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**Re: DRAFT ENVIRONMENTAL IMPACT REPORT for the PROPOSED KAMMERER/99 SPHERE OF INFLUENCE AMENDMENT APPLICATION for the CITY OF ELK GROVE**

Dear Mr. Lockhart,

This letter provides comment from the Environmental Council of Sacramento (ECOS) and Habitat 2020 regarding the Draft Environmental Impact Report (DEIR) for the Kammerer/99 Sphere of Influence Amendment Application (SOIA) for the City of Elk Grove. We also include and incorporate by reference the comments on this DEIR made by Friends of the Swainson's Hawk (FOSH).

The Environmental Council of Sacramento (ECOS), a 501c3 organization, and Habitat 2020, the Conservation Committee of ECOS, are partner coalitions dedicated to protecting the natural resources of the greater Sacramento region. ECOS-Habitat 2020 member organizations include: 350 Sacramento, Breathe California of Sacramento-Emigrant Trails, International Dark-Sky Association, Los Rios College Federation of Teachers, Mutual Housing California, Physicians for Social Responsibility Sacramento Chapter, Preservation Sacramento, Resources for Independent Living, Sacramento Housing Alliance, Sacramento Natural Foods Co-op, Sacramento Vegetarian Society, SEIU Local 1000, Sierra Club Sacramento Group, The Green Democratic Club of Sacramento, and the Wellstone Progressive Democrats of Sacramento, Sacramento Audubon Society, California Native Plant Society, Friends of the Swainson's Hawk, Save the American River Association, Save Our Sandhill Cranes, Sierra Club Sacramento Group, Friends of Stone Lakes National Wildlife Refuge, and the Sacramento Area Creeks Council.

## **Summary**

ECOS strongly opposes the proposed Elk Grove SOI expansion. Elk Grove's anticipated growth can be accommodated within the existing City limits, and we find no justification for expansion beyond the Sacramento County Urban Services Boundary (USB) established in 1993 to be the ultimate growth boundary within the County. The proposal is inconsistent with the Sacramento Area Council of Governments' (SACOG) Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS) for meeting State mandated greenhouse gas (GHG) reductions, Federal mandates for Air Quality Attainment under the State Improvement Plan

(SIP), as well as myriad regional goals for social equity, public health and natural resource conservation. There is an extreme lack of certainty that municipal water can be provided to this area without severe regional impacts, and the impacts to invaluable agricultural and biological resources by the proposal are potentially impossible to mitigate.

In the comments that follow, we offer a number of suggested mitigation measures that could greatly reduce eventual impacts of urbanization in this area, but this cannot be misunderstood as acceptance of the proposed expansion, we emphasize that we strongly recommend that LAFCo decline the proposed Kammerer/99 SOIA.

As to mitigation measures, we also would to reiterate a general concern for LAFCo authority, as we did in our 2013 comments for the previously declined Elk Grove SOIA proposal. Mitigation measures and conditions applied to future annexation of an SOI are not enforceable by LAFCo after annexation. To correct this ongoing anomaly for LAFCo, we would propose following language be added to any such mitigation measure or annexation condition:

At the time of submittal of any application to annex territory within the Sphere of Influence Amendment (SOIA) Area, the City of Elk Grove shall enter into a binding agreement with LAFCo, or otherwise provide legally enforceable assurances to LAFCo that will ensure the implementation of [the substance of the mitigation measure].

## **Land Use, Transportation, Air Quality, and Climate Change**

ECOS finds that the DEIR does not adequately illustrate the impacts of the proposal on GHG emissions and air quality, or adopted land use and transportation plans in a regional context.

This project is inconsistent with SACOG's Metropolitan Transportation Plan/Sustainable Communities Strategy, and in direct opposition to the intent of the State, Federal and regional goals that are represented in that collaboratively designed regional plan. The MTP/SCS represents the best regionally-cumulative analysis available in providing the most viable strategy for allocating urban growth and transportation infrastructure needs across our 28 jurisdictions while meeting State mandated greenhouse gas (GHG) reductions, and Federal mandates for Air Quality Attainment under the State Improvement Plan (SIP).

The joint MTP/SCS is the mandated product of the Sustainable Communities and Climate Protection Act of 2008 (CA SB 375), which mandates that a land use strategy be developed in tandem with the federally required regional transportation plan in an effort to reduce GHG emission from the light vehicle sector. These GHG reductions found through the nexus of land use and transportation are largely represented by reductions in Vehicle Miles Travelled (VMT), by reducing travel distance between jobs, housing and services through more compact development and increased investment and access to non-automobile modes of travel. More compact land use and increased options for traveling (through transit, walking and biking) simultaneously offer significant benefits to public health and social equitable housing, and preserves our natural and working lands, as well as associated biodiversity and ecosystem services such as carbon sequestration, flood abatement, and groundwater recharge.

Considering all of the benefits the MTP/SCS strategy provides, deviation from the plan cannot be

taken lightly. Both the State mandated GHG reduction targets and the federal air quality attainment requirements were extremely difficult for SACOG to achieve in the recent 2016 MTP/SCS update. Any deviation from the plan, particularly in urban expansion outside of the SCS footprint, would pose a significant challenge for any future ability of the region to achieve these requirements (the consequences of which would include loss/withdrawal of substantial Federal and State infrastructure funding).

Considering that there is no wiggle room in the current strategy, the only way the MTP/SCS could accommodate expansion of Elk Grove (or any jurisdiction) beyond the SCS footprint and still meet State and Federal requirements would be to take growth away from all the other jurisdictions in the region. ECOS would claim this is not good (or neighborly) planning.

Further, State mandates to reduce GHG and VMT are getting stronger. California recently passed SB 32 (extending AB 32 and previous executive orders) to reduce GHG emissions from 1990 levels by 40% by 2030 and 80% by 2050. The California Air Resources Board (CARB) is in the process of finalizing the GHG Scoping Plan to meet these goals across sectors including the revision of the regional GHG targets of SB 375. CARB has found that GHG reductions from other sectors including energy production, energy efficiency, clean fuels, and clean vehicles will not achieve these goals alone, that much more VMT reduction through improved land use and transportation strategies are absolutely needed as well.

While it is not possible for LAFCo to account for State action that has not yet been finalized, the reality is that SACOG's GHG reduction target is likely going to be increased to some degree, and that additional State measures are likely to be taken to reduce VMT beyond what is required from SB 375--the primary mechanism by which to do this is to reduce outward urban expansion, and increase densities with existing urbanized areas.

The region needs to reduce VMT significantly, and there is no way that expansion into this area can reduce VMT—and no amount of GHG reductions from other strategies taken in the SOIA area will be able to offset the GHG emissions from increased VMT that would be inherent in urbanization of this area. We need all those strategies, and VMT reduction.

Impact 3.11-6 in the SOIA DEIR, projects that future development could facilitate population growth of 4,000 to 5,000 dwelling units and creation of 18,000 to 20,000 jobs. Future development could generate the addition of 13,000 to 16,250 people to this new area. SACOG growth projections for Elk Grove (in total) for the next 20 years is 13, 909 houses, and 19, 863 jobs (SACOG growth forecast, MTP/SCS Preferred Scenario staff report, Attachment C, March 26 2015). All of SACOG's anticipated housing growth can easily be accommodated within vacant land of existing communities and new developments already being planned in new development areas of the existing City, including Laguna Ridge, Lent Ranch, and the Southeast Planning Area (SEPA).

Elk Grove has repeatedly made the claim that it must expand to focus on job centers that will correct its greatly imbalanced jobs-housing ratio. This is a worthy goal, but again, this can be done within the existing City limits. The Southeast planning area alone, by Elk Grove's projection, will accommodate more than 20,000 jobs. Add SEPA projections to the projection for the Kammerer-99 SOIA, and these two projects alone are well more than double what SACOG anticipates as feasible in a regional analysis.

We feel that the job growth projections of the SOIA proposal are unrealistic, and that, as has been observed time and again in Elk Grove, this land will end up being low-density housing with little nearby job opportunity. But if we were to presume that Elk Grove did attract this extreme number of jobs, a significant amount of them would almost necessarily be drawn from other jurisdictions in the region—What would be the cumulative economic effect of that potentiality?

Looking at this SIOA through a regional lens should be the foremost priority for LAFCo, a lens that we feel has not been adequately provided by the DEIR. New expansion proposals aside, there are already extreme disparities between the existing growth plans of the individual jurisdictions of the region and the MTP/SCS. As illustrated in the table below, the region’s cumulative General Plans anticipate over 660,000 housing units beyond 2012 stock -- well more than twice the MTP/SCS estimate of 285,000.

Jurisdiction/Community Type	Existing Conditions		MTP/SCS		Cumulative General Plans		Difference	
	Total in Year 2012		Total in Year 2036		Total at Build Out		Build Out minus Projected Year 2036	
	Jobs	Housing Units	Jobs	Housing Units	Jobs	Housing Units	Jobs	Housing Units
Region Total	887,965	903,451	1,327,323	1,188,347	2,234,929	1,564,662	907,606	376,315
Center and Corridor Communities	307,652	107,718	459,750	193,885	633,282	236,212	173,532	42,327
Established Communities	527,095	686,075	742,211	764,825	1,018,936	805,215	276,725	40,390
Developing Communities	20,037	31,422	88,922	146,258	365,796	281,782	276,874	135,524
Rural Residential Communities	33,181	78,237	36,441	83,380	64,341	117,802	27,900	34,422
Areas Not Identified for Growth in the MTP/SCS by 2036					152,574	123,650	152,574	123,650

\*(Data drawn from SACOG housing forecast: April 9th, 2015 staff report, pg56)

More than half of these new units would be located in previously undeveloped "greenfields," with more than 2 times the growth in SACOG's "Developing Community" areas, and 8 times more growth in "Rural Residential" areas.

More than 120,000 planned units are completely outside of the SCS footprint, and this figure does not even include major potential expansion areas that are currently being pursued, including Cordova Hills, Natomas “North Precinct,” Folsom’s “studies” to expand further south of Whiterock Rd., and the three the current applications to expand the City of Elk Grove.

These expansion areas alone could add up to more than 100,000 additional housing units outside of the SCS. With the very important natural resource considerations in these areas aside, these expansions would be a severe blow to any possibility of successful implementation of the SACOG transportation plan as it is conceived.

ECOS anticipates that regional population and housing numbers in twenty years will probably be closer to SACOG's projections than that of the jurisdictions’ general plans; the question is where will the growth be? If peripheral growth is allowed to proceed at the rate it is being planned for now, there will not be enough demand later for the infill required in the MTP/SCS to achieve the densities necessary to meet our State VMT/ GHG reductions and Federal air quality mandates.

Elk Grove's complaints that they have run out of space for job growth is a (correctable) problem of their own making, and they need to work to correct it within their existing footprint (and within the regional plan) before they are given more land at the expense of the region and the Public Trust.

Further, it is not acceptable to ECOS to approve the SOIA with a condition that any future annexation of the area will be contingent on SCS compliance. **An SOI approval must be contingent on SCS compliance** at the time of approval: one, because the 20-year horizon of the MTP/SCS is the same time horizon that LAFCo considers as timely (referenced multiple times in LAFCo's Municipal Services Review of this SOIA), and two, because the prospects of agricultural and biological resource conservation are already greatly damaged by approval of the SOI due to the inevitable sky-rocketing of speculative land values in the SOIA—this is of particular concern in this case because of the limited land area available for successful implementation of the SSHCP.

## **Water**

These comments pertain to Section 3.10 Hydrology & Water Quality and Section 3.15 Utilities and Service Systems

### **Cumulative Growth and Ability to Supply Water Consistent with Sustained Yield Mandates Is Threshold Issue**

Water is an essential service for prospective urban development and an important factor in the LAFCo approval process. The availability of water to meet the competing needs of habitat, agriculture and urban uses is an ongoing and increasingly acute issue in the Sacramento region and elsewhere in the state. This is one of the threshold issues facing LAFCo and it is vitally important that careful consideration be given to the environmental impacts of delivering urban water to the project within the context of regional efforts to maintain a sustainable groundwater yield for the American and Cosumnes groundwater Basins.

The importance of the proposed SOIA Area expansion is magnified because the expansion area is outside of the Sacramento County General Plan Urban Service Boundary (USB). Established in 1993, this boundary demarcated the long-term limit of urban growth in Sacramento County. The USB provides a basis for growth assumptions in preparing long range plans for essential urban infrastructure. The analysis underlying the development of the Water Forum Agreement was based on growth only inside the USB.

The Water Forum Agreement established a long term annual sustainable yield from the South American Subbasin (sometimes referred to as the Central Subbasin) of 273,000 acre-feet/year (AFY). The Sacramento Central Groundwater Authority (SCGA) is charged with managing groundwater resources in almost the entirety of the South American Subbasin. The SCGA has applied to the California Department of Water Resources (DWR) to be the responsible agency (officially the Groundwater Sustainability Agency or GSA) to plan and implement measures to ensure long-term sustainable use of the South American Subbasin under the requirements of the Sustainable Groundwater Management Act (SGMA) adopted by the California Legislature in 2014. They have also submitted to DWR an Alternative to the requirement that they adopt a Groundwater Sustainability Plan as required by the law. If accepted, the 273,000 AFY sustainable

yield will be incorporated into the state required plan, and 2006 will be established as the base year for measuring the long-term sustainability of groundwater in the subbasin.

Page 3.10-12 of the DEIR notes that SB610 legislation “strengthened the process by which local agencies determine whether current and future water supplies are adequate & sufficient to meet current and future demand.” The intent of this legislation was to make sure that any project requiring CEQA review thoroughly evaluates the water supply requirements of the project.

This background sets the framework for what we think is a key issue facing LAFCo: **Does approval of this project initiate development, the water demands of which could jeopardize the ability of local jurisdictions to meet their commitment to, and state law requiring, maintenance of long-term groundwater sustainability?**

### **Description of Regulatory Framework Should Better Address SCGA Role in SGMA**

#### **Implementation**

The discussion of the Sustainable Groundwater Management Act on page 3.10-14 incorrectly states that two Resource Conservation Districts have submitted notices to be the groundwater sustainability agency for the South American Subbasin. Actually three different organizations have filed. SCGA’s application applies to almost the entire subbasin. Omochumnes Hartnell Water District and Sloughhouse RCD applications involve that portion of the subbasin on both sides of the Cosumnes River east of Highway 99. The description should add the following:

*SCGA has petitioned DWR to approve an alternative to the required GSA under SGMA that recognizes their sustainable management of the groundwater basin for the past ten years. The California Department of Fish and Wildlife and others are opposing this determination. DWR will be making a decision on a timetable not yet known.*

### **Incomplete Analysis of Impacts Pertaining to Groundwater Supply**

The Analysis of Environmental Impacts pertaining to depletion of groundwater supply beginning on page 3.10-22 is incomplete. The discussion of the Water Forum Agreement on pages 3.10-23 and 24 should:

- Note that the analysis supporting the determination of a sustainable yield for the subbasin assumed no urban growth outside the USB.
- Include the graph on page ES-4 of the SCGA’s Alternative Submittal to DWR (December 2016) showing 10-year Extraction Operations within Sustainable Yield. This graph shows that total groundwater extractions were under the Sustainable Yield of 273,000 AFY, but not significantly. The average extraction during the first six years amounted to 250,000 AFY. During the next five years, the drought years 2011-15, the total groundwater extraction averaged about 215,000 AFY.

### **Water Supply and Demand Analysis Must Examine Cumulative Growth Water Demand with Regard to Sustainable Groundwater Yield Commitments**

The discussion of water supply and demand in Section 3.15 is limited to SCWA, the likely purveyor of water to the project area. This is inadequate given the threshold expansion of this project beyond the USB, the basis of all prior growth assumptions for regional water planning. The discussion must also present data regarding the cumulative impact of this and other urban development water demands on the ability to supply surface water to meet projected ultimate

M&I demand in a manner compliant with the Water Forum Sustainable Yield. Toward that end, note that the EIR for the Sacramento County General Plan Update (draft released May, 2009) concluded on page 6-47:

“As described in the Setting section, the current Zone 40 yield is 131,727 AFA. The water demand from the cities plus from the 1993 General Plan (equivalent to the Zone 40 Water Supply Master Plan) is 103,712 AFA, and the water demand from the cities plus the No Project is 109,922. Both of these amounts can be accommodated by current projected water yields. However, with the [General Plan Update] the demand increases to 136,640 AFA, which is approximately 4,913 AFA beyond projected supply and well beyond the amount planned for 2030 distribution in the Zone 40 Water Supply Master Plan. (2006 Sacramento County General Plan Update (2011), pg 6-47)”

This analysis suggests that there is a real potential that the additional water requirements of this project will worsen a predicted shortfall in supply vs demand.

## **Biological Resources**

### **Synopsis of deficiencies in analysis of biological resources:**

- 1.) Inaccurately presents environmental setting of SOIA area.
  - a. Ignores significance of nearby preserved landscapes and the fact that many species residing in those preserved landscapes forage or otherwise utilize the SOIA area.
- 2.) Ignores significance of SOIA lands in the context of cyclical flooding in the lower Cosumnes River basin.
- 3.) Ignores significance of SOIA lands in the context of the climate change and the impact of sea level rise on the north Delta, the lower Cosumnes River Basin, and the Stone Lakes National Wildlife Refuge.
- 4.) Does not fully assess the impact of the SOI expansion on the conservation strategy of the South Sacramento Habitat Conservation Plan.
- 5.) Presents incomplete list and analysis of potential covered species occurring in the SOIA area.
- 6.) Presents incomplete analysis of impacts to covered species in the SOIA area in the context of cyclical flooding in the lower Cosumnes River Basin and Stone Lakes National Wildlife Refuge.
- 7.) Ignores significance of the SOIA area for the long term survival of Sandhill cranes in the context of cyclical flooding and sea level rise due to climate change.
- 8.) Does not include analysis of the SOIA area in either the context of a wildlife movement area or as an important stopover area for wintering migratory birds.
- 9.) Mitigations do not address issues of cyclical flooding and sea level rise due to climate change.

### **Environmental Setting**

The proximity of the Cosumnes River as well as the Stone Lakes National Wildlife Refuge are mentioned, but not that of the Cosumnes River Preserve. The proximity of the Cosumnes River Preserve to the south and Stone Lakes National Wildlife refuge to the west confers to this property added biological significance as a foraging area for many species that roost or nest in

those preserved landscapes. What the DEIR lacks is a description that attempts to encompass the significant geographical and biological relationship between the SOIA area and the lands of the Stone Lakes National Wildlife Refuge (SLNWR) and the Cosumnes River Preserve (CRP). In this context, the SOIA area represents an extremely important foraging area and wildlife movement corridor for species from both SLNWR and CRP. As well, the SOIA area acts as a very important buffer to absorb direct and indirect impacts from urban activities. The removal of any part of this important foraging, wildlife movement, and buffering area will have demonstrable impacts on both SLNWR and CRP. These are not analyzed or considered. The important species survey data collected in both of these important protected areas does not even seem to have been utilized to determine the presence of listed species in the SOIA area either.

Add to this the fact that the Cosumnes River is the last remaining free flowing river out of the West side of the Sierra Nevada Mountains and that CRP and SLNWR are active floodplains that inundate cyclically every seven to ten years. Since much of the conservation in this area is within an active floodplain, upland foraging lands become critical. The SOIA area is such an upland foraging area and as such is extremely important during the cyclical inundations mentioned. This was not analyzed or even mentioned.

And further, given the relative elevations of the Cosumnes River Preserve, Stone Lakes National Wildlife Refuge, and the SOIA area, even further significance is conferred because beyond the cyclical flooding that is inherent in the Cosumnes River Preserve, there is the prospect of habitat loss to the entire of the north Delta due to global climate change and sea level rise – both topics covered in more detail elsewhere in this comment letter.

**Cyclical Flooding and Sea Level Rise Are Major Gap in the Biological Resource Analysis**

The biological resource analysis fails to consider cyclical flooding of the lower Cosumnes River Basin, the impact of sea level rise on the north Delta, and the effect of both on the greater sandhill crane and the lesser sandhill crane, as well as all other species who share same habitats. Together they comprise a major gap in the analysis.

The SOIA area lies just north of the Cosumnes River flood plain which is active and is inundated periodically, as it did this year. The Cosumnes River is the only undammed river flowing out of the west side of the Sierra Nevada Mountains, and due to past levee breaches, intentional and unintentional, the river actively floods the lower Cosumnes River basin on a cyclical basis. Severe flooding has occurred on average every seven to ten years. Recent significant flood events have occurred in 1997, 2005-2006, and this winter season. Similarly, Stone Lakes National Wildlife Refuge, both in the actual Refuge and within the legislative boundaries of the Refuge, has many low elevation areas that are also subject to flooding.

Historically, the SOIA area has provided critical upland foraging habitat for the greater sandhill crane during the frequent flood events in the lower Cosumnes basin. Dr. John Trochet worked for the Nature Conservancy and Gary Ivey in 2005 between January and March and documented greater Sandhill crane usage of agricultural lands either in the immediate vicinity of the SOIA area during a flood event (Ivey, "Mitigating Loss of Sandhill Crane Habitat in South Sacramento County, March 25, 2005). Though it has been acknowledged that significant portions of the lands in and around the Stone Lakes National Wildlife Refuge that were added to the "inventory" of the SSHCP are at or below sea level, no investigation or scientific determination has been made as to the impact of the removal of upland foraging habitat for the greater

sandhill crane, given its importance during flood episodes. Most of the preservation of sandhill crane habitat has been within the floodplain, and significant areas that are not technically within the floodplain, such as Staten Island, are at risk of catastrophic failure during significant flood events if their antiquated levees fail – this nearly happened to the Staten Island levees during the 2005-6 flood event and it was only emergency repairs that kept it from becoming a lake. A significant flood episode with inadequate upland foraging habitat remaining could have catastrophic consequences for the greater sandhill crane. Similarly, other listed and species of concern would also be impacted. This was not discussed or analyzed in the DEIR.

Beyond the cyclical flooding, global climate change and the resultant rise in sea level poses additional risks to low lying areas in the lower Cosumnes basin, Stone Lakes National Wildlife Refuge, and the entirety of the Delta. Dr. Rod Kelsey at the Nature Conservancy has done some preliminary modeling in the north Delta as part of TNC's participation in the Crane Technical Advisory Committee (a committee, formed in 2015 which includes representatives from CDFW, USFWS, DWR and the Nature Conservancy, as well as preserve managers, scientists and environmentalists, that is working on a sandhill crane conservation strategy for California) and as an exercise to refine TNC's own land acquisition priorities for sandhill crane conservation. The modeling exercise looked at conservative sea level rise predictions for between now and 2100 for the Delta and surrounding landscapes. The initial draft maps that resulted from this exercise are attached. The maps are undergoing refinement to also consider relative crane abundance, but these draft maps are still useful in demonstrating the concerns about sea level rise and the potential threats to sandhill cranes, as well as all of the other terrestrial wildlife that reside in or near the north Delta.

The first map (figure 1) depicts current high value crane habitat based on suitable ground cover-type and distance from established roost sites (within a 2 mile diameter of established site). This draft map has yet to be adjusted for relative abundance of cranes, which would increase the priority of available habitat close to roost sites with greater numbers of cranes. The second map (figure 2) depicts the areas that are at risk of permanent inundation based on conservative sea level rise predictions, relative existing elevations, and potential for levee failure. Virtually all of the lands currently conserved for greater sandhill cranes are at risk of being lost. This realization has resulted in the need to rethink long term conservation strategies for sandhill cranes in the Delta and its surrounding landscapes, not to mention all of the other listed and special concern species that share the same landscapes. The third map (figure 3) attempts to depict how conservation priorities need to shift to address the threat of sea level rise. It attempts to balance the importance of habitat near historic roost sites with the need to shift populations to the east where there is higher elevation and thus more sustainable long term habitats.

The SOIA area falls squarely within the highest priority long term areas for conservation due to its proximity to existing roost sites, its relative higher elevation, and its critical position as a bridge to the east for both Stone Lakes National Wildlife Refuge and Consumnes River basin crane populations. The loss of the SOIA area was not analyzed looking at the effects of climate change on sea level rise and the resultant loss of lower elevation habitat. Because of both the increased importance for foraging during cyclical flood events and the long-term importance for conservation for the greater sandhill, and other listed and species of concern, because of impacts of climate change, the loss of the SOIA area would result in potentially significant and unavoidable impacts to greater sandhill cranes and lesser sandhill cranes. Even doing all of the

land acquisition part of the proposed mitigations within the SOIA area footprint, and not within lower elevation areas subject to cyclical flooding and sea level rise, would not necessarily fully mitigate for the loss of even a portion of the SOIA area because though the importance of the upland forage areas south of Elk Grove has been established, the threshold for how much of that land needs to remain available for the long term conservation of the sandhill crane, and other listed species and species of concern, has not been determined.

### **Impact on the South Sacramento Habitat Conservation Plan**

The SSHCP has to be able to assure that it can successfully implement the conservation strategy which is the heart of the Plan. One of the issues with this SOIA application and the SSHCP is that in the western portion of the SSHCP plan area it undermines the “feasibility of acquisition,” which reflects the likelihood of being able to successfully acquire the necessary amount of mitigation land. The “feasibility of acquisition” is expressed as a percentage of the available “inventory” that must be purchased to meet mitigation needs – the higher the percentage the harder it is to meet the acquisition needs. A “feasibility” of 50% means that half of all suitable land in the “inventory” side of the Plan area would need to be purchased to comply with the conservation strategy. Since lands will only be purchased from willing sellers, the likelihood for success would be extraordinarily small. The current “feasibility for acquisition” in the western portion of the plan area is close to the 15% that the California Department of Fish and Wildlife feels will ensure that enough willing sellers can be found to complete the land acquisitions required in the Plan. The mitigation needs of the SOIA area would drive that number upward above that which the CDFW feels is acceptable.

The fact that Elk Grove is no longer a participant in the SSHCP does not change the fact that they would need to be doing land acquisition mitigations in the same footprint as the SSHCP. The impact to the SSHCP is doubled by the fact that any SOIA approval would remove needed acreage from the “inventory” side of the plan (the side where land is acquired) reducing the available footprint that the SSHCP has to do its own mitigations, and then it would remove another equal amount of land from the “inventory” side of the Plan because it would have its own land acquisition mitigation requirements to fulfill. So as an example, if LAFCo approved an expansion in the SOI of 1000 acres, the hit to the SSHCP’s inventory of available lands for acquisition would be 2000 acres. If LAFCo required that land acquisition requirements needed to be fulfilled within the footprint of the SOIA area, the impact to the SSHCP’s inventory would be halved.

Mitigation should also require that federal and state take permits for all species covered by the SSHCP be obtained prior to annexation to ensure consistency with the SSHCP.

### **Wildlife**

This section is misleading in that it portrays the agricultural nature of the SOIA area as providing “low value habitat for most wildlife species because of an overall lack of native vegetation and natural communities, and a high level of disturbance from agricultural activities and vineyard operations.” It further lists common species like: “mourning dove (*Zenaida macroura*), American crow (*Corvus branchyrychos*), mockingbird (*Mimus polyglottos*), house sparrow (*Passer domesticus*), and raccoon (*Procyon lotor*)” as the species most likely to use the SOIA area. This characterization completely ignores the acknowledged significance of agriculture in the habitat mosaic in the south county, a significance prominently evident in the SSHCP as well as the land acquisition strategies of both the Cosumnes River Preserve and the Stone Lakes National

Wildlife Refuge, not to mention the Migratory Bird Conservation Partnership with the Audubon Society in collaboration with Point Blue Conservation and the Nature Conservancy. Numerous species (up to 238 according to K. Shawn Smallwood's attached comment letter from the 2011 Elk Grove SOIA expansion DEIR), including many covered species, rely upon the south Sacramento agricultural landscape for their survival.

This section, and the DEIR in general, also ignores the significance of the SOIA area as an important area for wintering migratory waterfowl. It is not unusual to see sizable flocks of waterfowl foraging in agricultural fields in the south county during the winter. A far more accurate and appropriate representation would have been: The agricultural cover-types evident on the SOIA lands provide important foraging opportunities for many wildlife in the south county and are considered an important part of the habitat mosaic that those species rely upon.

And further, this section, and the DEIR in general ignores the importance of the SOIA area as a wildlife movement corridor. The geographic position of the SOIA area makes it an available thoroughfare for movement of species from the lower Cosumnes River basin to Stone Lakes National Wildlife Refuge, and it serves as an important foraging area that coheres those two preserved landscapes.

#### **Field Survey**

It is important to note that the field survey was conducted in March which is after most of the wintering waterfowl, and some of the raptors, would have left. It is also important to note that the survey was conducted after a long period of drought which resulted in many wintering species being more constrained to managed habitats that had available water. It is also important to note that the field survey was not done at a time when cyclical flooding was occurring along the lower Cosumnes River. The survey as a result was far from either comprehensive or representative of the wildlife species that utilize the SOIA area.

There was other pertinent field survey information that was available in the administrative record of the 2011 Elk Grove SOIA application and associated environmental documents and comment letters. We have attached a letter from that record prepared by Shawn Smallwood PhD for Friends of the Swanson's Hawk in November 2011 commenting on the 2011 Elk Grove SOIA LAFCo application and associated environmental documents. The letter remains pertinent to this DEIR with the possible exception of vernal pool resources noted elsewhere in the footprint of the larger SOIA application. Dr. Smallwood brought up very important concerns regarding the lack of analysis of wildlife movement corridors as well migratory bird stopover habitat which are equally relevant problems in the current DEIR. As well, his list of possible species present is far more accurate and comprehensive than that used in this DEIR and in some cases is substantiated and verified for presence by his own observations in the field (such as the presence of Copper's hawk and long billed curlew). It is useful to refer to his list of possible species for occurrence when considering what Special Status wildlife should be considered for analysis.

#### **Special Status Wildlife and the reliance on the CNDDB**

It is fairly clear that the CNDDB (California Natural Diversity Database) was the main source of information that was used in determining what special species should be considered for analysis. The CNDDB states that "(i)t is a positive detection database. Records in the database exist only where species were detected." The CNDDB states as a disclaimer to use of its

databases: “We work very hard to keep the CNDDDB and the Spotted Owl Database as current and up-to-date as possible given our capabilities and resources. However, we cannot and do not portray the CNDDDB as an exhaustive and comprehensive inventory of all rare species and natural communities statewide. Field verification for the presence or absence of sensitive species will always be an important obligation of our customers.” This means that the absence of a record does not mean that a species is not present. It is also important to realize that for avian species there is a bias towards nesting data over occurrence data. There were and are many other available sources of occurrence data available for the vicinity of the SOIA area including information from the Cosumnes River Preserve, Stone Lakes National Wildlife Refuge, Christmas bird counts (the Rio Cosumnes count includes the SOI area), and EBird to list a few – not to mention Dr. Smallwood’s attached letter.

Reviewing some of this other available data, and a literature search of specific species, indicates species that should have been included in the analysis that weren’t, species that were dismissed as occurring that shouldn’t have been, as well as at least one factual mistake.

Some of the additional special status avian species that should have been considered based on occurrence information from Christmas bird counts for the Rio Cosumnes Area, as well as species occurrence data from the Bufferlands and the Cosumnes River Preserve, and Dr. Smallwood’s letter, are: double crested cormorant, white faced ibis, whimbrel, long billed curlew, California gull, golden eagle, bald eagle, golden eagle, cooper’s hawk, sharp shinned hawk, ferruginous hawk, prairie falcon, merlin, short eared owl and Lewis’ woodpecker. For some of these ignored avian species, the SOIA area is an important habitat, like the long billed curlew. We again caution on relying solely on the CNDDDB for analysis of these species and suggest a deeper literature review as well. As an example, long billed curlew habitat is commonly listed as grassland, but a more in depth review also indicates that in the Central Valley of California it commonly uses agricultural fields as well, and has a marked preference for irrigated alfalfa and irrigated pasture (Shuford et al, “The importance of Agriculture to the Long Billed Curlew in California’s Central Valley in Fall”), both of which are present in the SOIA area (also refer to Dr. Smallwood comment letter for further evidence of long billed curlew presence).

Some additional mammalian species that should have been considered are: ornate shrew, pallid bat, spotted bat, Townsend’s big eared bat, western mastiff bat, and California kangaroo rat. For reptiles, the coast horned lizard should have been considered and analyzed.

Species that were dismissed but shouldn’t have been are:

- 1.) Tri colored blackbird – similarly to the CNDDDB, the potential for occurrence seems to be based solely on nesting occurrence. As stated in the potential for occurrence there is/was a nesting colony within a mile of the SOIA area. As such the SOIA lands provide excellent foraging opportunities for this species and should be considered to occur.
- 2.) Mountain Plover – Christmas bird counts for the Rio Cosumnes area (which includes the SOIA area) have regularly included this bird. As well, given that the “known range” is to the west of I-5 it would be extremely likely that this bird would frequent appropriate habitat just to the east, and if it were on private land it would not likely have been recorded in the CNDDDB.
- 3.) Western red bats can utilize orchards for roosts and then forage in surrounding croplands. It should not have been dismissed as unlikely to occur.

Factual errors:

- 1.) The greater sandhill crane does breed in California, but not in the Central Valley. Well known breeding locales include the Modoc National Wildlife Refuge and surrounding private lands, areas around Tule Lake, and Sierra Valley in the Sierra Nevada Mountains, to list a few.

### **Mitigation Measures**

The proposed mitigations do not reduce the impacts to less than significant for any of the biological species discussed because they do not take into consideration the cyclical flooding in the lower Cosumnes River basin or the effect of sea level rise in the north Delta and surrounding landscapes. Even the plant species will need corridors to higher ground, as well as nearby higher ground alternatives for habitat for survival.

For many of the species considered, and for ones that should have been considered, it is not known if it will be possible to mitigate the impacts to less than significant because of the importance of nearby upland areas in the context of sea level rise.

### **Growth Inducement**

Impact 3.11-6 indicates that future development could facilitate population growth of 4,000 to 5,000 dwelling units and creation of 18,000 to 20,000 jobs. Future development could generate the addition of 13,000 to 16,250 people to this new area. Therefore the DEIR concludes that growth inducing impacts are considered significant.

The mitigation measure for this impact concludes that there is no feasible mitigation to reduce the growth inducing impacts and therefore the impact is significant and unavoidable. While we would agree that the impact on growth inducement is significant, we strongly disagree that it is unavoidable.

Mitigation for other impacts concerning habitat loss and loss of agricultural lands are recognized in other portions of the DEIR. Locating these habitat and agricultural mitigation land acreages at the south periphery of the proposed project would also serve as mitigation for growth inducement.

This is not a new concept. ECOS's settlement agreement with the Southeast Connector JPA included exactly such provisions. Mitigation for habitat and agricultural land loss was to be located to the southeast of the Connector, thereby limiting the growth inducing impacts of the expanded roadway. Section 2(e) of Exhibit A indicates, "The expenditure of funds for implementing mitigation measures in the FPEIR (including but not limited to open space, habitat, preservation of agricultural land, and mitigation for growth inducing impacts), including Measure A funds (\$15 Million) and any additional mitigation funds secured by the JPA for the project, will be preferentially utilized to reduce growth inducing impacts of the Project while maintaining consistency with the SSHCP and at the same time also fulfilling the required mitigations of direct and indirect impacts of the project."

By not locating habitat and agricultural land mitigation acreage at the south periphery of the project, it is highly likely that the City of Elk Grove will expand even further to the south further increasing growth inducing impacts and destroying valuable habitat and agricultural lands. We

therefore submit that this is a viable and legally defensible mitigation measure for the growth inducing impacts of the current project.

*Mitigation Measure for Impact 3.11-6: At the time of submittal of any application to annex territory within the SOIA Area, the city of Elk Grove shall submit a growth inducement mitigation plan with binding commitments to protect habitat and agricultural lands required by Mitigation Measures 3.2-1, 3.4-2c, and 3.4-4 in the area north of Eschinger Road.*

## **Conclusion**

For all of the reasons incorporated in these comments, we restate that ECOS is opposed to the proposed Kammerer-99 SOIA, and respectfully urge LAFCo to decline the proposal. We feel that this expansion proposal represents exactly the kind of irresponsible, untimely planning for growth that the Local Agency Formation Commission was established to guard against.

Thank you for your consideration and the opportunity to comment.  
Sincerely,



Brandon Rose  
ECOS Board President



Rob Burness  
Co-Chair, Habitat 2020



Sean Wirth  
Co-Chair, Habitat 2020