



ECOS

ENVIRONMENTAL
♦ COUNCIL ♦
OF SACRAMENTO

909 12th Street, Suite 100 • Sacramento, CA • 95814 • (916) 444-0022

April 10, 2010

Honorable Sophia Scherman
Mayor Elk Grove City Council
8401 Laguna Palms Way
Elk Grove, CA 95758

Honorable Roger Dickinson
Chair, Sacramento County Board of Supervisors
700 H Street
Sacramento, CA 95814

SUBJECT: DRAFT MEMORANDUM OF UNDERSTANDING FOR THE PROPOSED ELK GROVE SPHERE OF INFLUENCE EXPANSION

Dear Ms. Scherman and Mr. Dickinson:

This letter summarizes and elaborates on our comments to Elk Grove City and Sacramento County Staff at the March 16th, 2010 public meeting on the draft Memorandum of Understanding on the proposed Elk Grove Sphere of Influence.

Stripped to their blunt essentials our key comments are:

- The West Side Expansion is Our Big Concern
- We Still Think the SOI Expansion is Unnecessary
- The Proposed MOU is Meaningless
- The Transition Zone Concept is a Very Bad Idea
- The SOI Proposal Jeopardizes the SSHCP and the MOU Ignores This
- Benchmarks for Already-Planned Buildout are Essential
- There Is Not Enough Water—You Must Deal With It
- Flooding Could Be a Significant Future Issue.
- We Need an Independent Open Space District, with Independent and Adequate Sources of Revenue to Fund Open Space Protection, Established and fully Functioning Prior to New Fringe Development.

We hope that with these comments you will recognize the serious issues confronting the SOI expansion and the complete inadequacy of the MOU currently under discussion.

We think that action by the City and the County to adopt the MOU prior to any environmental analysis and prior to any discussion between your jurisdictions on these issues is totally inappropriate. We recommend that instead you direct your respective staff to re-open discussion on the MOU and begin addressing the issues that we and many others are raising.

Key Issue Is Expansion West of Highway 99. Much of the input during the public meetings held to date has concerned the proposed expansion into the Cosumnes River floodplain east of Highway 99. We strongly oppose the inclusion of the floodplain in the SOI, but our primary concern lies principally with the proposed expansion and urbanization west of Highway 99. It is obvious that the impetus for the expansion west of Highway 99 is being driven by politically influential land speculators and developers who intend to apply for annexation and urban development entitlements as soon as practicable if the SOI is approved.

We Remain Opposed to Expansion West of Highway 99. Habitat 2020, ECOS, and many member organizations remain very much opposed to Elk Grove's effort to expand west of Highway 99. We identified the basis for our concern in our May 22, 2009 letter to Elk Grove's then City manager Laura Gill, copied to Council members (attached). No information has since been presented in public meetings that in any way justifies moving forward with this audacious expansion.

We have repeatedly pointed out that much vacant land remains to be developed within Elk Grove, that the city has yet to demonstrate a record of responsible, higher intensity, smart growth and that the need for additional growth lands is yet to be demonstrated. Meanwhile, important issues remain unresolved concerning the adequacy of water supply, climate-induced flooding, the viability of the SSHCP, and completely inadequate protection of agricultural and natural resources outside established growth areas. We suggested in our May letter that these are the kinds of things that the City and County need to be discussing if they are going to move forward with City expansion, and that these are the issues that must be addressed in the MOI.

The Proposed MOU Is Meaningless. Yet the draft MOU addresses none of these issues. It is replete with vague and general language. Reduced to its essentials the MOU commits the City to plan for land uses that are "conceptually compatible" with an attached "Vision" in support of some nice sounding goals (Section 2); that the County recognizes these nice-sounding goals and has some of its own (Section 3); and that City and County will work together to both plan for future uses with the SOI (Section 4) and to preserve open space beyond it (Section 5).

The "Vision" states that the Cosumnes Basin is important and that City and County will cooperate and agree on a few principles, all of which are basic, obvious and already included in City and County general plans. The only item of substance is the notion of an agricultural residential area. We will have more to say about that later

The proposed MOU is a paean to future cooperation without any identified substance. There are no timelines, no performance requirements prior to annexation, no elaboration as to how the "principles" will be accomplished--in short nothing that we and others have said is essential to a serious discussion on future City growth. Instead we are offered a misguided agricultural residential transition zone that succeeds only in demonstrating the completely misplaced values of City and County staff. There is absolutely nothing in this document that gives any reason to believe that the City and County will actually follow through to implement the principles of good planning set forth in the document.

The Transition Zone Concept is a Very Bad Idea. The MOU proposes to establish an “Area of Transitional Land Uses” or ATLU both ½ mile inside and ½ mile outside the new SOI boundary. First of all, the premise that there should be rural residential land uses as a transition between urban development and permanent farmlands is suspect. Numerous nearby examples, most notably in Yolo County, suggest that the two uses can coexist. More important is the presumption that a one-mile area of one to five-acre lots will create a political barrier to further expansion. There are certainly no assurances that this will occur; it remains merely a presumption, subject to many vagaries. After all, why should landowners in the transition zone settle for anything less than urban when (on the inside of the line) their neighbors are getting urban land prices and when (on the outside of the line) the SOI has already been moved once to accommodate more urban growth?

The proposal would perhaps be worth debate if there were some commitment by the City and County to protect open space beyond the ATLU. The MOU lays out two options—transitional uses and clustering. Clustering at least has the potential to secure some amount of land south of the transition zone as permanent open space. Yet the MOU is silent as to how the clustering option would work, let alone *if* it would work. Clustering would necessarily require development rights transfers, a tricky and politically volatile strategy that has generated considerable opposition when previously proposed in Sacramento and other jurisdictions. Clearly, the option of transitional uses with no protection beyond is the path of least resistance and is most likely to result.

The additional acreage South of Essinger proposed for agricultural residential development would place even further demands and pressures on the SSHCP. This new development would remove crucial inventory lands from the “receiving” side of the Plan and require equivalent mitigation for their take. As discussed in the next section, the required acquisitions for Zones 8 and 9 are already in the realm of improbability to impossibility. It will simply not be possible to acquire the preserve lands required in Zones 8 and 9 with the inclusion of this Proposal – the math is plain and clear.

Finally, the contemplation of significantly more agricultural residential land--an inefficient, land-intensive development pattern that reduces agricultural productivity and consumes natural habitat--cannot be supported by the environmental community.

The SOI Proposal Jeopardizes the SSHCP and the MOU Ignores It. The proposed MOU blithely assumes that the additional urban development contemplated by the SOI expansion can be folded into the preliminary draft South Sacramento Habitat Conservation Plan (SSHCP). Yet that is not at all the case. Data in the HCP actually make a strong case that it would be premature to include the SOI expansions in the take area. With the SOI in place, the SSHCP implementing entity would have to acquire 85% of available mitigation lands within Zones 8 and 9 to meet mitigation requirements. Without the SOI expansion, mitigation needs would equate to 60% of available lands. The calculations assume static conditions, i.e. no unforeseen activities outside the USB that would consume land and require mitigation outside the USB. In this context, 60% is already an extremely ambitious target; 85% is unachievable without the use of eminent domain. The 25% increase between the two scenarios represents lands that would cost significantly more and

transactions that are would be much more difficult to conclude. They would overwhelm the HCP.

It is worth noting as well that the City's proposed SOI expansion would, if approved, result in development of and impacts to the area with the highest concentration of nesting and foraging habitat for Swainson's Hawks in the Central Valley. With the addition of City's proposed 10,000 acres of expansion, basic assumptions of cumulative impacts due to habitat loss on listed species such as Swainson's hawk and Greater Sandhill Crane need to be revisited.

We would also point out that the City's cursory examination of whether or not the SOI would be problematic for the HCP as written did not include a consideration of basic biological factors. The Gibson Skordal letter prepared by biological consultants to defend inclusion of the SOI area west of Highway 99 into the SSHCP states that it did not address the quality and availability of lands suitable to mitigate for the effects of development within or induced by this sphere increase.

For these reasons, we have argued and continue to believe that *inclusion of the SOI in the scope of the HCP would create a plan that state and federal regulatory agencies **could not and would not approve***, a situation that puts into jeopardy of the completion of the Zone 40 surface water delivery project on which the successful completion of an HCP for the South County is a prerequisite.

The City and County need to recognize this reality and set about examining how mitigation of habitat losses would be accommodated without inclusion in the SSHCP. These discussions must be part of the MOU. They must take into account the added loss associated with the agricultural residential land uses proposed in the transition zone. They must take into account the likely significant mitigation that will be associated with any peripheral canal/tunnel and its large fore bay just to the west of Elk Grove. And they must take into account the need to provide the same like-for-like mitigation within a nearby zone of the same habitat , as well as not compromise the minimum requirements for acquisition of preserve land in each zone.

Benchmarks for Already-Planned Buildout are Essential. One consistent message of the public meetings on the SOI proposal is that Elk Grove needs to establish a better track record of responsible smart growth. We understand that the City is clarifying its inventory of vacant land and holding capacity. We support an accurate and unbiased assessment. We believe that the numbers will continue to indicate substantial remaining holding capacity. Just as important is information on infill/redevelopment opportunities for increased development intensity, and a sober assessment of population and job growth allocations based on third party analysis. We have yet to see any movement toward gathering this information.

A very significant concern is that a speedy SOI approval and annexation process will open up the possibility of new development at the very southwest corner of the Sacramento urban area well before available land in the existing City has been developed. This will accentuate urban sprawl and undercut the pace and success of infill development projects. Frankly, we have the same issue with the County's General Plan Update. For all the talk of smart growth, VMT and carbon emission reduction, this county is very much proceeding along the model of traditional urban

sprawl. It is not at all unreasonable for the public to demand demonstrable progress with intensifying our existing urban area before we make additional commitments to move outward. The City keeps repeating that the SOI is necessary to plan for the very long term. If so, then there should be no objection to a serious discussion of substantive benchmarks for existing development prior to annexation. And the County should be doing the same with its General Plan Update.

There Is Not Enough Water—You Must Deal With It. Simply put, there is not enough water to accommodate urban development within the existing Urban Service Boundary (USB), let alone the additional land contemplated by the SOI Expansion. The Environmental Impact Report for the Sacramento County General Plan Update is very clear: there is not enough secure surface water and sustainable groundwater yield to accommodate the amount of new development proposed within the South County and the Zone 40 area. This does not even account for the remaining lands inside the USB that are contemplated for Urban Development. The Water Forum Agreement was based on the premise of no development beyond the USB, assumed a very substantive 26% increase in water conservation to achieve its goals, and assumed 273,000 acre-feet/year of sustainable yield. We believe that until substantive progress in actually achieving water conservation is demonstrated that no additional conservation assumptions are justified. We also believe that there is a need for a new analysis of this sustainable yield figure (see attached excerpt from letter to Sacramento County Environmental Coordinator on the GP EIR).

We are concerned that, in the South County, groundwater overdraft may have significantly impacted flow conditions on the Cosumnes River and its tributary streams, to the detriment of salmon and other aquatic species. In addition, it has been suggested that the current level of the underground aquifer may not be sufficient to sustain the riparian habitat found there (letter from Cosumnes Basin Habitat Defense Project, January 21, 2010 to Michele McCormick, South Sacramento HCP Facilitator). This issue cannot be ignored. We made clear in our March 15th letter to Michelle McCormick that without adequate water, the SSHCP will not achieve its conservation and preservation requirements and that there needs to be a clear assurance that water will be available under a range of potential future climate scenarios for the preserves of the South County.

The bottom line is that it is not sufficient to dismiss the water supply issue with the casual assumptions that estimated safe yield groundwater amounts are still valid, that the tradeoff between urban and agricultural water needs within the SOI are equally offsetting and that additional water conservation measures can reasonably be implemented to provide further reductions in overall water demand. It is equally important to avoid a complicated shell game with available and potential additional surface water supplies in the Zone 40 Area

The water issue will need to be examined in more detail by the environmental document on the SOI. The EIR must include a full review of current and past agricultural water use based on 1) historic crop patterns, 2) projected water demand based on various density scenarios and 3) a review of changes in overall water demand, groundwater withdrawals and groundwater recharge that would result with development. Changes in rainfall and river flows due to climate change must also be considered.

However, there is only so much that the environmental document can accomplish. The City and County, perhaps working with the Water Forum, must also begin a comprehensive re-evaluation of water supply and demand in the South County prior to any SOI approval, and the MOU should lay out the necessary prerequisites for water availability prior to annexation of any lands within the SOI.

In this regard the County should insist that additional surface water be obtained to ensure, at a minimum, that 1) the development will not increase historic average groundwater withdrawals and/or require transfer of groundwater from outside the SOI, and 2) that sufficient groundwater will be maintained to ensure the ecological health of the Cosumnes River Basin. The MOU should also include:

- 1) Agreement as to how a safe yield water supply will be allocated between the City and unincorporated area,
- 2) A requirement that no annexation occur until a groundwater management program is adopted for the SOI lands and the Cosumnes River Basin that
 - i) Identifies water demand by urban and agricultural uses,
 - ii) Provides for how water will be managed conjunctively,
 - iii) Provides for how treated wastewater will be integrated into the plan,
 - iv) Identifies the role of stormwater drainage detention and groundwater recharge in overall water management, and
 - v) Provides for the protection and enhancement of surface water flows to the Cosumnes River, Badger Creek and its tributaries, and
- 3) A requirement that no annexation occur until the additional surface water necessary to implement this plan is secured.
- 4) A commitment to implementation of the 2005 MOA on Cosumnes River flows developed and executed by Sacramento County and the Nature Conservancy.
- 5) A recognition and acknowledgement of the potential changes to water yield caused by climate change.

Flooding Could Be a Significant Future Issue. The SOI Expansion proposes development approaching the floodplain of the lower Cosumnes River, an area where large scale flooding is more a result of water backing up from the Mokelumne and Cosumnes Rivers entering the Delta than of water flowing down the Cosumnes River. Flat topography means sensitivity to changes in flood elevations. With climate change models predicting a substantial rise in sea level over the next several decades—a meter or more—and/or more intensive and warmer storms with greater flood potential, it is important to consider the appropriateness of urban development under these circumstances. It is essential that the environmental document include an analysis of a 500 year flood (about a 15-20% greater flow than a 100-year flood and a reasonable proxy for potential future rainfall conditions) in the Mokelumne and Cosumnes watersheds combined with a one meter increase in sea level. The EIR should also include an assessment of the impact a levee around new development in the SOI would have on redistribution of flood waters from such an event, including the impact on the community of Point Pleasant. This community has already been significantly impacted by increased flood flows resulting from upstream development. The MOU should consider the results of the analysis and provide accordingly.

A Plan to Fund Open Space Protection Prior to New Fringe Development. Thriving regional open space programs throughout the Bay Area provide a strong legacy of protected areas and public access to open space. In contrast, Sacramento County residents have for years watched the County grow rapidly without commensurate public investment in the protection of agricultural and open space lands. There has not been a new regional park in this County in over 25 years. The gains that have been achieved—Cosumnes River Preserve, Howard Ranch and Deer Creek Hills, for example—have come from the initiative of private organizations supplemented by a patchwork of state and federal grants.

A blueprint for growth, an urban limit line, and urban service boundary—by whatever name—cannot ultimately succeed unless there is an equal countervailing effort to secure permanent protection of the lands beyond. Mitigation funding and privately-initiated preservation efforts are insufficient. They need to be combined with a dedicated source of local funding to create a sustained and coordinated effort to protect Sacramento County’s remaining open lands.

We argue that no substantial new fringe development should occur in the Sacramento County until a functional, financed special district is in place to protect habitat, sustain agriculture and provide regional recreation. The place to start is with the Elk Grove SOI. The MOU must commit to a strategy to create a regional park and trail system in the South County.

We recognize that implementing the goal will be challenging, but we are convinced that it can be done. Sales tax increases for open space protection have been approved in several counties and, though voter approval will be difficult, it should not be arbitrarily dismissed as an option. Alternatively, state enabling legislation could be sought to adopt a local real estate transfer tax dedicated to funding open space protection. What is most needed now is the commitment of local decision-makers to cooperate and to lead in putting forward a strategy. What we are demanding is that decision-makers do so as a prerequisite to expanding the urban fringe. We intend to further press the County and Sacramento City as they consider the County General Plan Update and Natomas Joint Vision.

Protect the Stone Lakes NWR. The proposed SOI would extend all the way to Interstate 5 between two portions of the legislative boundary of the Stone Lakes National Wildlife Refuge. The extent of the proposal clearly anticipates the completion of the Capitol Connector linking Highway 99 with Interstate 5 near the Hood-Franklin Road interchange. To this extent, the entire SOI can be viewed as a validation of the growth-inducing nature of new major roads, something that the planning for the Capitol Connector was supposed to preclude.

The prospect of urban development, including a high-intensity travel commercial zone, in an area surrounded on three sides by the National Wildlife Refuge is a significant and legitimate concern. This peninsula of the proposed SOI should be removed from the proposal. At the very minimum, the MOU must provide meaningful assurances for buffering and protecting the Refuge.

Summary. We offer these comments with the intent of providing constructive input and the hope that you will recognize the serious issues confronting the SOI expansion and the complete

inadequacy of the MOU currently under discussion. We think that action by the City and the County to adopt the MOU prior to any environmental analysis and prior to any discussion between your jurisdictions on these issues is totally inappropriate. We recommend that instead you direct your respective staff to re-open discussion on the MOU and begin addressing the issues that we and many others are raising.

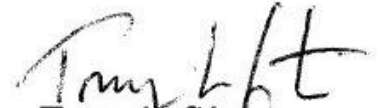
Sincerely,



Alex Kelter, President
Environmental Council of Sacramento



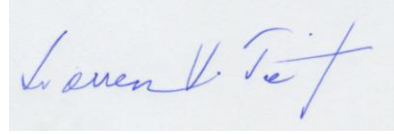
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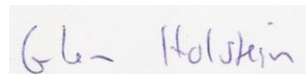
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Sacramento Audubon Society



Warren Truitt, President
Save the American River Association



Mike Savino, President,
Save Our Sandhill Cranes



Glen Holstein, Board
California Native Plant Society, Sacramento Chapter

Alta Tura

Alta Tura, President
Sacramento Area Creeks Council

Liz Zainasheff

Liz Zainasheff, President
Stone Lakes NWR Association

Shamus Roller

Shamus Roller, Executive Director
Sacramento Housing Alliance

Jude Lamare

Jude Lamare, President
Friends of the Swainson's Hawk

Cc:

Laura Gill, Elk Grove City Manager
Don Hazen Planning Director, Elk Gove
Steven C Szalay, Interim Sacramento County Executive
Paul Hahn, Administrator, Municipal Services Agency
Robert Sherry, Planning Director, Sacramento County
Keith Devore, Director, Sacramento County Department of Water Resources
Peter Brundage, Sacramento Local Agency Formation Commission
Eric Tattersall, Deputy Assistant Field Supervisor, US Fish and Wildlife Service
Nina Bicknese, Senior Fish and Wildlife Service Biologist, US Fish and Wildlife Service
Jeff Drongesen, California Department of Fish and Game, North Central Region
Todd Gardner, California Department of Fish and Game, North Central Region
Marge Kolar, Acting Regional Director, Pacific Southwest Region, US Fish & Wildlife Service
Bart McDermott, Refuge Manager, Stone Lakes National Wildlife Refuge
Mike McKeever, Executive Director, Sacramento Area Council of Governments
Connie Conley, Elk Grove Community Connection
Barbara Washburn, President, Laguna Creek Watershed Council
Mike Eaton, Cosumnes Basin Habitat Defense Project
Mike Conner, Program Director, Cosumnes River Preserve, The Nature Conservancy
Pablo Garza, External Affairs Manager, The Nature Conservancy
Paul Tebbel, Executive Director, Friends of the River
Ron Stork, Senior Policy Advocate, Friends of the River
Terry Davis, Conservation Program Coordinator, Mother Lode Chapter, Sierra Club
Kimberly Delfino, Program Director, Defenders of Wildlife

Dan Taylor, Public Policy Director, Audubon California
Jude Lamare and Jim Pachl, Friends of Swainson's Hawk
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