/Conservation/LSA/Forms>.

Please note that other agencies may use specific methods and definitions to determine impacts to areas subject to their authorities. These methods and definitions often do not include all needed information for CDFW to determine the extent of fish and wildlife resources affected by activities subject to Notification under Section 1602 of the Fish and Game Code. Therefore, CDFW does not recommend relying solely on methods developed specifically for delineating areas subject to other agencies' jurisdiction (such as United States Army Corps of Engineers) when mapping lakes, streams, wetlands, floodplains, riparian areas, etc. in preparation for submitting a Notification of an LSA.

CDFW relies on the lead agency environmental document analysis when acting as a responsible agency issuing an LSA Agreement. Addressing CDFW's comments to appropriately address Project impacts facilitates the issuance of an LSA Agreement and CDFW's associated CEQA compliance as a responsible agency.

The following information will be required for the processing of an LSA Notification and CDFW recommends incorporating this information into any forthcoming CEQA document(s) to avoid subsequent documentation and Project delays:

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1. Mapping and quantification of lakes, streams, and associated fish and wildlife habitat (e.g., riparian habitat, freshwater wetlands, etc.) that will be temporarily and/or permanently impacted by the Project, including impacts from access and staging areas. Please include an estimate of impact to each habitat type.
2. Discussion of specific avoidance, minimization, and mitigation measures to reduce Project impacts to fish and wildlife resources to a less-than-significant level. Please refer to section 15370 of the CEQA Guidelines.

Based on review of Project materials, aerial photography and observation of the site from public roadways, the Project site contains tributaries to lakes and streams within the Natomas Basin. CDFW recommends that the EIR fully identify the Project's potential impacts to lakes, streams, and/or its associated vegetation and wetlands.

Regional Habitat Conservation Plans

CEQA Guidelines section 15125(d) states that EIRs must discuss any inconsistencies between projects and applicable plans (including habitat conservation plans/natural community conservation plans). If the Project is contemplating the viability of offsite mitigation, the EIR should include a discussion of each Project alternative's consistency with any approved habitat conservation plan that overlaps with the Project's mitigation area or the Project itself. Such plans would include the Natomas Basin Habitat Conservation Plan (NBHCP), Metro Air Park Habitat Conservation Plan (MAP HCP), Yolo Habitat Conservation Plan/Natural Community Conservation Plan, South Sacramento Habitat Conservation Plan (SSHCP), and the Placer County Conservation Program.

Local Habitat Conservation Plans

The Project area is within the NBHCP and is in close proximity to the MAP HCP. Both the NBHCP and MAP HCP are approaching their twentieth year of implementation, conserving to date more than 4000 acres of land in the Natomas Basin. These conserved lands provide tremendous benefit to wildlife in Sacramento and Sutter Counties, and the larger surrounding region. Additional development is authorized under both plans, conditioned on in-perpetuity conservation obligations, such as land acquisition and commitments to agriculture, not yet completed within the Natomas Basin. Therefore a robust analysis of whether, in what way, and to what extent the Project may affect future implementation and the continued viability of the NBHCP and MAP HCP in the Natomas Basin is essential to the County's informed review of the Project.

CDFW appreciates the Project proponent and the County's previous commitment to prepare a related effects analysis as part of the County's review of the Project. The analysis will provide critical information essential to a meaningful understanding of the Project's regional setting. That, in turn, will also help ensure the EIR's environmental analysis is robust and includes all the potentially significant effects on fish and wildlife that may be caused by the Project.

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Section 15125 of the CEQA guidelines states that special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project, while also discussing any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans. To identify any identify any potential inconsistencies with the Natomas Basin plans and provide special emphasis on rare or unique resources in compliance with CEQA, CDFW recommends that the EIR address, specific to the effects analysis, the following:

- Persistence of NBHCP and MAP HCP Covered Species in the Natomas Basin
- Impacts to established reserve land managed by the Natomas Basin Conservancy (TNBC)
- Reduction of available reserve land in the Natomas Basin under the NBHCP and MAP HCP (with appropriate buffers and setbacks as detailed in the NBHCP)
- Reduction of ability for TNBC to establish or enhance Covered Species range and habitats in the southern Natomas Basin.
- Continued viability of the land uses in the Natomas Basin as detailed in the NBHCP and MAP HCP
- Financial impacts to TNBC and fee payers under the NBHCP and MAP HCP, including the recent action by TNBC Board of Directors and the Sacramento City Council to address related ongoing financial challenges of continuing to implement the required conservation strategy in the Natomas Basin, and
- Cumulative impact of the Project, in combination with other development in the Natomas Basin approved since 2003 that is outside of the City of Sacramento and Sutter County's permitted area under the NBHCP (e.g., levee improvements by the Sacramento Area Flood Control Agency and the Greenbriar project). A visual representation of the mounting pressure on the continued viability of the NBHCP is shown in Figure 1.

CDFW highlights that the County also has vested interest in the success of the MAP HCP. The MAP HCP and the related authorization under CESA serves as a regulatory platform for the Metro Air Park I-5 Interchange, the Amazon fulfillment center, and other large warehouse facilities all of which provide significant economic benefit to the County. The Project's potential effect on the continued success of the MAP HCP is an important consideration for the County as it considers the proposed Project, particularly with County interest in the build-out of Metro Air Park and the MAP HCP's implementation reliance on structure provided by the NBHCP.

Joint Vision

The 2002 Joint Vision Memorandum of Understanding (MOU) outlines a vision shared by the County and City for land use and revenue by the two agencies in the Natomas Basin. The MOU, importantly, recognizes the City as the agent of development in the Sacramento portion of the basin and the County as the agent of permanent open space, habitat, and farmland/ranchland preservation. The MOU, in this respect, defines a set of guiding principles for the County and City to jointly implement a number of goals, including proactively guiding future urban growth for more efficient land use, while

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securing permanent preservation of open space at a mitigation ratio of at least one-to-one. The Joint Vision MOU, importantly, also acknowledges and has served to bolster the coordinated effort by the NBHCP and MAP HCP permittees, and TNBC to minimize the effects of other projects on fish and wildlife resources in the basin. The County and City's Joint Vision MOU has been a cornerstone for land use planning in the Natomas Basin for nearly two decades.

The Joint Vision MOU executed by the County and City in 2002 also informed CDFW's approval of the NBHCP and issuance of the related CESA ITPs to the City, Sutter County, and TNBC in July 2003. The County and City's Joint Vision has also been a key benchmark for CDFW as it monitors the nearly two-decade implementation of the NBHCP by the permittees. The Projects marks an apparent departure by the County from the principles detailed in its shared vision with the City. The County's web page reads currently, for example, that the Joint Vision project has been withdrawn and individual landowners are moving forward with their own projects, including this Project and the Grand Park Specific Plan. It should also be noted that the County's web page does not appear to describe the status of the Joint Vision MOU (signed 2002, after a unanimous vote by the County Board of Supervisors). CDFW flags this issue and recommends that the County analyzes this deviation from the 2002 Joint Vision MOU. This is of particular importance because the County and City's Joint Vision has been critical to the integrity of the NBHCP and the successful management and conservation of the unique biological resources in the Natomas Basin.

Swainson's Hawk

The Natomas Basin is known for its importance to Swainson's hawk within the Sacramento Valley (NBHCP 2003). Over 100 documented nesting occurrences occur within 10 miles² of the Project area (The Natomas Basin Conservancy 2019 Implementation Annual Report). Therefore, high value foraging habitat present in a majority of the Project area could contribute to foraging ability for hundreds of Swainson's hawks in the Natomas Basin, as well as those using surrounding nests in Yolo and east and south Sacramento County, and Swainson's hawk migrating through the Project area (CDFW 2020). This highlights the Natomas Basin's unique contribution in providing valuable nesting and foraging habitat, both of which are essential for the species' life history. As such, a thorough evaluation in the EIR of the Project's impacts to both nesting and foraging habitat as independent factors will be crucial, considering the value of the Natomas Basin for the species. The EIR should cite survey methodology, specifically a full set of protocol surveys using the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Swainson's Hawk Tech. Advis. Comm., 5/2000), empirical data, and discuss how proposed avoidance, minimization, and mitigation measures for the Project are informed

² 10 miles is typically understood as the maximum distance to which a Swainson's hawk will forage during the breeding season (SSHCP 2018)

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by that information. Having this information in the EIR facilitates more efficient and detailed review and feedback from CDFW.

Much of the Project area is mapped within the Swainson's Hawk Zone (SHZ), which the NBHCP describes as the area within one mile of the Sacramento River in the Natomas Basin. The SHZ was derived from the high density of Swainson's hawk nests within this area and scientific evidence for the value of the habitat (NBHCP 2003). The NBHCP recognizes the importance of the SHZ to this species and the viability of their plan which resulted in substantial effort from the City of Sacramento and Sutter County to replan development outside of this area. Replanning efforts in the SHZ have been vital to preserve the area's ecological value and the overall goals of the NBHCP, despite the associated economic and political opportunity costs. Although the County is not party to the NBHCP, CDFW recommends the County considers the Project's 1) biological impact in an ecologically valuable area and 2) the effect that Project development in the SHZ will have on the continued implementation and viability of the NBHCP, as well as the MAP HCP.

As such, robust analysis of the Project's potentially significant effects on Swainson's hawk will be a critical part of the development of the EIR. With the Project in the SHZ, there could be several potentially significant effects to the species, both in the project-specific and cumulative context. Creating a feasible mitigation approach should be an early and focal part of the EIR development given the high utilization of the area by the species.

While typical projects often focus on initial surveys, this Project is in a particularly unique area where extensive surveys and biological resource mapping has already been completed. The most recent surveys indicated that 14 Swainson's hawk nests are present within the Project area or within a 0.5-mile radius that Project activities may impact (TNBC 2019, CDFW 2020). Due to the density of known nest sites, CDFW recommends the EIR analyze the individual nesting and foraging behavior patterns associated with each known nest pair and propose avoidance, minimization and mitigation that specifically addresses those patterns, rather than simply acknowledging presence. CDFW also recommends the EIR analyze the Project's regional impacts to the species, both to the overall persistence of Swainson's hawk within the Natomas Basin and indirect impacts to individual Swainson's hawk that may depend on the Project area's foraging habitat. Data from such studies can more effectively inform a mitigation strategy that complies with CESA.

Other Covered Species

The Natomas Basin has significant biological resources, including habitat and documented occurrences for 22 Covered Species under the NBHCP and other sensitive species. While CDFW recognizes the need for focus on Swainson's hawk and giant garter snake, further detail on the other Covered Species is needed so that all impacts to fish, wildlife, and plant resources can be adequately assessed. Specific focus on the resources likely to be most impacted, including the 22 Covered Species, and robust analysis of these species can strengthen the Project's mitigation strategy.

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ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database, which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

FILING FEES

The Project, as proposed, would have an effect on fish and wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

Pursuant to Public Resources Code sections 21092 and 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the Project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670.

CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts.

If you have any questions regarding the comments provided in this letter or wish to schedule a meeting and/or site visit, please contact Dylan Wood, Environmental Scientist, at 916-358-2384 or dylan.a.wood@wildlife.ca.gov.

Sincerely,

DocuSigned by:

778EDA8AE45F4C9...

Kelley Barker
Environmental Program Manager

ec: Tanya Sheya, Senior Environmental Scientist (Supervisory)
Dylan Wood, Environmental Scientist
CEQACommentLetters@wildlife.ca.gov
Department of Fish and Wildlife

Office of Planning and Research, State Clearinghouse, Sacramento

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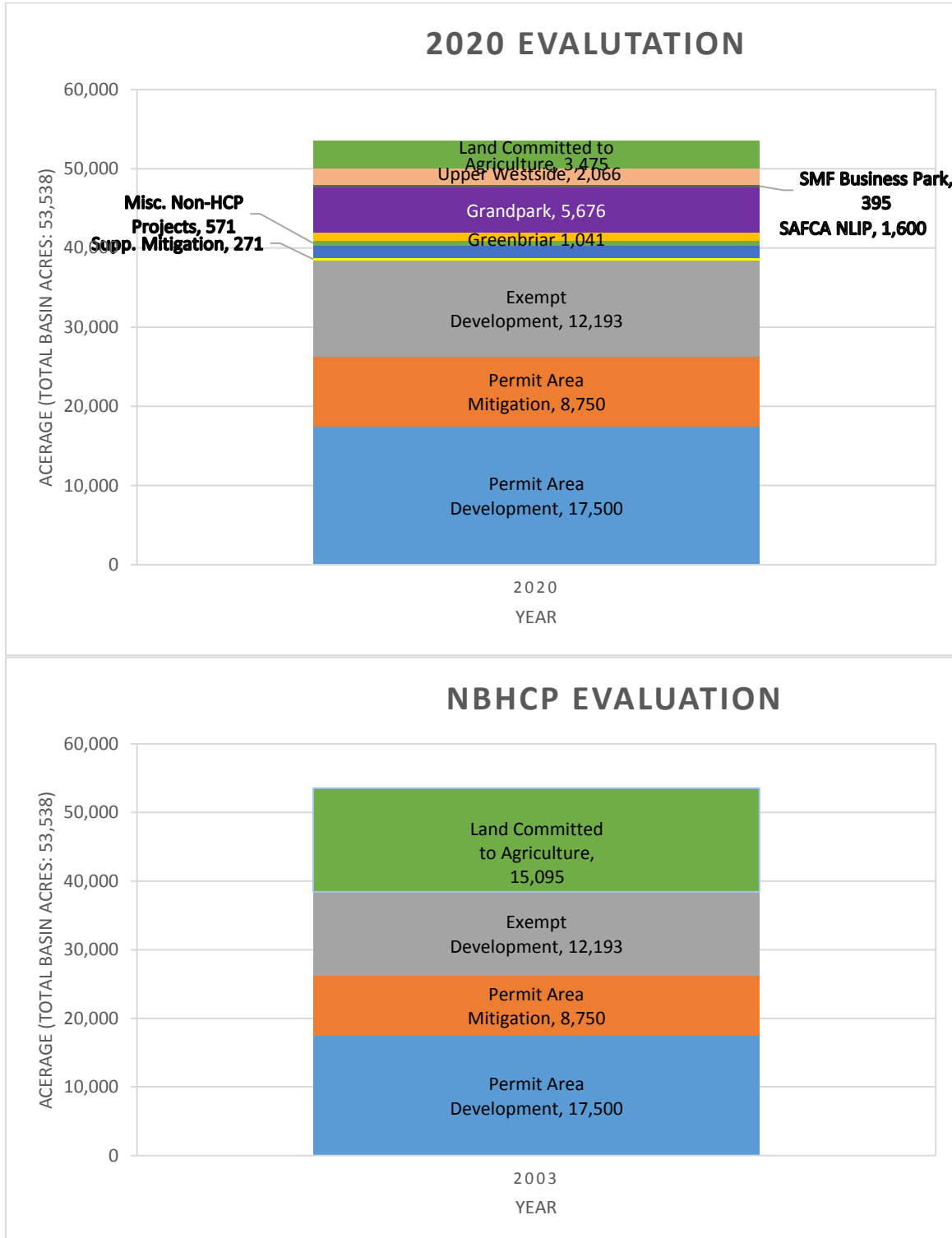
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South Sacramento Habitat Conservation Plan. 2018. Sacramento County

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Figure 1. Comparison of proposed land uses in the Natomas Basin (2020 & NBHCP signing in 2003)



Taylor. Todd

Subject: NOP of the EIR for the Upper Westside Specific Plan

From: Stewart, Adam M <adam_stewart@fws.gov>

Sent: Friday, November 6, 2020 4:14 PM

To: Smith. Todd <smithtodd@saccounty.net>

Cc: Cheryle Hodge <CHodge@cityofsacramento.org>; John Roberts (jroberts@natomasbasin.org) <jroberts@natomasbasin.org>; Doug Libby <dglabby@co.sutter.ca.us>; Mankowski, Anne <anne_mankowski@fws.gov>; Turner, Kim S <kim_s_turner@fws.gov>; Tattersall, Eric <eric_tattersall@fws.gov>; Wood, Dylan@Wildlife <Dylan.A.Wood@wildlife.ca.gov>

Subject: NOP of the EIR for the Upper Westside Specific Plan

EXTERNAL EMAIL: If unknown sender, **do not** click links/attachments.

Hi, Todd.

Due to our high volume of workload we have not been able to sufficiently review the Notice of Preparation of the Environmental Impact Report (EIR) for the Upper Westside Specific Plan (SCH#2020100069), pursuant to the California Environmental Quality Act (CEQA). At this time we have not met with the project proponents but plan to do so in the future. We can offer the following general comments at this time and will continue to work closely with Sacramento County as the Upper Westside project moves forward.

We concur with the California Department of Fish and Wildlife's (CDFW) November 6, 2020, comments regarding the potential impact of the Upper Westside project on the existing Natomas Basin Habitat Conservation Plan (NBHCP) and the Metro Air Park Habitat Conservation Plan (MAP HCP), captured in the following (indented) text from their correspondence:

CDFW stated that

“Both the NBHCP and MAP HCP are approaching their twentieth year of implementation, conserving to date more than 4,000 acres of land in the Natomas Basin. These conserved lands provide tremendous benefit to wildlife in Sacramento and Sutter Counties, and the larger surrounding region. Additional development is authorized under both plans, conditioned on in-perpetuity conservation obligations, such as land acquisition and commitments to agriculture, not yet completed within the Natomas Basin. Therefore a robust analysis of whether, in what way, and to what extent the Project may affect future implementation and the continued viability of the NBHCP and MAP HCP in the Natomas Basin is essential to the County's informed review of the Project.

CDFW appreciates the Project proponent and the County's previous commitment to prepare a related effects analysis as part of the County's review of the Project. The analysis will provide critical information essential to a meaningful understanding of the Project's regional setting. That, in turn, will also help ensure the EIR's environmental analysis is robust and includes all the potentially significant effects on fish and wildlife that may be caused by the Project.

Section 15125 of the CEQA guidelines states that special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project, while also discussing any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans. To identify any potential inconsistencies with the Natomas Basin plans and provide

special emphasis on rare or unique resources in compliance with CEQA, CDFW recommends that the EIR address, specific to the effects analysis, the following:

- Persistence of NBHCP and MAP HCP Covered Species in the Natomas Basin
- Impacts to established reserve land managed by the Natomas Basin Conservancy (TNBC)
- Reduction of available reserve land in the Natomas Basin under the NBHCP and MAP HCP (with appropriate buffers and setbacks as detailed in the NBHCP)
- Reduction of ability for TNBC to establish or enhance Covered Species range and habitats in the southern Natomas Basin
- Continued viability of the land uses in the Natomas Basin as detailed in the NBHCP and MAP HCP
- Financial impacts to TNBC and fee payers under the NBHCP and MAP HCP, including the recent action by TNBC Board of Directors and the Sacramento City Council to address related ongoing financial challenges of continuing to implement the required conservation strategy in the Natomas Basin, and
- Cumulative impact of the Project, in combination with other development in the Natomas Basin approved since 2003 that is outside of the City of Sacramento and Sutter County's permitted area under the NBHCP (e.g., levee improvements by the Sacramento Area Flood Control Agency and the Greenbriar project). A visual representation of the mounting pressure on the continued viability of the NBHCP is shown in Figure 1 (*within CDFW's comment letter*).

CDFW highlights that the County also has vested interest in the success of the MAP HCP. The MAP HCP and the related authorization under CESA served as a regulatory platform for the Metro Air Park I-5 Interchange, the Amazon fulfillment center, and other large warehouse facilities all of which provide significant economic benefit to the County. The Project's potential effect on the continued success of the MAP HCP is an important consideration for the County as it considers the proposed Project, particularly with County interest in the build-out of Metro Air Park and the MAP HCP's implementation reliance on structure provided by the NBHCP."

In addition, the FWS believes that the effects analysis prepared by the project proponent should be reviewed and approved by the FWS and CDFW. During this review process, the FWS will work closely with the project proponent, Sacramento County, CDFW, the NBHCP permittees (Sutter County, the City of Sacramento, and the Natomas Basin Habitat Conservancy), and the MAP HCP permittees (Metro Air Park Property Owners Association) to ensure that the effects analysis provided by the project proponents adequately addresses our concerns regarding the ability of the NBHCP and the MAP HCP to be successfully implemented in the future.

Thank you for the opportunity to comment. If you have any questions, please feel free to contact me.

Adam Stewart
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2800 Cottage Way, Room W-2605
Sacramento, CA 95825
916-414-6654

APPENDIX A - Supplement to IIPP

COVID-19 Response Plan

In compliance with Cal/OSHA requirements, this Appendix, as a supplement to TNBC's IIPP, addresses TNBC's plan for addressing COVID-19 in the workplace ("Plan"). Under the IIPP hazard assessment requirements, it has been determined that exposure to COVID-19 virus is a potential hazard in TNBC's workplace. Therefore, infection control measures as directed in the Cal/OSHA mandatory guidance have been developed and implemented. TNBC is committed to maintaining a safe and secure workplace and recognizes the need to formulate good risk management practices based on the evolving circumstances of the COVID-19 pandemic. The strategies and practices outlined in this Plan are intended to comply with Cal/OSHA guidance and are designed to support the protection of employees and the general public by minimizing the risk of exposure.

1. Responsibilities:

Executive Director: The Executive Director or an assigned designee has the authority and responsibility for:

- implementing the infection control measures as outlined in this Plan;
- ensuring the outlined sanitation and disinfection efforts are conducted;
- conducting regular inventories to ensure all needed supplies and personal protective equipment are available;
- making certain COVID-19 protocols and training are conducted, by providing this Plan to all employees and ensuring any questions are answered.

Senior Management: Senior Management is responsible for implementing and maintaining the infection control measures in their work areas. They are responsible for answering employee questions and setting a good example by following the guidance in this policy.

Employees: All employees are responsible for understanding and following the infection control measures and for asking questions when direction is unclear. Employees are expected to report any unsafe conditions to their supervisor.

2. Compliance: TNBC's primary goal is to prevent the spread of COVID-19 and protect employees. All employees are required to strictly adhere to all the outlined infection control measures in this policy. TNBC's compliance measures include, but are not limited to, the following:

- Informing employees of these requirements
- Training all employees on the infection control measures

- Enforcing the requirements in this policy, which may include but not be limited to disciplinary action

3. Communication: All employees will be trained on the infection control measures contained in this Plan. TNBC's communication system encourages all employees to inform the Executive Director or any member of Senior Management of any unsafe working conditions without fear of reprisal. Employees can report COVID-19 specific or any workplace hazards anonymously, if they choose. TNBC will abide by the following communication standards:

- Symptoms: Employees are expected to report to TNBC COVID-19 symptoms (as described below in section 4.1), possible COVID-19 exposures, and possible COVID-19 hazards at the workplace.
- Possible COVID-19 Exposure: Employees are expected to report to TNBC possible exposure to COVID-19 (whether that exposure occurs in the workplace or outside the workplace), so that TNBC can take appropriate action to ensure the safety of others in the workplace.
- Possible COVID-19 Hazards: TNBC encourages employee participation in the identification and evaluation of COVID-19 hazards. Employees are expected to report to TNBC possible COVID-19 hazards at the workplace.
- Accommodation: If an employee has a medical or other condition that puts them at increased risk of severe COVID-19 illness, the employee can request an accommodation. TNBC will promptly consider the request, interact with the employee about it, and take all reasonable measures for accommodation.

4. Hazard Assessment and Infection Control Measures: The IIPP regulation requires TNBC to conduct a hazard assessment to identify, evaluate, and implement control measures whenever TNBC is made aware of a new or previously unrecognized hazard. It has been determined that exposure to the COVID-19 virus is a potential hazard in TNBC's workplace. Therefore, infection control measures and communication standards are included in this policy.

4.1 Infection Control Measures.

Identification of Illness:

- Employees should evaluate themselves for signs/symptoms of COVID-19 before coming to work. These symptoms include a cough, fever of 100.4 degrees Fahrenheit or higher, shortness of breath or difficulty breathing, chills, fatigue, muscle or body aches, headache, sore throat, new loss of taste or smell, congestion or runny nose, nausea or vomiting, or diarrhea. Employees should stay home if they are experiencing any of these symptoms or are otherwise not feeling well.

- If an employee should have any of these symptoms when they arrive at work or experience any of these symptoms during the workday, the employee should alert the Executive Director and/or Senior Management, minimize contact with others, and go home. If the employee needs assistance with transportation, the employee should alert the Executive Director, who will take all appropriate steps to minimize the employee's contact with others and help arrange transportation either home or to a healthcare facility.
- Employees who are ill with a fever or acute respiratory symptoms (frequent cough and difficulty breathing) are encouraged to seek medical advice and inquire about obtaining a COVID-19 test. Employees should not return to work until both of the following occur:
 - At least three full days pass with no fever (without the use of fever-reducing medications) and no acute respiratory illness symptoms; and
 - At least 10 days pass since the symptoms first appeared.
- After an employee returns to work, the employee should promptly report any recurrence of symptoms.

Physical Distancing:

- Employee work areas shall be appropriately distanced from each other. Employees will not share their work area or use any other employee's designated workspace or equipment (i.e., computer, telephone, keyboard, and mouse). If any equipment is used, proper disinfecting should occur.
- Employees are expected to practice physical distancing by maintaining a minimum of six feet of distance from others in the workplace.
- In-person meetings should be avoided whenever possible. Video or telephonic meetings should be used as an alternative.
- Employees should not congregate anywhere in TNBC's worksite, whether in offices or the break room.
- Employees are encouraged to telework whenever possible.

Face Coverings / Masks:

- Employees are expected to comply with the California Department of Public Health's requirement to wear face coverings. A "face covering" is a material that covers the nose and mouth. It can be secured to the head with ties or straps or simply wrapped around the lower face. It

can be made of a variety of materials, such as cotton, silk, or linen. A cloth face covering may be factory-made or sewn by hand or can be improvised from household items such as scarfs, T-shirts, sweatshirts, or towels.

- Face coverings are required when employees are engaged in work, when:
 - Interacting in-person with any member of the public;
 - Working in any space visited by members of the public, regardless of whether anyone from the public is present at the time;
 - Working in or walking through common areas, such as hallways, stairways, elevators, and parking facilities;
 - In any room or enclosed area where other people (except for members of the person's own household or residence) are present when unable to physically distance.
 - Wherever required by local health orders or by orders from the CDPH.
- An employee can bring his or her own face covering to use while at work. If a face covering is needed, the employee should advise the Executive Director, who will ensure that a face covering is provided for employee use.
- The following are exceptions to the face covering requirement:
 - When an employee is alone in a room with a closed door
 - While eating and drinking at the workplace, provided employees are at least six feet apart and outside air supply to the area, if indoors, has been maximized to the extent possible
 - Employees wearing respiratory protection in accordance with applicable safety orders
 - Employees who cannot wear face coverings due to a medical or mental health condition or disability, or who are hearing-impaired or communicating with a hearing-impaired person

Hygiene / Cleaning and Disinfection:

- Frequently touched services (i.e., doorknobs, light switches, and cabinet/drawer) handles will be wiped down frequently throughout the workday with disinfectant.
- The copy machine/scanner and printer should be wiped down after every use by the user. Disinfectant will be provided in the copier area.
- Hand sanitizer is provided in TNBC office for employee use, and all are encouraged to use it frequently. Any employee performing work in the field will be provided with hand sanitizer and is expected to use it frequently.
- Soap, water, and paper towels are provided in TNBC offices for frequent handwashing. Employees are encouraged to wash hands frequently. Employees should wash hands with soap and water for at least 20 seconds after interacting with other persons and after contacting shared surfaces or objects. Employees should avoid touching eyes, nose, and mouth with unwashed hands.

General Office Practices.

- Employees shall avoid sharing equipment, including phones, headsets, desks, keyboards, writing instruments, and tools. When it is not feasible to prevent sharing, sharing shall be minimized and such items and equipment shall be disinfected between uses by different people.
- Communal food and beverages will not be provided by TNBC. No food should be shared with or served to others. Employees should avoid sharing personal items with co-workers (i.e., dishes, cups, utensils, towels).
- The refrigerator, microwave, and coffee pot housed in TNBC's break room if used are to be thoroughly disinfected by employee.
- Food may be consumed at the employee's desk or in available break room seating, as long as social distancing of 6 feet is maintained at all times. The employee must thoroughly disinfect the area after eating. All food/food containers and utensils must be taken home at the end of each day.

4.2 **Janitorial Service.** TNBC's offices will continue to be cleaned in accordance with standard practice, and additional cleaning will be conducted in common areas (including restrooms, elevators, stairways, handrails, counters, and seating).

5. Hazard Identification and Correction.

Any reported COVID-19 related unsafe or unhealthy work conditions, practices, or procedures will be investigated and, if warranted, corrected in a timely manner. TNBC will also monitor workplace conditions and will implement any necessary controls or measures in order to reduce identified hazards.

6. Confirmed Cases of Employee Exposure to COVID-19

6.1 Investigation and Response: If TNBC employee or contractor who has performed work in TNBC office is confirmed to have a COVID-19 infection, the following investigating and responding measures will take place:

- TNBC will determine the day and time the individual with a positive case of COVID-19 was last present in the workplace; to the extent possible, TNBC will also confirm the date of the positive COVID-19 test and/or diagnosis, and the date the individual first had one or more COVID-19 symptoms, if any were experienced.
- TNBC will inform all employees and independent contractors who may have been exposed and who were present at the workplace of the confirmed case.
- TNBC will determine who may have had COVID-19 exposure. This requires an evaluation of the activities of the COVID-19 case and all locations at the workplace which may have been visited by the COVID-19 case during the high-risk exposure period. TNBC will engage in efforts to determine the extent of exposure to others in the workplace. For those individuals believed to have had close personal contact with the infected individual (defined as exposure closer than 6 feet for a cumulative total of more than 15 minutes during any 24-hour period), those individuals will be notified and advised to seek guidance from their healthcare provider. When providing these notifications, TNBC will maintain confidentiality of all individuals as required by applicable law. For purposes of this policy, the “high-risk exposure period” means:
 - (1) for persons who develop COVID-19 symptoms: from two days before they first develop symptoms until 10 day after symptoms first appeared, and 24 hours have passed with no fever, without the use of fever-reducing medications, and symptoms have improved; or
 - (2) for persons who test positive who never develop COVID-19 symptoms: from two days before until ten days after the specimen for their first positive test for COVID-19 was collected.

- Any employee with close personal contact with a confirmed case of COVID-19 is expected to notify TNBC of such exposure. That employee will also be advised not report to work for a period of 14 days (during which time remote work will be provided, if possible).

6.2 **Cleaning and Sanitation:**

- Temporarily close the general area where the infected employee worked, as well as any other areas determined necessary, until appropriate cleaning is completed.
- Conduct deep cleaning of the entire general area where the infected employee worked and may have been, including breakrooms, restrooms, common areas, and equipment, with a cleaning agent approved for use against COVID-19.
- Any person cleaning the area will be equipped with the proper PPE for COVID-19 disinfection (consisting of the following or additional as warranted, disposable gown, gloves, eye protection, mask) in addition to PPE required for cleaning products.
- **6.3 Testing:** TNBC will offer COVID-19 testing at no cost to employees during their working hours to all employees who had potential COVID-19 exposure in the workplace.

6.4 **Reporting:**

- TNBC will abide by all applicable reporting obligations (i.e., to the local health department, the California Department of Public Health, the National Institute for Occupational Safety and Health, or as otherwise required by law.

6.5 **Excluded from Workplace:**

- TNBC will ensure that an individual with a positive COVID-case is excluded from the workplace until the return to work requirements listed below are met.
- TNBC shall exclude employees who have been exposed to COVID-19 from the workplace for 14 days after the last known COVID-19 exposure to a COVID-19 case.

6.6 **Return to Work:**

- COVID-19 cases with COVID-19 symptoms shall not return to work until:

- At least 24 hours have passed since a fever of 100.4 or higher has resolved without the use of fever-reducing medications;
 - COVID-19 symptoms have improved; and
 - At least 10 days have passed since COVID-19 symptoms first appeared.
- COVID-19 cases who tested positive but never developed COVID-19 symptoms shall not return to work until a minimum of 10 days have passed since the date of specimen collection of their first positive COVID-19 test.
 - A negative COVID-19 test is not required for an employee to return to work.
 - If an order to isolate or quarantine an employee is issued by a local or state health official, the employee shall not return to work until the period of isolation or quarantine is completed or the order is lifted. If no period was specified, then the period shall be 10 days from the time the order to isolate was effective, or 14 days from the time the order to quarantine was effective.

7. Reporting.

- If an employee has any questions or concerns about workplace safety and health, the employee should contact the Executive Director.
- Employees have a right to raise workplace safety and health concerns without fear of retribution or retaliation. TNBC is committed to ensuring that no adverse or retaliatory action is taken against an employee to adhere to the guidelines in this Plan or raises, in good faith, workplace safety and health concerns.

8. Benefits.

TNBC abides by all applicable requirements to provide paid leave and other benefits to eligible employee. Information about COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws is available in Appendix B of this Policy.

APPENDIX B

Temporary Expansion of Leave Provisions – COVID-19

In accordance with the Federal Families First Coronavirus Response Act (“the Act”), and subject to the monetary caps in the Act, The Natomas Basin Conservancy (“TNBC”) has implemented the following emergency provisions in addition to TNBC’s current leave policies.

Emergency Paid Sick Leave

Eligibility: Full-time employees (regardless of the employee’s duration of employment prior to leave) will be entitled to use up to 80 hours of Emergency Paid Sick Leave (“EPSL”). Part-time employees will receive a pro-rated benefit based on the average hours worked in a two-week period (calculated in accordance with the six-month period immediately preceding the effective date of this policy).

Permissible Uses of EPSL: EPSL can be used only for the following allowable reasons:

- 1) The employee is subject to a Federal, State or local quarantine or isolation order related to COVID-19;
- 2) The employee has been advised by a health care provider to self-isolate due to concerns related to COVID-19;
- 3) The employee is seeking to obtain a diagnosis because the employee is exhibiting symptoms of COVID-19;
- 4) The employee is caring for an individual who is subject to an order (as described in 1) or has been advised to self-quarantine (as described in 2); or
- 5) The employee is caring for a minor child whose school or place of care has been closed or made unavailable due to the COVID-19 precautions .

Compensation/Rate of Pay: The applicable rate of pay that the employee eligible for EPSL will receive is dependent on the reason for the leave. For leave taken for reasons 1-3 above, the employee’s full regular rate of pay applies. For reasons 4 or 5, the employee will receive pay at 2/3 the employee’s regular rate. EPSL benefits expire on December 31, 2020, and such leave benefit will not carry over to the following year. No accrued but unused EPSL benefits will be paid out in cash – either during or upon termination of employment.

Emergency Family and Medical Leave Expansion Act (EFMLA)

Eligibility: Due to the size of TNBC (less than 50 employees), no TNBC employees are eligible for leave under the regular provisions of FMLA. However, any employee who has worked for TNBC for at least 30 days (prior to the first day of requested leave) may be eligible for COVID-related emergency FMLA leave.

Reason for EFMLA: An eligible employee may take up to 12 weeks of job-protected leave if the employee is unable to work or telework due to a need to care for the employee's minor child because the child's school or place of care has closed (including if the childcare provider is unavailable) due to a public health emergency. TNBC is interpreting this new benefit to also apply to employees who stand *in loco parentis* to a minor child so affected.

Compensation/Rate of Pay: The first fourteen days of EFMLA leave are unpaid, although an employee on such leave may apply any available EPSL benefit described above to that period. An employee may also apply any other accrued paid leave once EPSL is exhausted or to supplement the EPSL benefit being applied. After the first fourteen working days of EFMLA, TNBC will pay employees at two-thirds the employee's regular rate for the number of hours the employee would otherwise be normally scheduled (full-time at 40 hours, part-time in accordance with the average number of hours the employee was scheduled per day in the preceding six months). Again, an employee may apply any other available accrued paid leave to supplement the EFMLA benefit.

Duration of Leave: Leave can be provided, on a full-time or intermittent basis, up to the employee's full allotment of leave for the allowable reason.

Reinstatement: Upon return from EFMLA leave, an employee will be reinstated to his/her original position, if the position held by the employee still exists. If the position held does not exist due to economic conditions or other changes in operating conditions caused by the public health emergency, reinstatement may not be available. In that case, TNBC will make reasonable efforts to restore the employee to an equivalent position. If reinstatement at the conclusion of leave is not available, the employer will reasonably attempt to contact the employee if an equivalent position becomes available within one year of the date the need for leave concludes or 12 weeks after the employee's leave commences (whichever is earlier).

Effective Date and Expiration – These emergency provisions (EPSL and EFMLA) become effective on the date the Act becomes effective and will remain in effect until December 31, 2020.

NEWS > ENVIRONMENT

Yolo Habitat Plan needs a business manager

Conservation is important but so is business management

By **JIM SMITH** | jsmith@dailydemocrat.com | Woodland

Daily Democrat

October 6, 2020 at 1:01 a.m.

Yolo County's long-worked-on Habitat Conservation Plan needs to be led by a person with more experience in management than conservation, the Grand Jury has concluded.

That was one of the findings in the 2019-20 Grand Jury report this week. The annual report was released this past week and looked at a number of countywide concerns ranging from school safety to election security and is compiled by a sworn group of volunteers who serve as watchdogs for local government and its institutions.

The Yolo Habitat Conservancy is a joint powers agency comprised of Yolo County and the cities of Davis, West Sacramento, Winters, and Woodland, the mission of which is to conserve natural and working landscapes, and the species on which they depend, by working with local communities and conservation partners to coordinate mitigation and implement regional habitat conservation. It's funded by the various members as well as county landowners — typically farmers.

Development and approval of the plan took about 10 years and cost millions. It was criticized by the 2015-2016 Grand Jury for both the length of time it was taking to develop, as well as the preparation cost.

Partly as a result of those criticisms, a new leadership was put in place which jump-started the work and led to its completion. In August this year, the plan received the 2020 Award of Merit for Innovation in Green Community Planning by the American Planning Association California Chapter. Earlier this year it also received the Sacramento Valley APA Section Award of Excellence in the same category.

However, the current Grand Jury notes that for developers to comply with the requirements of federal and state endangered species law it needs to be funded. In exchange for obtaining the plan's benefits, landowners and developers must pay a fee to for mitigation of the adverse effects of their development on the plan's 12 covered species and their habitat.

The plan was fully approved and permitted as of Jan. 11, 2019 and the 2019-2020 Grand Jury found that the plan as developed and approved is “well-constructed to accomplish its species and habitat conservation goals” in that it provides a centralized process for the coordinated establishment of contiguous conservation land reserves to protect those 12 species.

Those species include one plant, the palmate-bracted bird’s beak; and 11 animals, including the giant garter snake, valley elderberry longhorn beetle, Swainson’s hawk, California tiger salamander, white-tailed kite, western pond turtle, western burrowing owl, western yellow-billed cuckoo, bank swallow, least Bell’s vireo and tri-colored blackbird.

While it may be protecting species, the plan isn’t getting the needed revenue to do its work effectively. During the first 16 months of the plan’s implementation, mitigation fees received are “significantly below” the current fiscal year budget and far below the annualized projections in the 50-year model, which is affecting how well the plan is administered.

“If revenue from mitigation fees are less than expected, fewer dollars are available to pay administrative expenses,” the Grand Jury concluded. The JPA has three options for management of the plan include partnering with an existing contract plan operator that already has the expertise or experience needed to operate a successful plan; directly hire an executive director and staff as employees, or contract with the Yolo County Administrator’s Office to provide the administrative structure and services necessary to operate the plan.

“The Grand Jury found that if the plan is to endure and prosper, the Yolo Habitat Conservancy requires leadership from a person with a business management skillset who has some knowledge of conservation, as opposed to a conservation-oriented person who has some knowledge of business,” the report found.

“As written, the plan fails to anticipate a sound business and financial model for its ongoing success over its 50-year term,” the Grand Jury noted. “If the business model fails (due to poor management or insufficient revenue), the Plan’s conservation objectives will not be accomplished.”

As part of its recommendations, the Grand Jury is recommending the board of directors of the Yolo Habitat Conservancy “immediately find a person, plan operator, or other entity with the business skills needed to manage and lead the plan in the short-term as the interim executive director’s contract expires in August 2020.”

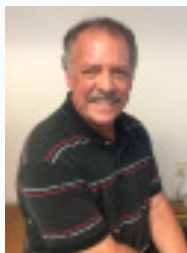
However, in the longer term, the Grand Jury recommends the board identify the specific business qualifications and skillset required for an executive director or a plan operator to manage and lead the agency.

Further, the board must match the conservancy’s staff size and composition with both its revenue and its conservation mission.

“The Grand Jury further recommends that the Conservancy’s board of directors should evaluate how well the person, plan operator, or other entity chosen to manage and lead the Conservancy is serving the needs of the plan and how well the plan is serving Yolo County and the four cities that comprise the JPA,” it states. “That evaluation should be made available to the public on the Conservancy website.”

Finally, the Grand Jury is also recommending the board of directors for the Conservancy and its member agencies of the joint powers agreement should evaluate whether the plan would be best served by partnering with an existing plan operator, such as the Natomas Basin Conservancy.

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