



ECOS

ENVIRONMENTAL
♦ COUNCIL ♦
OF SACRAMENTO

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March 3, 2026

Chris Little, Chair and Members of the Commission
Jose Henriquez, Executive Director
Sacramento Local Agency Formation Commission
1112 I Street, Suite 100
Sacramento, CA 95814

Via email to commissionclerk@saccounty.gov, henriquezj@saccounty.gov

Members of the Commission and Mr. Henriquez:

Thank you for the opportunity to comment.

We remain opposed to the annexation of the Airport South Industrial Project (ASIP), and ask you to vote no.

- The staff report upon which you are asked to make a decision is incomplete and misleading.
- LAFCo is ignoring both state law and your own policies in moving this project forward.
- LAFCo is ignoring all local plans including the City and County Plans and the Natomas Basin Habitat Conservation Plan (NBHCP).
- LAFCO is making an arbitrary and capricious decision to approve annexation despite the significant negative impacts on the area's wildlife and human residents, despite your charge to preserve open space and agricultural land.

Below are more detailed explanations of our concerns and attached are letters from our legal counsel Patrick Soluri detailing CEQA errors.

Response to staff report.

The Commission should be aware that the staff report has deficiencies including but not limited to the following:

1. Page 7 re the Natomas Basin Habitat Conservation Plan (NBHCP), the staff report fails to disclose that the project area is located primarily outside the City's Permit Area designated for urban development by the NBHCP and is within the area designated in the NBHCP for permanent farmland and habitat.
2. Page 17. Under Comments and Objections, the staff report does not identify specific comments and objections from ECOS and our partners, though negative public comment before LAFCo last year was voluminous. The attached letters by our attorney, Patrick Soluri, seek to respond to this information gap in the staff report.
3. Page 19. the staff report does not mention the impact of taking project acreage out of the NBHCP conservation area and adding them to the development acreage that must be mitigated, that is, reducing the ratio of acres potentially available to the acres needing to be acquired as a result of development in the permitted area.

Other deficiencies and conflicts are noted below.

Reiteration of CEQA and procedural errors in SOI approval that affect this decision.

Attached are the letters to you from Patrick Soluri, our legal counsel, on April 2, 2025 and May 2, 2025, detailing the CEQA errors made in the ASIP SOI approval by LAFCo in May, 2025, and explaining LAFCo's abuse of discretion in violation of LAFCo policies and the Cortese Knox Hertzberg Act in that decision.

These errors also are relevant to the annexation decision process. The annexation, if approved, improperly relies on an SOI expansion that was legally flawed and cannot serve as a basis for annexation.

Further explanation on how ASIP violates Cortese Knox Hertzberg and LAFCo's own policies to avoid urbanization of agricultural land.

The staff analysis, **ANALYSIS OF STATUTORY AND POLICY CONSIDERATIONS**, which purports to consider Government Code §56668 and LAFCo Policies requiring that a set of factors be considered by LAFCo, is incomplete and inaccurate. We address major flaws here.

LAFCo policies are contained in a Sacramento LAFCo document entitled Policies, Standards and Procedures for LAFCo, abbreviated as PSP. Statutory guidance to LAFCo regarding written policies is given in Government Code 56300 (a):

"It is the intent of the Legislature that each commission, not later than January 1, 2002, shall establish written policies and procedures and exercise its powers pursuant to this part in a manner consistent with those policies and procedures and that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands within those patterns."

The Cortese Knox Hertzberg statute, Government Code 56377, guides LAFCos to avoid development of open space land outside a jurisdiction when vacant lands exist within the jurisdiction. (emphasis added below)

Gov Code 56377. In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open-space lands to uses other than open-space uses, the commission shall consider all of the following policies and priorities:

(a) Development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.

(b) **Development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency** or within the sphere of influence of a local agency should be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing sphere of influence of

the local agency.

Approval of the annexation of the Airport South Industrial Project conflicts with this basic tenet of LAFCo's enabling legislation. **The EIR specifically finds that the project impacts to LAFCo policies and compliance with Cortese-Knox-Hertzberg are significant and unavoidable. Yet the staff analysis claims the project is consistent.**

The EIR and the City's Resolution of CEQA Findings and Overriding Considerations acknowledge that "the proposed project would result in the conversion of agricultural land to urban uses and would not create new agricultural land; as such, the proposed project would lead to an overall loss of Farmland. Therefore, although implementation of the preceding mitigation measure would reduce the above potentially significant impact, the impact would remain significant and unavoidable. (DEIR, p. 4.2-17 to 4.2-18). Importantly, "soils within the proposed project site meet criteria (a) to qualify as prime agricultural farmland under section 56064 of the Cortese-Knox-Hertzberg Act. Therefore, the project would result in a significant impact with regards to compliance with LAFCo's policies related to the conversion of agricultural land to urban uses. (DEIR, p. 4.2-21 to 4.2-22)". (emphasis added)

They also note significant and unavoidable negative impacts of the project on:

Impact 4.2-4 Impacts related to compliance with the requirements of the Cortese-Knox-Hertzberg act (Government Code, Section 56000 et. seq.) pertaining to the conversion of agricultural land are significant and unavoidable. (DEIR, p. 4.2-23).

Impact 4.2-5 Impacts related to cumulative loss of agricultural land would be cumulatively considerable. (DEIR, p. 4.2-24) and the project's incremental contribution to the cumulative impact is cumulatively considerable and significant and unavoidable. (DEIR, p. 4.2-24)

Additional LAFCo Policy, Standard and Procedure Errors

Additionally, we have identified other procedural errors by LAFCo and advise Commissioners not to approve the annexation based on a flawed and arbitrary decision process. This section refers to the staff analysis, "**ANALYSIS OF STATUTORY AND POLICY CONSIDERATIONS,**" and shows that it is incomplete and inaccurate.

The Proposal Results in a Significant Unmitigable Adverse Effect Upon the Air Quality Management District

The ASIP Final Environmental Impact Report, Table 4.9-6 "Discussion of Relevant Sacramento LAFCo Policies", includes Policy 9 (included in PSP, p. 50) as follows:

"The LAFCo will deny proposals that would result in significant unmitigable adverse effects upon other service recipients or other agencies serving the affected area unless the approval is conditioned to avoid such impacts."

The EIR (and staff analysis of policy considerations) finds no impact on other agencies of the ASIP project. This finding isn't supported by the evidence in the EIR or the staff report. In fact, the EIR identifies significant impact on the air district, The Sacramento Metropolitan Air Quality Management District (SMAQMD).

The EIR undeniably identifies unmitigable regional air quality impacts (DEIR pp 81-82), including obstruction of implementation of the regional air quality plan, implementation of which is a service provided by the Sacramento Metropolitan Air Quality Management District.

The significant unmitigable adverse effects on air quality management are further discussed in the City's Resolution of Findings of Fact and Overriding Considerations (City of Sacramento, Resolution 2025-0322 December 2, 2025 Page 80-81 of 177). For example, on p. 84, "the proposed project would result in operational emissions of ROG and NOX, which exceed all applicable SMAQMD thresholds of significance. Therefore, the proposed project could be considered to result in a **cumulatively considerable** net increase of a criteria pollutant for which the project region is non-attainment. (DEIR, p. 4.3-63) " And, on page 84, "operation of the proposed project could create a conflict with or obstruct implementation of the applicable air quality plan, and a **significant** impact could result. (DEIR, pp. 4.3-44 to 4.3-46)"

The Sacramento Metropolitan Air Quality Management District (SMAQMD) was created by the California State Legislature (Health and Safety Code Sections 40960 et. seq.) to monitor, promote, and improve air quality in the County of Sacramento. SMAQMD is designated by the US Environmental Protection Agency as part of the Sacramento Federal Ozone Nonattainment Area (SFNA) which means that it is not in compliance with federal air quality standards. Nor is it compliant with state health based air quality standards. SMAQMD is responsible for monitoring air pollution within the County and for developing and administering programs to reduce air pollution levels below the health-based standards set by the state and federal governments. It is the purpose of the District and its regional air quality plan to attain national and state health based standards for air quality in the County. The District is required to prepare and update air quality plans to meet or maintain compliance with federal and state air quality standards, including attainment plans, which must show how the region will attain an air pollutant standard by a certain date; and maintenance plans, which must demonstrate how the region will continue to maintain compliance with a standard.

The SMAQMD has no authority to deny or overrule local land use decisions that conflict with or obstruct implementation of the adopted air quality plan. **However, LAFCo does have the authority and a policy mandate to deny annexation where a proposal for annexation would result in significant unmitigable adverse effects upon other service providers, such as SMAQMD. The annexation should not be approved until it can be found to be compliant with adopted air quality plans and have emissions that are less than significant.**

While the region in late 2025 attained the federal 8 hour ozone standard, the requirement to maintain consistency with the adopted air quality plan still applies to the region. As the EIR states, this project's emissions exceed the limits set by the plan. The region has not attained the state 8 hour ozone standard, and this project is not consistent with the state air quality plan. It conflicts with and impedes the implementation of the plan to meet state air quality standards.

The Proposal Imposes Adverse Impacts on the Natomas Basin Habitat Conservation Plan ("NBHCP") and its Implementation Agreement "IA"), and the Agencies Who Are Party to the NBHCP Agreement.

In 2003, after years of controversy and litigation, the City, Sutter County, U.S. Fish and Wildlife Service ("USFWS"), Calif. Department of Fish and Wildlife ("CDFW") and the Natomas Basin Conservancy ("NBC") entered into an agreement, the Natomas Basin Habitat Conservation Plan ("NBHCP") and its Implementation Agreement ("IA") which permitted some new urban development in the Natomas Basin, mitigated by wildlife habitat preserves in the Basin managed by the Natomas Basin Conservancy ("NBC") and continuing private agriculture in the remainder. MetroAirPark, a private industrial development in unincorporated Sacramento County subsequently joined the NBHCP. New Urban development is confined to designated Permit Areas. Sacramento's Permit Area is 8050 acres, Sutter County's Permit Area is 7467 acres, and MAP's is 1983 acres. The total permitted area is 17,500 acres of new urban development in the Natomas Basin. Mitigation is 0.5 acres of habitat land preserved in the Basin for each acre developed. Mitigation land is owned and managed by the Natomas Basin

Conservancy (“NBC”). All mitigation land must be acquired within Natomas Basin, to assure continuing populations of covered species within the Basin. Mitigation land must be acquired prior to disturbance of development to be mitigated. The NBHCP relies on part on the assumption that after build-out of 17,500 acres of Urban Development there will be sufficient farmland remaining in the Basin to provide habitat for wildlife species, in addition to Natomas Basin Conservancy habitat preserves. All undeveloped land in the Basin is deemed to be habitat for covered species, particularly Giant Garter Snake and Swainson’s Hawk, which are classified as “threatened” under Federal and California Endangered Species Acts.

In the lawsuit titled “National Wildlife Federation v Norton “ (2005) CIV-S-04-0979-DFL, Fed District Court, ED of Calif, Judge David Levi stated, “the court notes, however, that **the Service and those seeking an ITP [Incidental Take Permit] in the future will face an uphill battle if they attempt to argue that additional development in the Basin beyond 17,500 acres will not result in jeopardy.** The NBHCP/BiOp, EIR/EIS, and Findings and Recommendations are all predicated on the assumption that development in the Basin will be limited to 17,500 acres and that the remaining lands will remain in agricultural use.” (Id pg. 30, footnote 13).

In September 2007, the wildlife agencies issued Incidental Take Permits to City for an additional 477 acres of Urban Development, formerly Greenbriar, with a mitigation requirement of one acre preserved in the Basin for each acre developed. (Greenbriar is not an issue here.)

It is indisputable that the project as presented for annexation is in direct conflict with the provisions of the NBHCP and contrary to the agreement between the City, Sutter County, MetroAirPark, and state and federal wildlife agencies which includes in part this controlling language:

“Thus, CITY and SUTTER further agree that in the event this future urban development should occur, **prior to approval of any related rezoning or preozoning**, such future urban development shall trigger a reevaluation of the Plan and Permits, a new effects analysis, potential amendments and/or revisions to the Plan and Permits, a separate conservation strategy and **issuance of Incidental Take Permits** to the permittee for that additional development, and/or possible suspension or revocation of CITY’s or SUTTER’s Permits in the event the CITY or SUTTER violate such limitations.”
(NBHCP IA, § 3.1.1(b), emphasis added. Also see NBHCP p I-2.)

The required new Effects Analysis was completed but City failed to obtain the required Incidental Take Permits from USFWS and CDFW prior to City’s approval of preozoning on December 2, 2025. Incidental Take Permits set forth what is permitted by the wildlife agencies, the applicable mitigation measures and other permit conditions.

Having preozoned the project area without first obtaining issuance of Incidental Take Permits from the wildlife agencies, the City is now in non-compliance with its existing Incidental Take Permits, which could result in revocation of those Permits.

An easy solution would be for LAFCo to postpone action on ASIP until City negotiates and obtains issuance of Incidental Take Permits (if issued) for the project, followed by LAFCo action.

The permit process ensures that the proposed project with mitigation does not interfere with or obstruct implementation of the NBHCP, and the issuance of permits is the necessary substantial evidence to demonstrate that the impacts of the project on the NBHCP, NBC and wildlife are mitigated to less than significant. For LAFCo to rely on the City as the legitimate arbiter of those issues, and to ignore the

essential role of the wildlife agencies and the clear language of the NBHCP agreement, is arbitrary and capricious.

The wildlife agencies may or may not choose to issue those Permits. As far as we know, the City has not applied to obtain those permits. Moreover, if the current permit is revoked or suspended, as provided in the language cited since the new Incidental Take Permit was not be obtained prior to rezoning, then the NBHCP cannot serve as the foundation for the project's biological resources mitigation.

LAFCo should be concerned that the City has relied on mitigation for biological resource impacts that specifically relies upon its existing Incidental Take Permits for project impacts. Yet it has triggered the clause in the NBHCP which allows the wildlife agencies to revoke that permit. If the permit is revoked the mitigation program is void. Therefore, the mitigation program is speculative and does not mitigate impacts to wildlife and the NBHCP to less than significant, as claimed in the EIR and by the City.

LAFCo approval of the annexation significantly imposes adverse effects upon the wildlife agencies, the Natomas Basin Conservancy, the County of Sutter, and the City of Sacramento, because it does not comply with the explicit terms of the NBHCP Implementation Agreement, and the associated permits issued for Natomas development by the wildlife agencies.

Project boundaries include only revenue producing properties.

The ASIP project annexation proposal is contrary to LAFCo Policy on Boundaries (PSP, p. 29 and p. 30).

"C. Boundaries. The LAFCo will approve only applications with boundaries that do the following:

2. Provide for a mixture of revenue producing and non- or limited- revenue producing properties;"

"D. The LAFCo will not approve applications with boundaries which:

c. Are drawn for the exclusive purpose of encompassing revenue-producing territories;"

Contrary to LAFCo's own policy, the project is **entirely** revenue producing properties and City and LAFCo staff have explicitly referred to the project as desirable to the City, and justified the project as overriding all unavoidable environmental impacts, because of its revenue generation. It is rezoned entirely industrial and commercial. The City Resolution (Resolution 2025-0322 December 2, 2025 Page 104) states:

"Approval of the proposed project would generate long-term sustainable property tax, transit occupancy tax, and sales tax revenue for the City of Sacramento by way of the annexation of the project site for industrial and commercial development (Objective #3, #5, #6, and #11). The proposed project would also generate funding for the Natomas Basin HCP through payment of the HCP impact fees (Objective #12). "

Project creates a peninsula of incorporated land in an area of agriculture and habitat preserves.

"3. The LAFCo will not approve applications with boundaries which:

a. Split neighborhoods or city;

b. Result in islands, corridors or peninsulas of incorporated or unincorporated territory or otherwise cause or further the distortion of existing boundaries;" (LAFCo PSP, pp. 29-30)>

The project area is 1-1/2 miles long and 0.6 miles wide. It indeed is a peninsula between an interstate freeway to the north and several square miles of agriculture and permanently preserved habitat to the south and airport buffer lands to the west. On the eastern border are residential uses that are negatively impacted by industrial development.

As presented to LAFCO in prior correspondence and public hearing, the project area has been designated in the County General Plan for over 30 years as part of a larger area preserved for permanent agriculture and natural resources by the Urban Services Boundary, intended as a permanent urban limit line.

This is an area having a "social and economic identity" as a farmland and wildlife protection area which has been a key location for permanent mitigation land for the Natomas Basin Conservancy, Sacramento Area Flood Control Agency (SAFCA) and the Sacramento County Department of Airports. These agencies have mitigated the impacts of development in the Natomas Basin by permanently protecting open spaces uses in this area, adjacent to the project area. Intruding into this area with industrial uses degrades the current rural values that sustain the mitigation purpose and defy the NBHCP, the adopted policy of the City, Sutter County, US Fish and Wildlife and California Fish and Wildlife.

The staff report, **ANALYSIS OF STATUTORY AND POLICY CONSIDERATIONS**, states that "social and economic identity" refers to a "Community of Interest (COI). There is nothing in the PSP or Cortese Knox Hertzberg to permit this inference. Using this inference is prejudicial to the determination of whether the annexation "divides an existing identifiable community, commercial district, or other area having a social or economic identity." Again, LAFCo ignores the very real and very important interest of the Natomas Basin Habitat Conservation Plan and its signatories that the area be maintained in agriculture.

The LAFCo report says:

"In California, a Community of Interest (COI) is a contiguous population sharing common social, cultural, or economic interests that should be kept together as best as possible. They are neighborhoods or communities with commonalities—such as shared language, history, or economic concerns—that, if divided, would experience reduced political influence. These self-defined groups share common bonds like schools, transit, or culture, and cannot be defined solely by race.

Nearby COIs include the neighborhoods of Westlake to the immediate east and Northlake to the northeast over I-5; however an argument can be made that the entire Natomas area of Sacramento is also a COI. While ASIP does not physically divide any of these COIs, it does so philosophically. In their opposition to the project, many residents argue that the presence of warehouses conflicts with the residential areas and the nearby school. In response, the applicants have agreed to restrict the types of uses in the area nearest to the neighborhood, increased the size of a buffer area, change the landscaping features and to work with the residents on identifying other feasible mitigating measures.

The nearby Metro Air Park (to the north over I-5) cannot be considered a social or cultural COI, but it might be an economic one. The proposed ASIP project use is compatible with the type of economic activity in the area. The site also has features that would support the ASIP project well: an already-built freeway on/offramp and a location close to SMF.

It should also be noted that the alternative action, to deny the project, is also incompatible with the COIs. While keeping the area in agricultural production is visually pleasing to the neighborhoods, the presence of housing, active warehouses and of the school would restrict the type of agricultural activity that can occur. The site is too small to compensate for those restrictions. " (Agenda Item VI-8 Attachment A Page 3 of 9)

The LAFCo staff analysis looks in all directions except at the NBHCP and the County's Urban Services Boundary. This is an arbitrary and prejudicial analysis.

LAFCo staff analysis claims the ASIP area cannot be farmed, which is belied by the fact that it is being farmed, has been farmed for many years, and could be sold for conservation of farmland. No evidence

is provided, other than landowner claims, that the land lacks agricultural value. Moreover, ECOS and others have submitted expert testimony regarding the wildlife values of the parcel, and particularly its use by birds and the project impacts on adjacent Swainson's Hawk nesting sites. LAFCo policy analysis simply ignores this body of evidence.

The NBHCP and County Urban Services Boundary are part of a legal framework supporting a broad community interest in preserving open space. A recent scientific report underscores why this community interest is so important. The study shows that loss of birds is accelerating, especially in California, with a key driver being loss of habitat, including the intensification of agriculture. Intensification means pesticides, mechanization and scale of operations. (**"Acceleration hotspots of North American birds' decline are associated with agriculture"** François Leroy, Marta A. Jarzyna, and Petr Keil , *Science*, 26 Feb 2026, Vol 391, Issue 6788, pp. 917-921). Keeping areas in open space, like the project area, where large scale agriculture is less feasible, is an important part of keeping the bird species in our region.

Throughout its review of this project, LAFCo has disregarded the impact on the adjacent farm, open space, and habitat land use, and ignored its own policies designed to avoid such impacts. The attached map shows the project area in the broader context of this protection area. The areas labeled "Upper Westside", "GrandPark" are other landowner proposed development projects in conflict with the Natomas Basin Habitat Conservation Plan.

Summary:

We remain opposed to the annexation of the ASIP project to the City of Sacramento for the purpose of building a huge warehouse district on farmland and habitat. We recommend you postpone your decision until after the city has received the incidental take permits from the wildlife agencies, that are required by the NBHCP.


This letter is signed by ECOS, Sierra Club and FOSH.

The Environmental Council of Sacramento (ECOS) is a coalition of community-based organizations and individuals from throughout the Sacramento region, whose mission is to achieve regional sustainability, livable communities and economy, and environmental justice, as well as a healthy environment, for existing and future residents.

Sierra Club is a national environmental organization, with a local Mother Lode chapter, that among other things, promotes the responsible use of the earth's ecosystems and resources.

Friends of the Swainson's Hawk (FOSH) is a grassroots, citizens advocacy group, for the conservation of habitat for Swainson's Hawks in California.

Sincerely,



Jude Lamare
Co-Founder, Friends of the Swainson's Hawk



Robert Burness
Sierra Club Chair, Mother Lode Chapter Conservation Committee

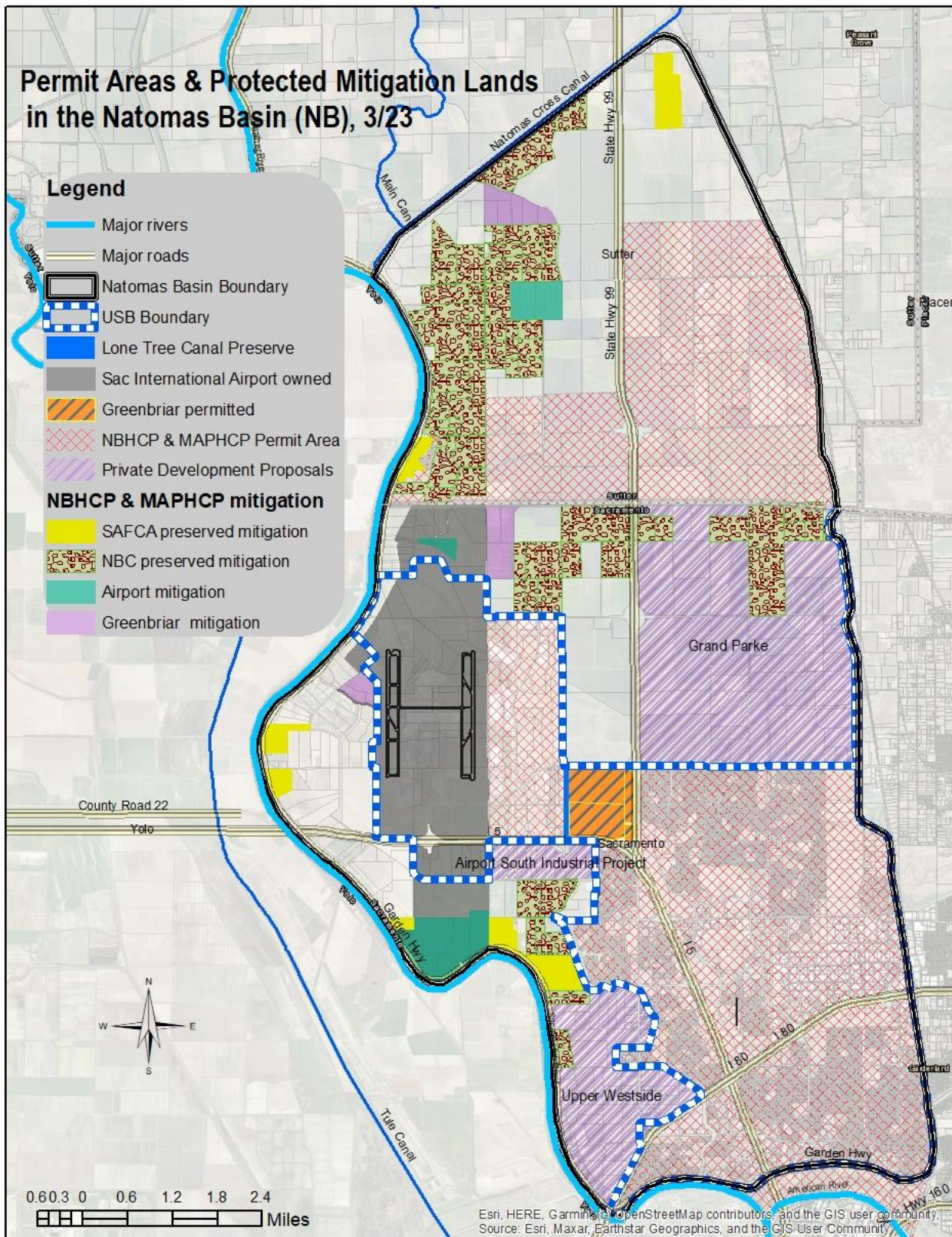


Heather Fargo
President of the ECOS Board of Directors

Permit Areas & Protected Mitigation Lands in the Natomas Basin (NB), 3/23

Legend

-  Major rivers
-  Major roads
-  Natomas Basin Boundary
-  USB Boundary
-  Lone Tree Canal Preserve
-  Sac International Airport owned
-  Greenbriar permitted
-  NBHCP & MAPHCP Permit Area
-  Private Development Proposals
- NBHCP & MAPHCP mitigation**
-  SAFCA preserved mitigation
-  NBC preserved mitigation
-  Airport mitigation
-  Greenbriar mitigation



Esri, HERE, Garmin, OpenStreetMap contributors, and the GIS user community. Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community.

