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March 29, 2019

Mayor and City Manager, City of Sacramento  
Councilmember Angelique Ashby  
Director, Department of Utilities  
Director, Department of Planning  
City of Sacramento via email

Re: Paso Verde School Utilities

Dear Mr. Mayor, City Manager, CM Ashby, and Directors:

The City has been asked by the Natomas Unified School District (NUSD) to provide urban services, such as water supply, sewer connection, right of way, fire protection and possibly other services, to NUSD's proposed Paso Verde School site, on what has been known as the West Lakeside property, immediately west of the City limit and north of Del Paso Road. For the City to provide such services would be inconsistent with City's obligations under the 2003 Natomas Basin Habitat Conservation Plan (NBHCP) and with the City's General Plan polices. We also urge the City to consider their decision to serve the site in a public hearing. This is a discretionary decision that triggers California Environmental Quality Act (CEQA) review and full public participation.

**I. Inconsistent with City's obligations under the NBHCP**

We are writing you specifically to request that City not provide any urban services until the NUSD obtains federal and state Incidental Take permits for the project to ensure consistency with the Natomas Basin Habitat Conservation Plan (NBHCP) and mitigation of all impacts on the Natomas Basin Conservancy (NBC) and the NBHCP Conservation Strategy. The wildlife agencies' Incidental Take Permits (ITPs) authorizing development of the North Natomas Community Plan were issued to the City contingent upon compliance with the NBHCP and the NBHCP Implementation Agreement (IA).

The IA, a contractual agreement between the City and the state and federal wildlife agencies, specifically references the West Lakeside property and prohibits annexation by the City without an additional ITP from both agencies. If the City provides urban services to this same site in the absence of the ITPs, the City will violate the intent of this section. By providing urban services, the City would enable the development of the site without ITPs, contrary to the Natomas Basin HCP and IA.

See Page 3 of the IA, and the equivalent language is found in the Plan at I-8.

"3.1 (b) For purposes of the NBHCP and this Agreement, CITY agrees

that although the West Lakeside Annexation area is proposed by the landowners to be annexed to the CITY, this area currently is located within Sacramento County and is outside of the County's Urban Services Boundary and the City's Sphere of Influence, and it is not included in the 8,050 acres of Authorized Development or within the CITY's Permit Area. Thus, CITY agrees that in the event this annexation occurs, it shall, prior to approval of any rezoning or pre-zoning associated with such annexation, trigger a reevaluation of the Plan, 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 City for that additional urban development, and/or possible suspension or revocation of CITY's Permit in the event the CITY violates such limitations without completing such reevaluation, amendment, or revision or new conservation strategy for that additional urban development. "

The proposed Paso Verde school is in conflict with the Natomas Basin Conservancy preserves and the Natomas Basin Habitat Conservation Plan. In our view, the certified FEIR fails to mitigate these impacts to less than significant. Importantly, the NUSD Final EIR does not disclose and acknowledge the limitations of the NBHCP on City provision of urban services to this site. Consider these conflicts:

- It will be built on agricultural land that was not included in the NBHCP permit area for urbanization, and which the City agreed not to develop as part of the NBHCP Implementation Agreement yet the proposed school would be dependent on City services and could not function without the full panoply of City urban services. This effectively makes the City a partner in the development of the school site outside of the City and outside of the NBHCP Permit Area.
- It will reduce the current NBHCP required setback for the NBC Rosa preserve from over 800 feet, to a shorter distance that is not consistent with the NBHCP. This preserve mitigates for the development in the City, enabling families to live in North Natomas and go to school in the NUSD. The school project will compromise and diminish the habitat value of the mitigation land.

The NBC Rosa preserve is managed for agriculture consistent with the needs of protected species and the NBHCP. As a part of its agricultural management, the NBC occasionally applies herbicides and pesticides on the Rosa property. According to NBC, the school will interfere with its management of the Rosa preserve because State regulations preclude use of herbicides/pesticides near schools. No mitigation was provided for these impacts.

- The mitigation in the Final EIR to offset loss of foraging habitat for Swainson's Hawk is not required to be located in the Natomas Basin. This is in conflict with the mandates of the NBHCP and mitigation provided by every other project developed in the Basin. The NUSD has chosen to mitigate for loss of Swainson's Hawk foraging habitat many miles away in the Sloughhouse area of South County Sacramento, and the mitigation is of no benefit to the population nesting near the project site in the Natomas Basin.
- All development within North Natomas to date has received both a federal and a state incidental take permit to ensure that the mitigation is consistent with the NBHCP and fulfills the requirements of the 1991 USFWS Biological Opinion on SAFCA flood control that enabled development in the Basin. This project does not include the ITPs from the wildlife agencies that would provide these assurances.
- The Paso Verde Project does not meet the standards met by the Greenbriar Project, also outside the NBHCP permit area, including 1:1 mitigation within the Basin, with mitigation lands and the Conservation Operator to be approved by the Wildlife Agencies, enforceable with ITPs.

The origin of the NBHCP lies in the 1994 federal flood control work that enabled development in North Natomas and the US Fish and Wildlife Service biological opinion that the direct, indirect and cumulative impacts of the development on endangered species could be offset with a basinwide conservation plan to apply to any future development. The school district is a beneficiary of the NBHCP and should have complied with its terms, rather than denying this responsibility.<sup>1</sup>

## **II. Providing Urban Services to the school site would be inconsistent with the City's General Plan**

The City should carefully consider your own General Plan policies which prohibit providing urban services to this site. See especially LU 1.1.8 printed below. Other policies also support not serving the school site.<sup>2</sup>

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<sup>1</sup> US Department of Interior, Fish and Wildlife Service, June 24, 2003, Memorandum Intra-Service Biological and Conference Opinion on Issuance of a Section 10(a)(1)(B) Incidental Take Permit to the City of Sacramento and Sutter County for Urban Development in the Natomas Basin, Sacramento and Sutter Counties, California, p. 3. "In 1994, the Sacramento Area Flood Control Agency (SAFCA) proposed a flood control project for the Natomas Basin (Basin) that required a Section 404 Clean Water Act permit from the U.S. Army Corps of Engineers (Corps). In order to comply with its responsibilities under the Act, the Corps consulted with the Service. In its March 11, 1994, biological opinion (Service File # 1-1-94-F-0013) for the project, the Service determined that the project would remove an obstacle to urbanization in the Basin and that such development would result in the take of federally-listed species. The Corps issued a Section 404 Permit for SAFCA's flood control project, conditional on the preparation of a habitat conservation plan (HCP) for the Basin.

<sup>2</sup> <https://www.cityofsacramento.org/Community-Development/Resources/Online-Library/2035--General-Plan>

“Land Use Element page 2-9. LU 1.1.8. Annexation Prior to City Services. Prior to the provision of City services to unincorporated areas, the City shall require those unincorporated properties be annexed into the City, or that a conditional service agreement be executed agreeing to annex when deemed appropriate by the City. (RDR)”

“Utilities Element Page 2-225. U 1.1.12 Impacts to Environmentally Sensitive Lands. The City shall locate and design utilities to avoid or minimize impacts to environmentally-sensitive areas and habitats. (MPSP/RDR)”

“Biological Resources Element Page 2-318. ER 2.1.13 Natomas Basin Habitat Conservation Plan. The City shall continue to participate in and support the policies of the Natomas Basin Habitat Conservation Plan for the protection of biological resources in the Natomas Basin. (RDR/IGC)”

### **III. The City Should Conduct CEQA Review and a Public Hearing**

Finally, this is a discretionary decision by the City to enable urban uses at the West Lakeside site. We strongly recommend that before deciding to provide urban services to the site, the City should do its own analysis, hold a public hearing and review the considerable issues raised about this site by City staff, Natomas Basin Conservancy, the County, the Sacramento Airport, nearby residents and the environmental community. All agencies strongly suggested that NUSD locate the proposed school at a more suitable location. The City should carefully consider its role in the enabling the NUSD to expose students and teachers to the health and safety hazards at this site. (For full details on airport operation noise, see FEIR 2.26, Letter A6- Sacramento County, Department of Airports and FEIR 2.2.15, Benjamin Fries.)

- Today there are a total of 86 direct low-elevation jet airplane overflights, powering up to gain elevation, during school hours, averaging one every seven minutes, but more frequent during some time periods. Flight frequency will increase in the future.
- The single event outdoor noise levels (SELs) at the school site range from 61 to 89 A- weighted decibels, similar to a diesel truck at 50 feet at 50 miles per hour.
- NUSD’s own EIR noise study documented **eighteen noise events per hour**, or one every four minutes, between 8 am and 3 pm. (FEIR 2.2.6-11.)
- To reduce the noise level indoors, the school’s windows will be sealed and inoperable.
- Repeated jet noise at frequent intervals will assuredly interfere with the ability of grammar school students to concentrate on listening and learning, especially those students with Attention Deficit Disorder (ADD), and slow learners, and interfere with teacher’s ability to teach.

- The noise and the lack of vehicle access to the site (one dead-end road in/out) have raised concerns about safety, emergency evacuation and outdoor communication between students and teachers.
- **The EIR did not address the effect of ultrafine particulate pollution from frequent low-elevation jet overflights which creates an air pollution risk of considerable magnitude for grammar school pupils.**<sup>3</sup> CEQA does not require assessment of school site location impacts on children's health or learning environment and the Sacramento Metropolitan Air Quality Management District did not provide the NUSD with this analysis. The City should not assume that the NUSD EIR considers the impacts of the site on the children.

The City should conduct due diligence on these issues, whether or not CEQA requires it because of the long lasting effects of this siting decision.

#### IV. This is the worst possible location in Natomas to build a grammar school

While the NUSD claims in the EIR that other potential school sites have equivalent environmental problems, their EIR is not persuasive to reviewers such as the County, Sacramento Airport, Natomas Basin Conservancy, and the environmental community. By providing urban services to the site, the City accepts the consequences. The City

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<sup>3</sup> Recent studies show high levels of ultrafine particles emitted, particularly in areas below departing flight patterns. The following studies are relevant.

Study Finds Long-term Exposure to Ultrafine Particle Air Pollution Associated With Death From Heart Disease  
<https://oehha.ca.gov/air/press-release/press-release-air/study-finds-long-term-exposure-ultrafine-particle-air-pollution>

Airport pollution linked to acute health effects among people with asthma in Los Angeles  
<https://envhealthcenters.usc.edu/2019/02/ultrafine-particle-pollution-lax.html>

Beyond PM2.5: The role of ultrafine particles on adverse health effects of air pollution  
<https://www.sciencedirect.com/science/article/pii/S0304416516300745>

"Emissions from an International Airport Increase Particle Number Concentrations 4-fold at 10 km Downwind," Neelakshi Hudda<sup>†</sup>, Tim Gould<sup>‡</sup>, Kris Hartin<sup>§</sup>, Timothy V. Larson<sup>‡</sup>, and Scott A. Fruin  
<https://pubs.acs.org/doi/full/10.1021/es5001566>;

Ultrafine particles in air pollution may heighten allergic inflammation in asthma  
<https://www.sciencedaily.com/releases/2010/07/100701131209.htm>

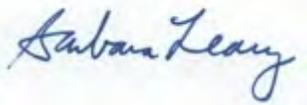
Exposure to ultrafine particles influences cardiac function  
<https://medicalxpress.com/news/2015-03-exposure-ultrafine-particles-cardiac-function.html>

Associations of Mortality with Long-Term Exposures to Fine and Ultrafine Particles, Species and Sources: Results from the California Teachers Study Cohort  
<https://ehp.niehs.nih.gov/doi/full/10.1289/ehp.1408565>

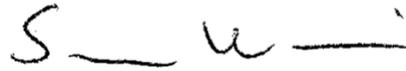
should exercise considerable caution in sympathizing with NUSD because NUSD chose probably the worst site in Natomas – directly under the SMF flight path — to place a school. The City should consider the risks of the site to the children who will attend school there, who are City residents, before agreeing to serve the site, even though CEQA does not require such analysis.

In sum, please apply CEQA, hold a public hearing and if the City decides to provide services, adopt a condition of approval that NUSD obtain Federal and State ITPs for the project to ensure consistency with the NBHCP and mitigation of impacts on NBC and the NBHCP Conservation Strategy, and to otherwise comply with your own General Plan.

We request a meeting to discuss these issues as soon as practicable. Please phone 916-769-2857 to set up this meeting.



Barbara Leary  
Sierra Club Sacramento Group Chair



Sean Wirth  
Sierra Club Mother Lode Chapter  
Conservation Chair



Ralph Propper, President  
Environmental Council of Sacramento



Robert C. Burness  
Habitat 2020 CoChair



James P. Pachl, Co-Founder  
Friends of the Swainson's Hawk



Judith L. Lamare, Co Founder  
Friends of the Swainson's Hawk

C: Mayor Heather Fargo  
Charleton Bonham, Director and Kevin Thomas, Regional Manager, California  
Department of Fish and Wildlife  
Kellie Berry, US Fish and Wildlife Service  
John Shirey, President of the Board, Natomas Basin Conservancy  
John Roberts, Executive Director Natomas Basin Conservancy  
Chris Evans, Natomas Unified School District Superintendent  
Glen Rickleton, Sacramento County Airport  
Tim Hawkins, Sacramento County Environmental Coordinator

John Lundgren, Sacramento County Planning  
Dan Levernier, California Department of General Services  
Fred Yeager and B. Boyd, Department of Education