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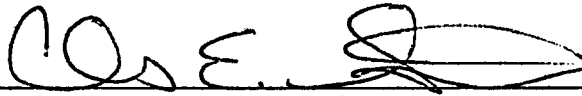
MAY 03 2021

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF BUTTER  
CLERK OF THE COURT  
By JACKIE LASWELL Deputy

Report  
of the  
2020-2021  
Sutter County Civil Grand Jury

Charles Smith-Foreperson, Herbert Bradley III, Sukhvinder Singh Bhungal,  
Heather Ann Chambers, Todd Chambers, Heather Esemann, Randall Helvey, Millard Johnson,  
Sylvia Johnson, Jessica Jopson, Betty Mack, Danika Mann, Emma Nelson, Julie Nissen,  
Marco Ontiveros, Paul Tuttle, Margaret Walker, Noelle Zumoff

Final Report [pursuant to Penal Code 933(a)] on subject:  
**Development in South Sutter – Fowl Play in the Natomas Basin?**



Charles Smith  
2020-2021 Foreperson

4-15-2021

Date

Pursuant to Penal Code Section 933(a), the Presiding Judge makes the finding that the foregoing  
report is in compliance with the Title 4, Chapter 3 of the Penal Code  
("Powers and Duties of the Grand Jury")



Honorable Susan E. Green, Presiding Judge  
Superior Court of California, County of Sutter County

4/15/21

Date

# **DEVELOPMENT IN SOUTH SUTTER COUNTY**

**Fowl Play in the Natomas Basin?**



**2020-2021  
Sutter County Civil Grand Jury  
Individual Report**

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## SUMMARY

Sutter County could unknowingly be jeopardizing its development of Sutter Pointe and other future development opportunities located in south Sutter County. To provide a balance of habitat and development the Natomas Basin Habitat Conservation Plan (Conservation Plan) was created on acreage split between Sutter County and the City of Sacramento under the umbrella of a then newly formed non-profit Natomas Basin Conservancy (or Conservancy). Sutter County and the City of Sacramento each provide five board members for the Conservancy. Sacramento County is not a participant of the Conservation Plan or the Conservancy. Each development requires a setting aside (mitigation) of habitat land to protect the wildlife located in the Basin. Sutter County's newly started (and largest) development, Sutter Pointe, is within the Natomas Basin and has been expected to be a major source of jobs and housing for Sutter County. Lack of representation and poor communication allowed the City of Sacramento to develop beyond the agreed borders within the Conservation Plan in the past few years. Large tracts of land in Sutter County, which could have been used for County development, have now been acquired by the Conservancy and other developers as mitigation lands for Sacramento development. The Grand Jury is concerned that there is not enough mitigation land available for the development of the approved Sutter Pointe project. This would cause a significant economic impact to Sutter County.

During the investigation, the Grand Jury discovered that:

- Four of the five Sutter County members of the Conservancy's Board of Directors resigned in 2019. It took nearly a year to restore full representation for our county. During this time, the County's interests were underrepresented at the Conservancy.
- Those interviewed by the Grand Jury have put into question the management of the Conservancy and the potential long-term effects that questionable management practices could have on the ability of Sutter County to protect agriculture and wildlife areas in the Natomas Basin as required by state and federal law. This is the reason given for several Board of Director's resignations and losses incurred at the Conservancy.
- There continues to be little to no communication between the Conservancy and the County, either through the county liaison, the Development Services Department, regular progress reports from the Conservancy or the County appointed members of the Conservancy's Board of Directors to the Board of Supervisors. This has led to a serious break down on getting information to key decision makers for the County.
- Sutter County may lose development options at great economic cost if non-plan members take County land for their own development mitigation requirements.
- The City of Sacramento approved a development outside of the negotiated Conservation Plan, which will lead to the Plan being reevaluated and Sutter County may lose some development acreage in south Sutter County.

## Development in South Sutter County – Fowl Play in the Natomas Basin?

The Grand Jury recommends that the Sutter County Board of Supervisors be kept fully informed about the Natomas Basin Conservancy plans concerning development impacting Sutter County and ensure full representation at each meeting. The Board needs to challenge entities that impact Sutter County's interest in the Natomas Basin area and should additionally renegotiate the Conservation Plan to keep the benefits laid out in the current Plan for Sutter County.

### GLOSSARY

**Permit:** An official document authorizing a person or entity to build or develop within a given area after meeting certain requirements. The permits are issued by local, state or federal agencies.

**Permit Area:** The term "Permit Area" as applied to Sutter County means the designated area that totals 7,467 acres located within the unincorporated areas of Sutter County, and approximately 16.5 acres located within unincorporated Sacramento County as described in the Conservation Plan. The term "Permit Area" as applied to the City of Sacramento means the designated area that totals 8,050 acres located within the City of Sacramento city limits as described in the Conservation Plan.

**Permittees:** Here, the term "Permittees" means the City of Sacramento, Sutter County and the Natomas Basin Conservancy, as explained in the Conservation Plan. Additionally, the Reclamation District 1000 (RD 1000) and Natomas Central Mutual Water Company (Natomas Water) are also permittees to the extent that RD 1000 and Natomas Water apply for and obtain incidental take permits from the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW). Note, Sacramento County is not a permittee.

**Incidental Take Permits:** The term "Incidental Take Permit," or "Permits," mean the individual permits issued to each permittee to ensure compliance with Section 10(a)(1)(B) of the Endangered Species Act and Section 2081 of the California Endangered Species Act.

**Authorized Development:** The term "Authorized Development" is development for which incidental take permits are already authorized for the City of Sacramento and Sutter County under the Conservation Plan. Authorized Development is limited to a total of 15,517 acres of planned development under this Plan.

**Mitigation Lands:** The reserve lands acquired through collection and use of mitigation fees from authorized development, or have been accepted for dedication from authorized development, will be set aside and managed at a ratio of one-half acre of land protected or preserved for each acre of land converted to authorized development.

### BACKGROUND

The Grand Jury is impaneled annually to investigate city and county governments, special districts, and certain nonprofits that it has jurisdiction over operating within the County.

California Penal Code section 933.6 allows a grand jury to “examine the books and records of any nonprofit corporation established by or operated on behalf of a public entity and may investigate and report upon the method or system of performing the duties of such nonprofit corporation.” The Grand Jury functions as a watchdog over these entities beyond any auditing or oversight done through public entities like Sutter County.

## The Natomas Basin Habitat Conservation Plan

The Natomas Basin Habitat Conservation Plan (Conservation Plan) was created in 1997 due to litigation related to development in wetland areas east of the Sacramento River. The Conservation Plan was established to provide and implement a multispecies conservation program to minimize and reduce impacts of development and agricultural use. As a result of further litigation, the Conservation Plan was revised in 2003. In total, the Plan (Volumes 1 and 2) as well as the environmental impact report has over a thousand pages of documents.<sup>1</sup>

The Natomas Basin’s permit area is an area of over 53,000 acres of land that is located between the American River, Sacramento River, and the Cross Canal (or levee) along the I-5 and Highway 99 corridor in the south of Sutter County and north of the City of Sacramento. The Sacramento International Airport is located in the Basin as well. The southern portion of the Basin is urbanized, but most of the remaining Basin is used for agriculture.

In order to develop on land that is inhabited by threatened or endangered species, reserve lands must be created to protect managed and natural lands. This lessens the impact of, or mitigates, taking the land currently used by wildlife and native plants for urban development.

The Conservation Plan covers a total of 22 plants and wildlife species:

Covered Wildlife	Covered Plants
Cackling (or Aleutian Canada) Goose	Boggs Lake Hedge-hyssop
Bank Swallow	Colusa Grass
Borrowing Owl	Delta Tule Pea
Loggerhead Shrike	Legenere
Swainson’s Hawk	Sacramento Orcutt Grass
Tricolored Blackbird	Sanford’s Arrowhead
White-faced Ibis	Slender Orcutt Grass
Giant Garter Snake	
Northwestern Pond Turtle	

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<sup>1</sup>[Sutter County: The Natomas Basin Habitat Conservation Plan](https://www.suttercounty.org/doc/government/depts/ds/ps/cs_natomas)  
([https://www.suttercounty.org/doc/government/depts/ds/ps/cs\\_natomas](https://www.suttercounty.org/doc/government/depts/ds/ps/cs_natomas))

## Development in South Sutter County – Fowl Play in the Natomas Basin?

California Tiger Salamander
Western Spadefoot Toad
Valley Elderberry Longhorn Beetle
Vernal Pool Fairy Shrimp
Vernal Pool Tadpole Shrimp
Midvalley Fairy Shrimp

Source: [NBHCP Species, Covered Wildlife](#)

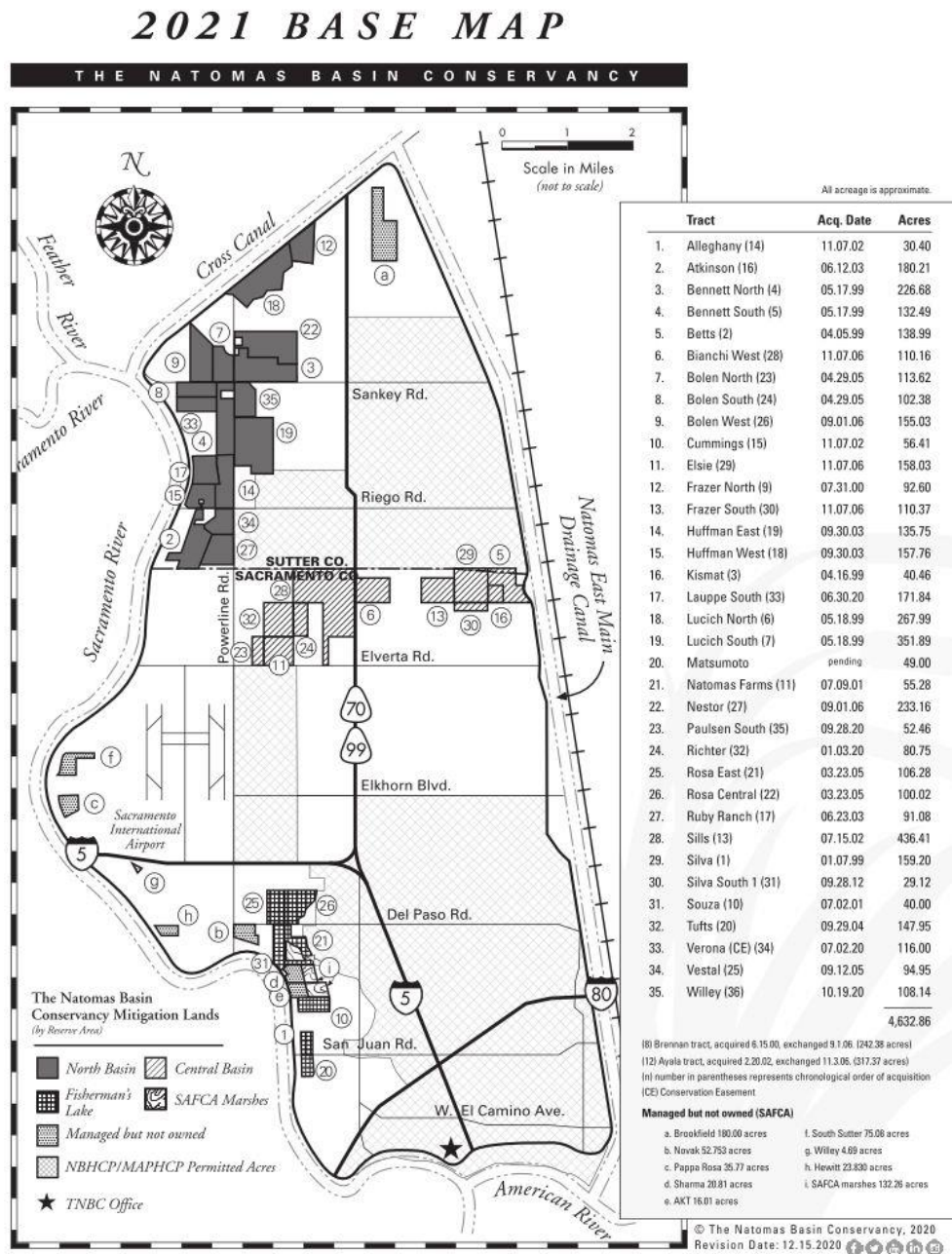
Under the current Conservation Plan, mitigation land must be purchased and set aside to be managed in perpetuity for the covered species above. The Conservation Plan allows permittees to purchase only one-half acre for every acre of development, as opposed to the standard of one-to-one acre mitigation. This can be done by the developers donating land to the plan operator or by directly paying the plan operator to purchase such lands for them. Development on undeveloped land usually requires an environmental impact report. The Conservation Plan was formed to help speed up the process by doing some of this work in planning for future development based on a map approved by the federal and state agencies USFWS and CDFW. This is beneficial to developers and should encourage investors to consider working with the Conservation Plan as there are time and financial benefits.

The Conservation Plan was created by the City of Sacramento and Sutter County in cooperation with RD 1000 and Natomas Water, which allows for development within the Plan's borders for the City (8,050 acres) and the County (7,467 acres). The Conservation Plan would have to be reevaluated if either were to exceed that amount in development.<sup>2</sup> Since the two created the Conservation Plan, both the City and Sutter County are the applicants allowed to seek permits for development and management of lands within this area. As a third party, the Metro Air Park, located within these borders, has its own habitat conservation plan and also uses the plan operator.

To protect its interests, the City and Sutter County each select five appointees to the plan operator's board of directors. The plan operator agreed to in the Conservation Plan is the Natomas Basin Conservancy. Sacramento County is not a participant of the Plan, but has land located within its borders.

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<sup>2</sup>[NBHCP April 2003 \(suttercounty.org\)](#)



Source: [Natomas Basin Conservancy Maps](https://www.natomasbasinconservancy.org/maps)

## The Natomas Basin Conservancy

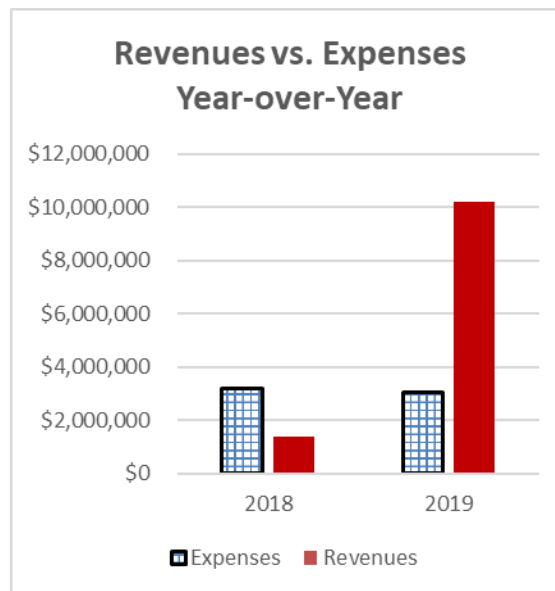
The Natomas Basin Conservancy is a non-profit public benefit corporation established to serve as plan operator for the Conservation Plan. Although the majority of the permitted land is in Sacramento County, most of the mitigation land owned and operated by the Conservancy is either in Sutter County or immediately adjacent to it.



## Development in South Sutter County – Fowl Play in the Natomas Basin?

As plan operator, the Conservancy manages endowment funds in excess of \$31 million. These funds are collected on behalf of Permittees, including Sutter County. Mitigation fee revenues have increased in the last few years, due to development, with \$3.7 million in revenues for 2019. These funds are required to manage conservancy lands and operate the Conservancy in perpetuity, or for as long as fish and wildlife regulations require protected wetlands for covered species within this area.

As part of operations some lands owned by the Conservancy are leased to farmers for agricultural uses, the bulk of which are cultivated rice fields. Farm rent revenues in 2019 increased by 64% in part due to higher rents from new farm leases.<sup>3</sup> In the same timeframe, land management costs have decreased by one third from \$308,877 to \$206,500. This helped contribute to a profit in 2019 after operating at a loss of over \$600,000 in 2018.



Source: TNBC – [Audited Financial Statement for 2019](#)

In 2018 rent revenues increased from \$495,231 to \$676,652 – an increase of 36% from the year before.<sup>4</sup> In 2019 rent revenues increased further by 64% to \$1.1 million.

The Natomas Basin Conservancy’s Board of Directors is appointed by the Sutter County Board of Supervisors and the City of Sacramento. Each appoints five board members with the deciding vote being the chair of the board. The current chair is a representative of the City of Sacramento and has been chairman since 2018.

The Conservancy currently has four employees and is run by an executive director, who has been operating the nonprofit since its inception. The organization purchases land from monies submitted as mitigation fees or receives land as part of the mitigation process. In 2020,

<sup>3</sup> [TNBC - Audited Financial Statement for 2019](#) (page 9 of Management’s Discussion and Analysis)

<sup>4</sup> [TNBC – Audited Financial Statement for 2018](#)

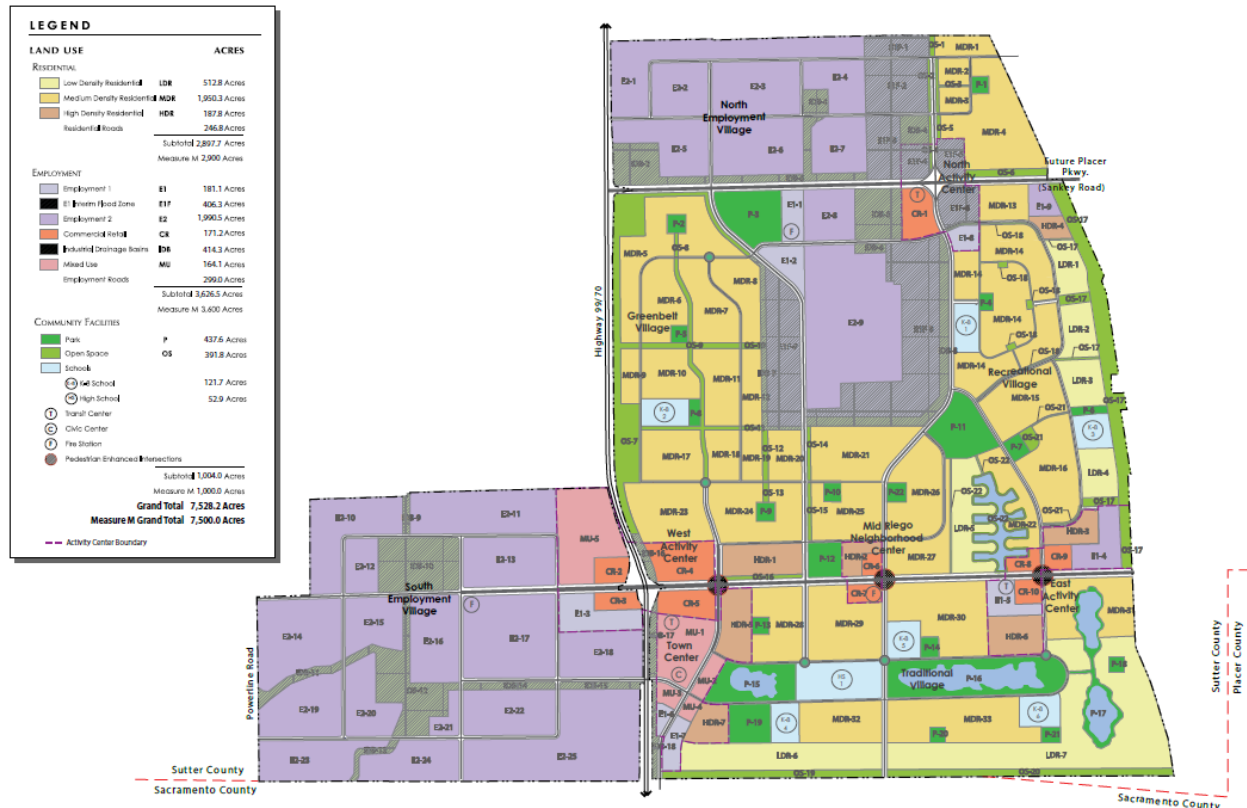
## Development in South Sutter County – Fowl Play in the Natomas Basin?

the Conservancy acquired land within Sutter County bringing the total conserved land to 4,632 acres. Before that, the Conservancy had not made any large-scale land transfers since 2006.

### Sutter Pointe Specific Plan

The Sutter Pointe Specific Plan was approved by the Board of Supervisors on June 30, 2009. The entire project is within the permit area for Sutter County in the Conservancy.

In November 2020 the Sutter County Board of Supervisors gave approval to start development of the area. **Lakeside at Sutter Pointe** encompasses 873.5 acres in an area known as the Recreational Village and the East Activity Center. The project proposes a balanced, mixed use community featuring 3,388 single family and 399 multi-family homes, 45 acres of employment centers, 25 acres of commercial centers, 59 acres of parks, 55 acres of open space, and up to two K-8 schools. The initial southern portion of the project known as **Lakeside Phase 1** consists of 386.2 acres

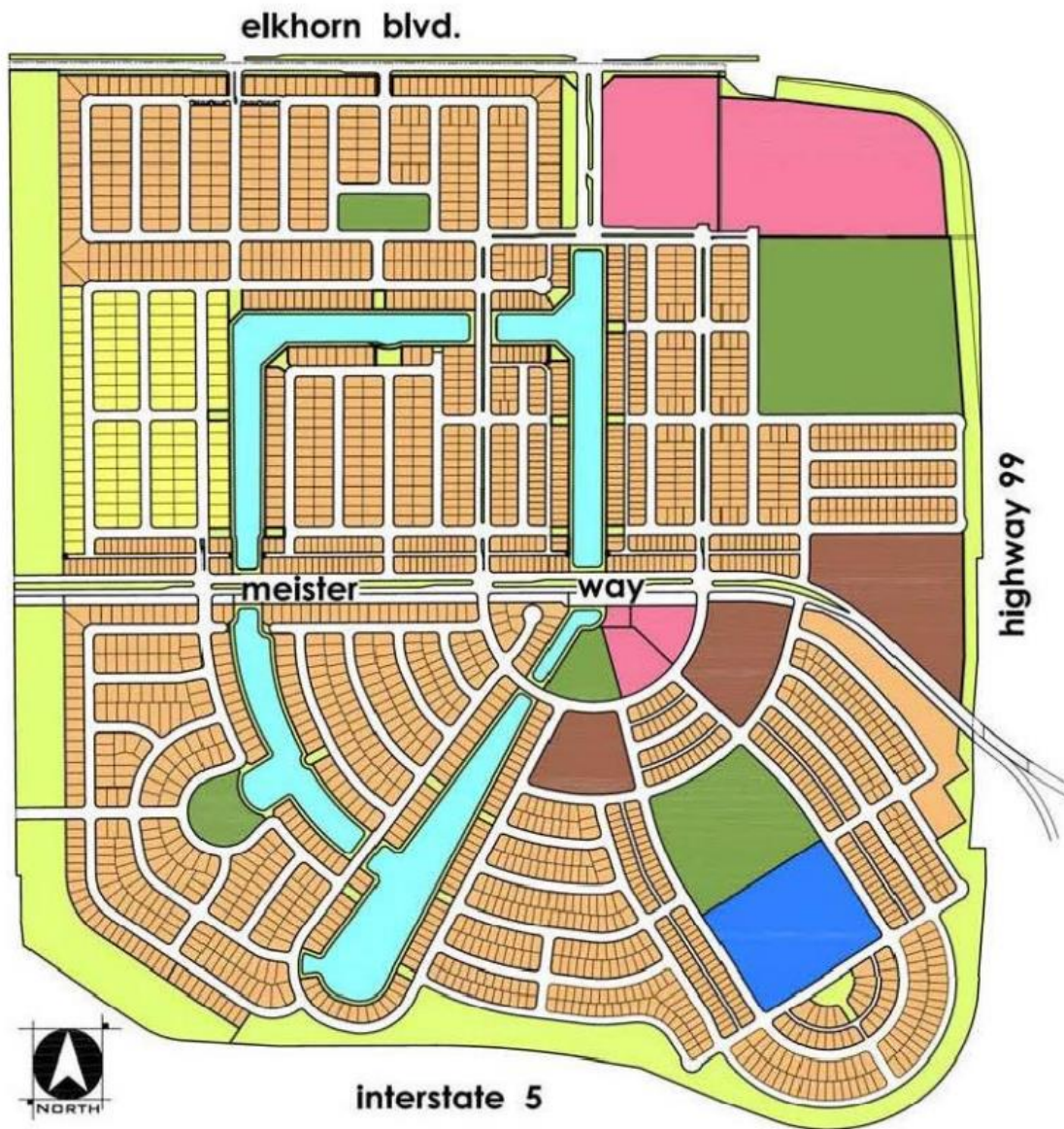


Source:

<https://www.suttercounty.org/assets/pdf/cs/ps/measurment/sutter%20pointe%20land%20use%20map.pdf>

## City of Sacramento Development (Greenbriar)

The City of Sacramento incorporated a new section of Sacramento County in 2017 to start development in an area outside of current development in North Natomas. Greenbriar, which encompasses over 577 acres of land, is the next major master planned community serving the City. Greenbriar is bounded by I-5 on the south, Highway 99 on the east and the Sacramento Metro Air Park to the west.

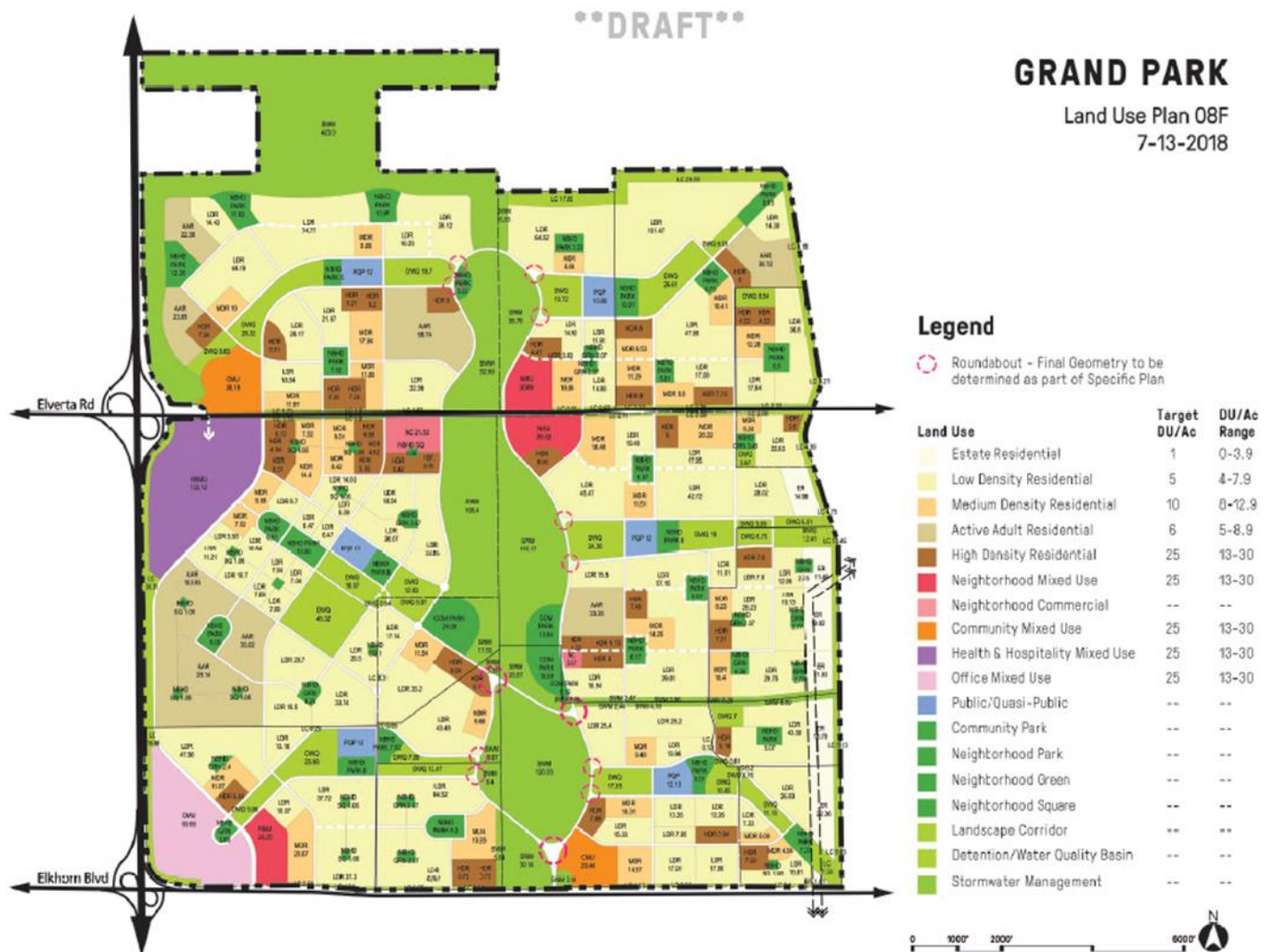


Source: [Greenbriar Development Checklist \(1/6/2017\)](#)



## Sacramento County Development (Grand Park and Upper Westside)

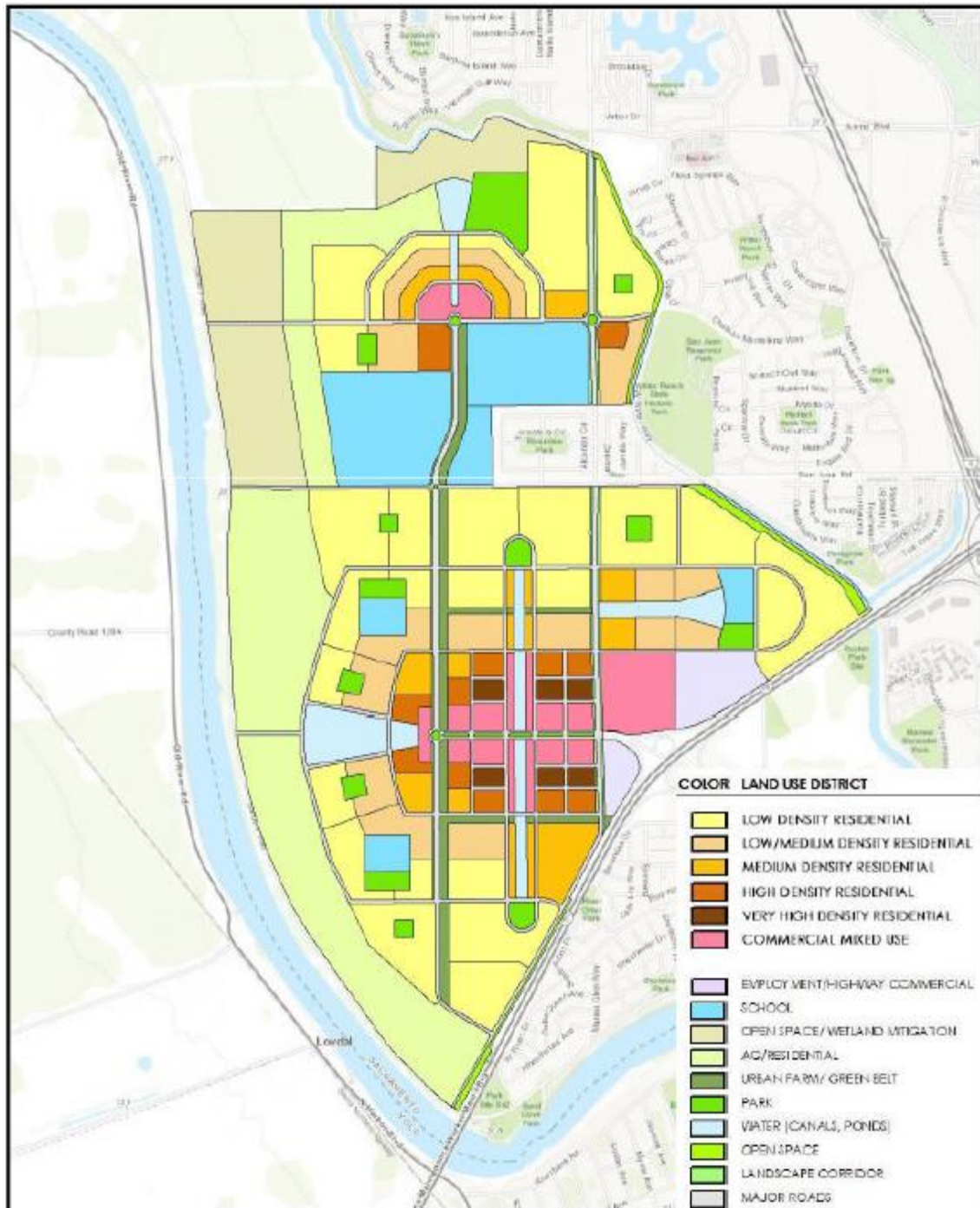
Sacramento County has plans to develop the area between the City's North Natomas and Sutter Pointe planned developments. This area, called Grand Park, is immediately adjacent to Conservancy lands (north side, surrounding the "T" section of the map below) and encompasses 5,675 acres.



Source: [Revised Notice of Preparation \(12/20/2017\)](#)

## Development in South Sutter County – Fowl Play in the Natomas Basin?

The Upper Westside development is located west of the urbanized section of the City near the Sacramento River (west of I-5 and north of I-80). The master planning process was approved in February 2019. This area encompasses approximately 2,000 acres.



Source: [Initiation of the Upper Westside Specific Plan Process \(2/26/2019\)](#)

## **METHODOLOGY**

The Grand Jury used the following investigative methods:

- Reviewed documents available online at Sutter County, City of Sacramento and the Conservancy's websites [see bibliography for list].
- Interviewed elected Sutter County officials and the Conservancy's Board of Directors, Sutter County staff and Conservancy personnel.
- Requested information from the County and the Conservancy on construction projects in the area and financial information.
- Reviewed Board of Supervisors' agendas, minutes and meeting videos online.

## **DISCUSSION**

The Sutter County Grand Jury received a complaint regarding the Conservancy and the Sutter County Board of Supervisors' lack of a response to complaints about the management of conservancy lands. During our investigation, the Grand Jury was made aware of four Conservancy board members resigning between August and October 2019. New board members were not selected by the Board of Supervisors for a year. Two of the four resignations, which were addressed to county supervisors, cited differences with management of the Conservancy. The Grand Jury does not address management decisions, so it is not our intention to discuss the management of the Conservancy or the County directly, only to reiterate the need for Sutter County to remain vigilant in its oversight role.

One of the resignations discussed the land rents being low and the need to secure higher prices by going out to bid. The Grand Jury requested documents from the Conservancy to verify the land rents; however, no documents were ever received. According to the Conservancy's website, the organization now obtains bids for land rents and land management. In the two years since starting a process to request bid proposals, some rent revenue has more than doubled. Proper attention to the resignation letter should have alerted the Board to a potential issue at the Conservancy.

The Grand Jury examined regular Board of Supervisor agendas and could not find any evidence that the Board reacted to the resignations in any regular meetings or that the Board was aware of the need to expedite selection of new Conservancy board members. Although the County selected and appointed members partially during the COVID-19 pandemic, our interviewees cited a variety of reasons for the delay, none of which was the pandemic. The main reason cited was the process to select Conservancy board members differed from that of other board seats selected by the Board of Supervisors. This delayed the selection of the members several months and left the County's interests at the Conservancy to be handled by the one remaining Sutter County appointee.

As required by the Conservation Plan, Sutter County designates a liaison, who is the contact person for the federal and state agencies as well as the Conservancy and Sacramento City development department employees. After confirming the name of the County employee selected as liaison with the CDFW, the Grand Jury interviewed County staff and none were aware of who the appointed representative was or the requirement to have an appointed liaison. During our investigation, the Grand Jury found that little in-depth communication existed between the Conservancy and the Board of Supervisors in an official capacity. The mission of the Conservancy is to manage land for endangered and threatened species, therefore full transparency during development is crucial to avoid any costly or timely delays.

Part of the Conservancy's activities deal with investing permittees' Conservation Plan mitigation funds ability to ensure there are funds available in future years to pay for land management and Conservancy staffing. Based on audit data,<sup>5</sup> the Conservancy lost a substantial amount of funds in 2018 due to high-risk investments. These investment procedures were approved by City and County appointed board members and allow for high-risk ventures. The audit also mentions some funds are held in unnamed accounts, not linked to the Conservancy, which the auditors thought noteworthy enough to mention in multiple reports. The Grand Jury questions the need to have such a procedure as the funds should be managed wisely and in a way that is consistent with governmental standards. If funding is not sufficient

**The Grand Jury is extremely concerned about the County's interests. Recent development has started in the area west of Hwy 99 and north of I-5, which is not within the permit area borders for development in the City of Sacramento.**

to cover environmental requirements, then the County may be required in the future to participate in management of protected lands within its borders at taxpayers' expense.

The Grand Jury's investigation uncovered that the City of Sacramento (City) started development in an incorporated section of the Natomas Basin not shown as permitted development in the Conservancy maps and therefore not approved under the Conservation Plan. The City has developed most of their allotment of 8050 acres under the Conservancy agreement with Sutter County and is expanding beyond its city limits. The City is now circumventing the Conservation Plan by starting a new development (Greenbriar) that is on land not allotted to the City for development under the Conservancy agreement. The Greenbriar development has its own conservation and mitigation plan outside both the Conservation Plan and the Conservancy, resulting in the need to reevaluate the Plan reducing the allotted acres for Sutter County development. The Greenbriar developers purchased

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<sup>5</sup> [TNBC – Audited Financial Statement for 2018](#)

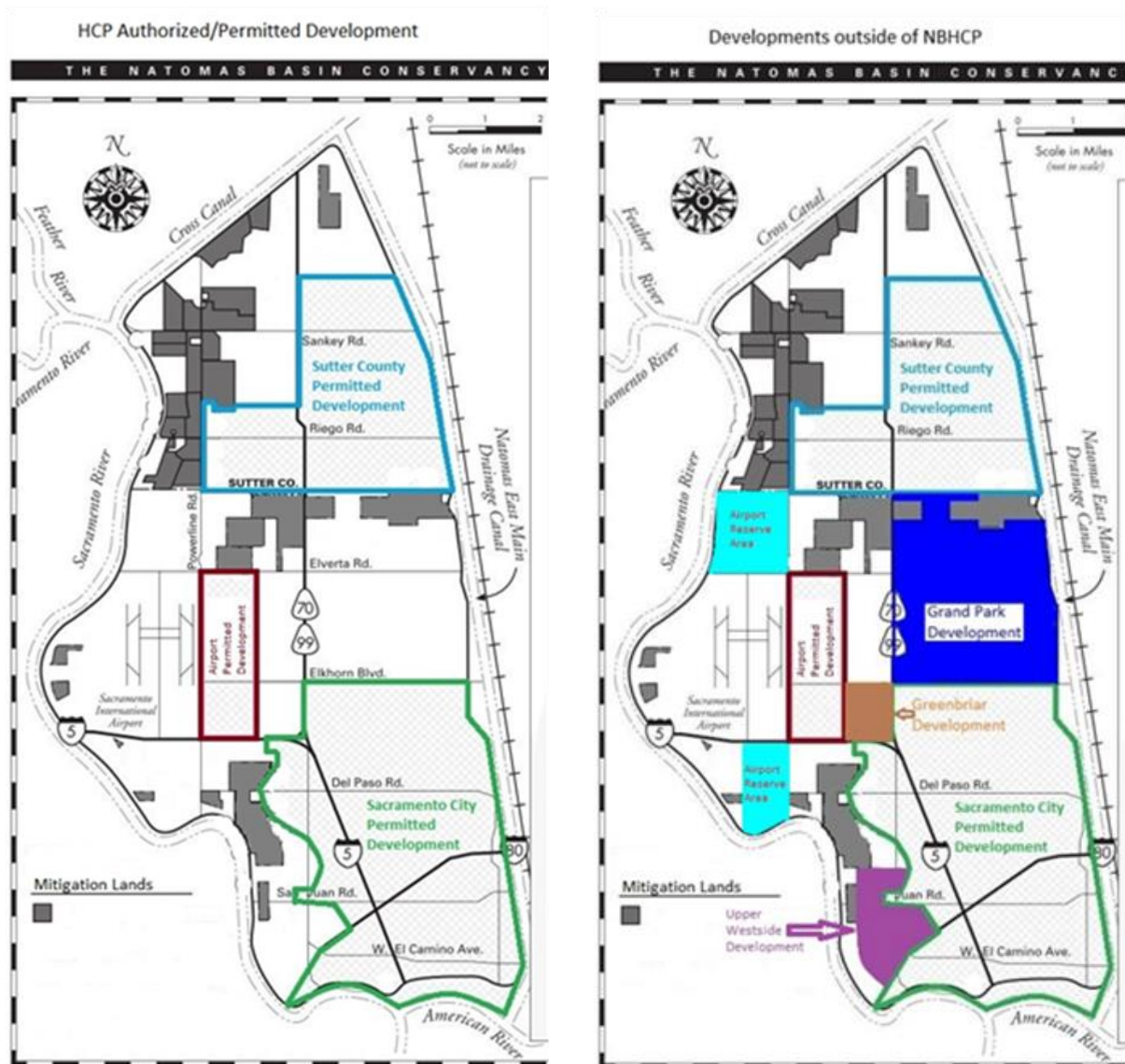
approximately half of their mitigation land in Sutter County, which reduces the development and mitigation land available for Sutter County to develop as planned.

Additional documents found online show that the City requested management at the Conservancy to clarify the requirements in the Conservation Plan prior to the start of the Greenbriar development. The letter [Appendix A] dated February 13, 2017, states that *“in approving any projects that exceed the 17,500 Permitted Acres authorized in the Plan, the City consider the impact of further development on the Plan Operator’s [Conservancy] ability to fulfill requirements”* and *“simply remind the City of its obligations in this regard.”* Although the memos attached to the letter clearly cite that the development is beyond the Conservation Plan’s boundaries, the letter is misleading as it points only to the total 17,500 acres, not the 8,050 acres allotted to the City of Sacramento. Also, there is no mention of the stance of Sutter County to this development in either the letter or the attached memos. One attached memo cites the federal court decision that *“development beyond this limit – whether by the City and Sutter County or by other entities – trigger a reevaluation and possible amendment of the Plan, and could result in suspension and revocation of the City and Sutter permits”* [Appendix A, page 5]. Also mentioned is the amount of land to remain in agricultural use in the area. The Conservation Plan and environmental impact report are *“all predicated on the assumption that development in the Basin will be limited to 17,500 acres and that remaining land will remain in agricultural use”*. This is pivotal to the survival of the Swainson’s hawk, which requires large contiguous plots of land as its hunting grounds.

Sutter County negotiated in good faith with the City of Sacramento on the habitat lands and the City has not been forthcoming with its development efforts. The City has been aware of the situation for years. The Grand Jury has evidence [Appendix B] that Sutter County sent objection letters in 2007 to the Sacramento Local Agency Formation Commission (LAFCO) and the City’s manager of new growth. It stated that the City is expanding outside of its boundaries and that Sutter County does not support the proposal and recommends the planning commission deny this project. Regardless of any objections, LAFCO approved the expansion of the City’s boundaries and the City approved the planning development on the Greenbriar project. The Grand Jury recognizes the importance of the project for its transportation needs as the area is key to connecting the airport to the City by light rail. While the purpose of a combined Conservation Plan was to have the entities working together to equitably manage development for the region, this did not occur.



## Development in South Sutter County – Fowl Play in the Natomas Basin?



To complicate matters, Sacramento County also has plans to develop two new areas in Natomas Basin (Grand Park and Upper West Side) that total around 7000 acres. These plans will require mitigation land in the Natomas Basin. There is a finite amount of land that is available in the area for development and mitigation. If Sacramento County and the City are allowed to develop at their current rate then Sutter County will not have enough mitigation land to develop their allotment of 7467 acres. The original Natomas Basin agreement between the City, Sutter County, and the federal and state agencies concerns was for development of 17,500 acres. If one party exceeds its allotment then the other party's allotment may be reduced to keep the overall development to 17,500 acres. Because the City went outside the Conservation Plan, in effect, the City used land that was needed for Sutter County mitigation and the County's own future development.

**Sutter County must act now if it is to protect Natomas wetlands and its development interests inside the habitat's borders.**

One thing is clear: Sacramento is growing faster than south Sutter County. Further development will cause the Conservation Plan to be reevaluated and Sutter County will inevitably lose current acreage for mitigation lands, as there is only a finite amount of land within these borders. Sutter County must act immediately to lessen the City of Sacramento's control over mitigation in the Basin or lose out on the opportunity to develop in that area.

## **FINDINGS**

The Sutter County Grand Jury issues the following findings:

- F1. There was a serious communication breakdown between the Conservancy, Sutter County Board of Supervisors and County appointees, both in the time consuming and unclear method of selecting Conservancy board members and ensuring our county liaison is actively involved.
- F2. The Grand Jury found no evidence that the Board of Supervisors was informed of the appointees' resignations, causing a lack of corrective measures being taken to ease concerns about Conservancy management and the County's development interests in southern Sutter County.
- F3. Past board of directors at the Conservancy approved risky investments of Sutter County mitigation funds which are still in place and could lead to financial problems in the future.
- F4. Commissions representing the City of Sacramento ignored the objections from Sutter County on developing outside Conservation Plan borders and proceeded with development.
- F5. Current development outside of the Conservation Plan by the City of Sacramento jeopardizes the Plan requiring renegotiation and impacting development in south Sutter County.
- F6. Current plans for development in Sacramento County (not a member of the conservancy) disrupt planned Sutter County development in the Natomas Basin.

## RECOMMENDATIONS

The Sutter County Grand Jury recommends to the Sutter County Board of Supervisors the following:

- R1. The Sutter County Board of Supervisors immediately create a procedure to receive briefings of any letters of resignation sent to it and have that information relayed during a public meeting for full transparency.
- R2. The Sutter County Board of Supervisors direct the Chief Administrative Officer to create a board and commission appointment procedure that is consistent for all boards and commissions to be completed within a set timeframe minimizing the impact to the County within one month of receipt.
- R3. The Sutter County Board of Supervisors establish procedures to receive regular annual updates from the Conservancy on the impacts of all development in the area within the next 90 days.
- R4. The Sutter County Board of Supervisors immediately direct its members to the Conservancy board of directors to investigate management of the Conservancy endowment fund investments and change procedures to minimize the financial impact on Sutter County.
- R5. The Sutter County Board of Supervisors immediately start proceedings to renegotiate the Conservation Plan with the City of Sacramento and other Plan permittees to remediate the encroachment done by the City and its impact on wildlife in the new plan. Sutter County should include Sacramento County in its negotiations for a comprehensive conservation plan for the Natomas Basin.
- R6. The Sutter County Board of Supervisors direct the county staff to prepare a letter for signatures clarifying their position to both the County of Sacramento and the City of Sacramento and objecting to development not meeting the Conservation Plan.

## REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the grand jury requests responses as follows:

From the following governing bodies within 90 days:

- Sutter County Board of Supervisors on F1-6 and R1-6

## INVITED RESPONSES

- The Board of Directors for the Natomas Basin Conservancy
- Sutter County Clerk-Recorder
- Sutter County Planning Commission
- The City Council for the City of Sacramento
- The Board of Supervisors of the County of Sacramento

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

## BIBLIOGRAPHY

Final Natomas Basin Habitat Conservation Plan(April 2003)[https://www.suttercounty.org/assets/pdf/cs/pc/NBHCP\\_Vol\\_1.pdf](https://www.suttercounty.org/assets/pdf/cs/pc/NBHCP_Vol_1.pdf)

The Natomas Basin Conservancy  
<https://www.natomasbasin.org/>

The Natomas Basin Conservancy chart with map  
[TNBC\\_OrgChart\\_2021\\_January\\_v2.pdf \(natomasbasin.org\)](https://www.natomasbasin.org/TNBC_OrgChart_2021_January_v2.pdf)

Greenbriar Conservation Strategy  
<https://www.cityofsacramento.org/-/media/Corporate/Files/CDD/Planning/Environmental-Impact-Reports/Greenbriar/GPO01GreenbriarConservationStrategy1417-1-00192414xC4B98.PDF?la=en>

Grand Park Specific Plan  
<https://planning.saccounty.net/PlansandProjectsIn-Progress/Pages/NatomasNorthPrecinctSpecificPlan.aspx>

Upper Westside Plan  
[https://planning.saccounty.net/PlansandProjectsIn-Progress/Documents/Upper%20Westside%20Specific%20Plan/Staff%20Presentation\\_02%202026%202019.pdf](https://planning.saccounty.net/PlansandProjectsIn-Progress/Documents/Upper%20Westside%20Specific%20Plan/Staff%20Presentation_02%202026%202019.pdf)

The Natomas Basin Conservancy letter to City of Sacramento (February 13, 2017)  
<http://www.cityofsacramento.org/-/media/Corporate/Files/CDD/Planning/Environmental-Impact-Reports/TNBC-Addendum-comments.pdf?la=en>

The Natomas Basin Conservancy - Audited Financial Statement for 2018  
<https://www.natomasbasin.org/wp-content/uploads/2019/03/NBC2018AuditedFinancialStatements-1.pdf>

The Natomas Basin Conservancy - Audited Financial Statement for 2019  
<https://www.natomasbasin.org/wp-content/uploads/2020/06/NBC2019AuditedFinancialStatements.pdf>

## APPENDIX A

2150 RIVER PLAZA DRIVE  
SUITE 460  
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PHONE: 916.649.3331  
916.649.3322

February 13, 2017

██████████ Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811

RE: Notice of Availability, Draft Addendum to EIR, Environmental Checklist, and Effects Analysis and Conservation Strategy for the Greenbriar Project (SCH No. 2995962144) (P11-093.)

Dear ██████████

The Conservancy serves as Plan Operator for the City's interest in the Natomas Basin Habitat Conservation Plan (NBHCP). As such, the Conservancy's job is to serve as a steward and implementing arm for the City's investment and interest in the NBHCP. The City continues to have a substantial entitlement in its Incidental Take Permit's "Permitted Acres," in excess of twice the acreage proposed in the subject project, and larger than many HCPs permitted in the state and nation in recent years. Moreover, the City has affirmed its commitment to successful implementation of the NBHCP through representations in various legal actions as well as the NBHCP's Implementation Agreement (NBHCP IA) it has executed with the State of California and the U.S. Government.

The Conservancy's interest here is not to decide whether projects get approved or disapproved, but rather, whether it can continue to implement the NBHCP as envisioned and assured in the founding and successor documents and agreements, including, but not limited to, the NBHCP and the NBHCP IA.

In an effort to affirm its ability to successfully implement the NBHCP, the Conservancy has engaged the assistance of third-party experts. Two documents are relevant here. One is a memo from Economic and Planning Systems dated April 12, 2016 ("Natomas Basin Habitat Conservation Plan Estimated Acres Distribution"). See attached. This document reviews the acreage amounts committed and represented as allocated and allocable in the NBHCP. Of particular relevance, here is that portion discussed as "Land committed to agriculture." See Figure 1 in the document, which compares acreage allocations in 2003 (associated with the initiation of the 2003 NBHCP) and in 2016. It shows the land committed to agricultural uses declining with various projects and with the proposed Greenbriar project based on information available to the Conservancy and its consultant. The illustration highlights the acreage counted on to facilitate the Conservancy's implementation of the NBHCP's Operating Conservation Program has been reduced and is proposed for further reduction.



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BOARD OF DIRECTORS

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██████████  
*Board Member*

██████████  
*Board Member*

██████████  
*Board Member*

EXECUTIVE OFFICER



In this regard, we request that in approving any projects that exceed the 17,500 Permitted Acres authorized in the NBHCP, the City consider the impact of further development on the Plan Operator's ability to fulfill requirements and carry out the NBHCP Operating Conservation Plan successfully. As the NBHCP Plan Operator, the Conservancy is aware that for each acre in the Natomas Basin that is no longer available to the Parties to the NBHCP for mitigation action, additional biological function will likely be needed from the balance (remainder) of the acres.

The second attached exhibit, dated March 14, 2014, reviews for the Conservancy the constraints to development outside the authorized 17,500 acres as contained in the 2003 NBHCP (see "Natomas Basin Development Constraints") and associated documents. This exhibit captures for readers the many references in the relevant documents upon which the NBHCP was authorized how development beyond the 17,500 acres would be addressed.

In this respect, we simply remind the City of its obligations in this regard, and urge that it review each of these points to make sure that it (the City) is in compliance with its assurances in federal and state court as well as in the NBHCP IA.

Thank you for giving us the opportunity to highlight a few of the key points that should be helpful to the City as it considers new projects in the Natomas Basin and determines if they are consistent and compatible with its assurances, commitments and representations that have guided the initiation and successful implementation of the NBHCP since its inception.

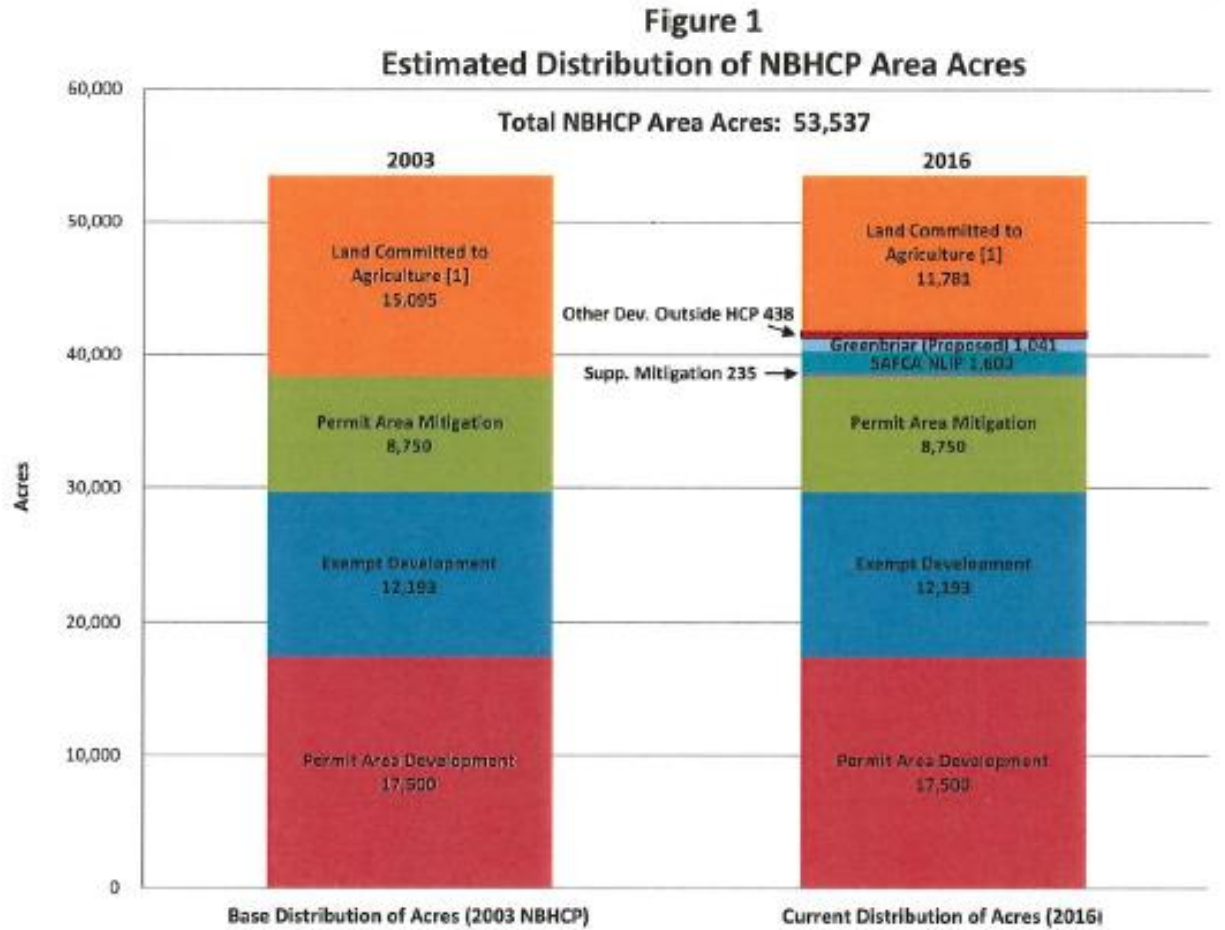
Sincerely,

The Natomas Basin Conservancy, a California  
Non-profit Public Benefit Corporation

Executive Director

enclosures: April 12, 2016 and March 14, 2014 memos from Economic and Planning Systems





[1] The most recent Federal court decision regarding the NBHCP, dated September 7, 2005, states:  
"The NBHCP, BiOp, EIR/EIRS, 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 land will remain in agricultural use." (p.30, footnote 13)





## **APPENDIXB**

### **SUTTERCOUNTY COMMUNITYSERVICESDEPARTMENT**

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Planning–LisaWilson,PlanningDivisionChief  
AnimalControl  
BuildingInspection  
EnvironmentalHealth

Director–LarryBagley  
AssistantDirector–RandyCagle  
FireServices–DanYager  
EmergencyServices–JohnDeBeaux

September 27, 2007

██████████, New Growth Manager  
City of Sacramento  
915 I Street  
Sacramento, CA 95814-2671

Re: Greenbriar (M05-046 and P05-069) A request to allow the annexation and future development of 577± acres into the City of Sacramento

Dear ██████████:

The County of Sutter wishes to comment on the Greenbriar project (M05-046 and P05-069) scheduled to be presented to the City of Sacramento Planning Commission this evening. Sutter County would have commented sooner but did not receive notice of this public hearing. As a partner with the City of Sacramento in the Natomas Basin Habitat Conservation Plan, we feel we should have been provided notice of this public hearing.


As a signatory to the Natomas Basin Habitat Conservation Plan (NBHCP), Sutter County has serious concerns regarding this project and its potential to jeopardize the validity of the NBHCP. Under the NBHCP, Sutter County and the City of Sacramento are allowed a designated amount of development within specific areas in exchange for the preservation of habitat lands for threatened and endangered species. The Severability section of the NBHCP states that if one of the plan's participants has its permits revoked for failure to comply with the NBHCP, the essential effect to the implementation of the NBHCP is that less Authorized Development is allowed by the plan.

It has been acknowledged that approval of the project would constitute a significant departure from the NBHCP's Operating Conservation Plan, and could trigger a reevaluation of the NBHCP. As a signatory to the NBHCP, this is unacceptable to Sutter County since approval of this project places the integrity of the NBHCP in jeopardy and could impact Sutter County's ability to develop within its own permitted development area.

This issue is of paramount concern to Sutter County. This project lies outside of the boundaries designated in the NBHCP for development. Sutter County does not support a proposal that may undermine the adopted NBHCP, or potentially threaten Sutter County's

## Development in South Sutter County – Fowl Play in the Natomas Basin?

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City of Sacramento  
September 27, 2007  
Page 2

ability to develop within its permitted development area. Sutter County recommends the City of Sacramento's Planning Commission recommend denial of this project to the Sacramento City Council.

Please provide this office with all future notices regarding this project.

Sincerely,

