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February 21, 2019

Sacramento County Board of Supervisors  
County Executive Nav Gill  
700 H Street  
Sacramento, CA 95814

via email

Re: PLNP-2018-00284: proposed "Upper Westside Specific Plan",  
Tentatively on Supervisor's agenda TUESDAY, FEBRUARY 26, 2019, 9:30 am.

Dear Chair Kennedy, Members of the Board, and Mr. Gill:

This is a landowners' proposal to start the County planning process for a proposed 2,083-acre Specific Plan ("Upper Westside Specific Plan") for urban development on prime farmland (also known as the "Natomas Boot") in the unincorporated Natomas Community, outside of the County Urban Service Boundary and Urban Policy Area. It is sandwiched between the City limit and the Sacramento River, and bordered on the northwest by existing habitat preserves of the Natomas Basin Conservancy, the conservation operator for the Natomas Basin Habitat Conservation Plan.

Most of the project area is within the Swainson's Hawk Zone, a mile-wide strip of agriculture and open space land designated by the 2003 Natomas Basin Habitat Conservation Plan ("NBHCP") which is critical to the mitigation program of NBHCP. We strongly urge the Board to reject this proposal for the following reasons:

1. It would undermine the existing 2003 Natomas Habitat Conservation Plan and related protected wildlife mitigation in the Basin.
2. It is outside of the County Urban Service Boundary and fails to meet the County General Plan criteria required to permit expansion of the Urban Services Boundary.
3. The project is within a deep flood basin lacking even 100-year flood protection.

This letter does not respond to the County Staff Report because the latter is not available to us at this time. We would like ample opportunity to review and respond to the Staff Report before public hearing.

Please send separate notices of availability of all documents and hearings pertaining to proposed Upper Westside Specific Plan to Sierra Club Sacramento, Friends of the Swainson's Hawk, and Environmental Council of Sacramento at the addresses of each organization shown above. Also please send notice by email to Friends of the Swainson's Hawk at Friends of the Swainsons Hawk <swainsonshawk@sbcglobal.net>

**1. The proposed new urban development would undermine the 2003 Natomas Basin Habitat Conservation Plan and related habitat mitigation plans that have enabled the development of Metro Air Park in the County, the County owned airport, SAFCA's flood control projects which serve the County, as well as the City of Sacramento, and Sutter County's Sutter Pointe.**

The proposal directly contradicts and would undermine the Natomas Basin Habitat Conservation Plan ("NBHCP") which covers the entire Natomas Basin. The NBHCP and associated incidental take permits were required by state and federal governments as a condition of the state and federal approvals needed to urbanize within the Natomas Basin after 1991. Subsequent infrastructure projects, and Metro Air Park, have mitigated for impacts to wildlife consistent with and in support of the conservation strategy defined by the NBHCP.

The 2003 NBHCP and related documents are available on the website of The Natomas Basin Conservancy, under "Useful documents." (<https://www.natomasbasin.org/>)

The Natomas Basin Habitat Plan designates the mile-wide strip of land alongside the inland toe of the Sacramento River levee from Hwy 80 to the Natomas Cross-Canal, including most of the proposed project area, as the Swainson's Hawk Zone. The NBHCP — a binding contract between the city of Sacramento and County of Sutter, and the state and federal wildlife agencies — relies in part on the Swainson's Hawk Zone, including the project area, also known as the "Natomas Boot" continuing to remain in agriculture and open space and to be available as potential mitigation land. A map of the Swainson's Hawk zone is ATTACHED. (NBHCP Figure 13.)

It protects the Swainson's Hawk population which nests along the Sacramento River from urban disturbance and is of particular value as foraging habitat for reproduction of Swainson's Hawks because of its proximity to Swainson's Hawks' nests along the river. The success of the NBHCP in mitigating for the impacts of development on the Swainson's Hawk within the NBHCP Permit Areas (City, Sutter County, Metro Air Park) depends in large part on excluding urban uses within the Swainson's Hawk Zone and

acquiring permanent preserve lands within the Swainson's Hawk zone. The primary strategy to mitigate impacts on Swainson's Hawks caused by development authorized by the NBHCP is to avoid development within the Swainson's Hawk Zone and to acquire upland habitat inside the Swainson's Hawk Zone. (NBHCP pp. IV-28, -29; II-20. See also NBHCP pp. V-9, -10; V-20; VII-19; -20; NBHCP Incidental Take Permit p. 4, §3.1.2; USFWS Biological Opinion p. 24.)

The County had the opportunity to participate in the NBHCP but declined in the mid 1990s. Nevertheless, other key local government partners (City of Sacramento and County of Sutter, the County's Metro Air Park, and the Natomas Basin Conservancy), are permittees under the Plan and they may not take actions that undermine or conflict with the NBHCP. The County should not proceed with planning development that undermines and conflicts with conservation commitments by neighboring local governments and county's Metro Air Park as well as the Airport and SAFCA flood control projects.

The basin-wide planning for flood control and drainage, the airport, and other infrastructure includes the acceptance and honoring of the NBHCP land use assumptions. In fact, the urbanization in the Natomas Basin is only permitted because of a federal finding that the NBHCP is a regional, basin-wide habitat conservation plan that offsets the negative impacts of federal and state investments in the infrastructure which enables urban development in the Basin. Without this infrastructure, development in the Basin would be impossible.

As a practical matter, the development and removal of 2000 acres of agricultural land from the pool of potential mitigation land, and consequent requirement for additional mitigation within the Basin, would cause severe economic problems for the NBHCP mitigation land acquisition program by driving up the price of acquiring increasingly scarce mitigation land in the Basin, which would threaten the feasibility of the NBHCP. A fundamental premise of the NBHCP is that mitigation occur in the Basin to mitigate for impacts on wildlife affected by development in the Basin. <sup>1</sup>

The Upper Westside Preliminary Land Use Plan shows an area that includes 137 acres of preserve land owned or managed by the Natomas Basin Conservancy ("NBC") and is adjacent to other NBC owned or managed preserve lands. (NBC manages SAFCA mitigation lands as well as NBHCP mitigation preserves.) Urbanization in this Plan area would devalue and interfere with the mitigation purpose of the preserve lands.

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<sup>1</sup>Note: During the final NBHCP approval process by the Sacramento City Council and the Sutter County Board of Supervisors, authorization to purchase Mitigation Lands to offset the impacts of development was limited to the Natomas Basin and the "outer" ring of land between the Natomas levees and the river. **No authorization to purchase lands in Area B (out of Basin land) to mitigate impacts of NBHCP-authorized Development was granted** by the City Council and the Sutter Board of Supervisors. See 2003 NBHCP p. IV-1.

Please endorse the Natomas Habitat Conservation Plan as the best plan for the Boot.

**The proposed project fails to meet the General Plan’s criteria for allowing expansion of the County Urban Service Boundary**

The Urban Services Boundary (“USB”), which excludes urbanization in this area, is the basis for our regional air quality and transportation plans which protect our health and prevent the congestion that urban sprawl engenders. These plans are approved by federal and state governments and ensure that the region is in compliance with federal and state law. The USB is also our region’s core strategy for Climate Action and mitigation for climate change, and for planning for future infrastructure. By limiting the spread of urbanization, the region encourages compact and orderly growth, infill and transit-oriented development, and discourages sprawl and land speculation. Expanding the USB to accommodate landowners and developer’s request has the opposite effect.

**General Plan Land Use Element Policy LU-2**, p. 20, prohibits urbanization beyond the Urban Service Boundary, which defines long-term (over 25 years) plans for urbanization and extension of public infrastructure and services, and defines important areas for protecting open space and agriculture. The proposed project is outside of the Urban Services Boundary. (**General Plan Land Use Policy, Map, Figure 1**, p. 24).

**General Plan Land Use Element Policy LU-127**, p. 143, recognizes the significance of the Urban Service Boundary (“USB”). It requires that the Board make six findings before it approves an expansion of the USB. Alternatively, the Board can, by a 4/5 vote, avoid these findings if it determines that “expansion would provide extraordinary environmental, social or economic benefits and opportunities for the County.” This policy sets a much higher bar for moving the USB than normal land use decisions.

**The project fails to meet several of those six mandatory criteria for expansion of the USB, as follows:**

a. Inadequate vacant land within the USB to accommodate projected 25 year demand for urban uses. The Board cannot make this finding because:

**In fact** there is more than enough vacant land within the USB, including the cities and Urban Policy Areas, designated for urban development to accommodate projected 25 year demand for urban development, as well as thousands of acres of vacant land designated for urban development in West Sacramento (including Southport) which is very close to job opportunities in downtown Sacramento. Even the Applicant admits that “the USB may include an area that could accommodate 25 years of demand for urban uses.” (Applicants Project Initiation Attachment, p. 54.)

b. The area of expansion does not include the development of important natural resource areas or prime agricultural lands. The Board cannot make this finding because:

**In fact** the entire project area is prime farmland, as shown on the map titled “Agricultural Component, Figure 1A,” General Plan Open Space Element, Amended 2017, p. 7, which precludes including that area within the USB.

The project would develop an important natural resource area, namely the Swainson’s Hawk Zone, the biologically-rich mile-wide corridor of habitat and farmland running alongside the inland toe of the Sacramento River levee between the City limit and Natomas Cross-Canal, designated by the Natomas Basin Habitat Conservation Plan to supplement the habitat preserves established by the Natomas Basin Conservancy and to provide opportunity for the Natomas Basin Conservancy to acquire mitigation preserves adjacent to the Sacramento River riparian corridor that is important nesting habitat for the Swainson’s Hawk.

c. The proposal for expansion can satisfy the requirements of a master water plan as contained in the Conservation Element. The Board cannot make this finding because:

**In fact** there is no such document in the Conservation Element, and is no discussion of **any** water supply plan in the Application, other than applicant’s unsupported assertion that it “could likely demonstrate that it can meet the requirements of a Master Water Plan as contained in the Conservation Element,” (Applicants Project Initiation Attachment, p. 54.)

Due to Applicant’s failure to provide information about its intended water supply plan, the Board cannot find that the proposed USB expansion can satisfy the requirements of a master water plan or even the requirements of the Conservation Element. The Natomas Basin groundwater is contaminated with arsenic and other minerals, the proposed project would have no access to City’s water rights or supply because the development violates the City’s agreement with wildlife agencies (NBHCP), and the State has not approved Natomas Mutual Water Company, an agricultural water supplier, as a provider of water for municipal and industrial purposes.

There is no showing that the proposed expansion would provide “extraordinary environmental, social, or economic benefits to the County” that would justify a 4/5 vote of the Board. Thousands of acres – probably at least 10,000 acres - in Natomas Basin which are within the Permit Areas of the NBHCP and Greenbriar remain undeveloped despite being entitled for urban development for years and covered by existing community plans. (Sutter Pointe, Metro Air Park, and City, including Greenbriar and proposed Panhandle annexation.)

General Plan Land Use Policies LU 119 and LU 120 (Sacramento County General Plan, p. 131) require findings that we are not assured can be made in this case. Please review

and explain how the proposal is consistent with the criteria in these policies before proceeding with a public hearing on this application.

**3. The Board should not consider this project because the Natomas Basin is a deep flood basin lacking even FEMA 100-year flood protection and is not compliant with State-required 200-year Urban Level of Flood Protection.**

The Natomas Basin is designated by FEMA as A-99, which allows new development to occur, but is not any type of flood protection. In fact, Natomas Basin, including the project site, does not have even FEMA 100-year flood protection nor does it meet the State requirement for 200-year flood protection.

The levee improvement project was partially completed, but SAFCA lacked the money to complete it. The Army Corps of Engineers has agreed to complete the levees upgrades, but Congress must provide funding adequate for completion. The Corps' "projected date" for completion is FY 2024. (See SAFCA Executive Director's Report, December 20, 2018, p. 5, map.)

It is not known if the existing Congressional appropriations will be sufficient to complete the levee project by 2024, or at all. There have been repeated project delays and enormous cost overruns. Unrelated politically-driven decision-making within the Federal government, and overriding Federal fiscal issues arising from a record national debt, adds major unpredictability as to when, - **or if** - the levees will be upgraded to the 200-year standard.

**County General Plan Safety Element SA-16, p. 7.** requires the County to deny creation of parcels that do not have buildable areas outside the 200-year floodplain in areas subject to the state-required Urban Level of Flood Protection, such as Natomas, unless otherwise allowed in the Floodplain Management Ordinance, which specifically excludes an exception for Natomas.

County should not waste the public's time and County resources considering the "Upper Westside Project" because the Basin has not achieved the State-required 200-year Urban Level of Flood Protection.

### **Conclusion**

There are thousands of vacant acres approved for development in the City and Sutter County portions of the Natomas Basin, and County's Metro Air Park. These projects have planned infrastructure and mitigation programs. In fact, the County's Metro Air Park mitigation program would be undermined by reducing the availability of suitable mitigation land in the Basin. There is no economic rationale for considering yet more

development in a biologically important portion of the basin that lacks infrastructure and mitigation programs.

To approve planning for urbanization within an agricultural area that is part of a federal and state habitat conservation plan is contrary to the County's General Plan conservation policies. Urbanization of the Boot area would undermine the effectiveness of the Natomas Basin Habitat Conservation Plan.

For residents of Natomas, public safety, emergency evacuation, freeway and airport access and other issues may come to mind in contemplating urbanization west of El Centro and North of I-80. The current General Plan policies have many hidden benefits to residents of the City and the County.

We urge you not to approve planning for urbanization in the Natomas Basin, and specifically not to approve moving forward with the application known as Upper Westside Specific Plan.

Sincerely,



Barbara Leary, Chair

Sierra Club Sacramento



Ralph Propper, President

Environmental Council of Sacramento – ECOS



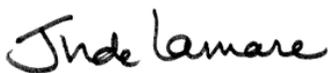
Robert C Burness, Co-Chair

Habitat 2020



Sean Wirth, Co Chair

Habitat 2020



Friends of the Swainson's Hawk



Friends of the Swainson's Hawk

Cc:

Leighann Moffitt, County of Sacramento

Dylan Wood, Jeff Drogensen, CDFW

Kellie Berry, USFWS Sacramento Regional Office

John Roberts, Natomas Basin Conservancy

CM Angelique Ashby

Attachment: Figure 13, Natomas Basin Habitat Conservation Plan

