

James P. Pachl
Attorney at Law
717 K Street, Suite 534
Sacramento, California, 95814
Tel: (916) 446-3978
Fax: (916) 447-8689

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SEP 12 2007

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION

jpachl@sbcglobal.net

September 12, 2007

Charles Rose, Chair,
LAFCO Commissioners and Alternates
Peter Brundage, Executive Director
Sacramento LAFCO
1112 I Street, Suite 100
Sacramento, CA 95814

RE Greenbriar, proposed LAFCo action on Greenbriar SOI, Municipal Services
Review, certification of EIR, and related actions, September 19, 2007

Dear Chairman Rose, Commissioners and Mr. Brundage,

These comments are on behalf of Sierra Club and Friends of the Swainson's Hawk, which have previously commented on this proposal. We support the comments in the letter of Environmental Council of Sacramento dated September 11, 2007.

LAFCo should deny amendment of the City of Sacramento's SOI to encompass the site of the proposed development project because it fails to meet the regulatory and statutory criteria for LAFCo to approve an SOI. LAFCo should not approve the Municipal Services Review ("MSR") because its conclusions are unsubstantiated and sometimes are contrary to known facts. An example is the MSR's assumption that revenues generated by proposed development will be available to provide services and will not be subject to the revenue-sharing provisions of the Joint Vision MOU. Finally, LAFCo should not certify the EIR because fails to meet the requirements of CEQA, as stated in previous letters commenting on the Draft EIR's.

- 1. There is no substantial evidence that development of all or a substantial portion of the site will occur within the next five years, or within a reasonable period of time (LAFCo Policy IV.E.1.c.)**

The EIR anticipates a start date of 2010 for Greenbriar development. However, this is contingent upon completion of adequate flood protection (if FEMA designates the Basin as an AR Zone) and sewer service and adequate financing for adequate municipal services which, as stated below, is presently lacking and will remain so for an unknown period of time. Development is also contingent upon a new Habitat Conservation Plan for the project and issuance of Incidental Take Permits by U.S. Fish and Wildlife Service and the California Department of Fish and Game. The MSR, App. H, states that a substantial portion of the

property is anticipated to build out within 5 years after recordation of the final maps, which is inconsistent with Policy IV.E.1.c.

2. The Municipal Service Review ("MSR") and EIR Fail to Demonstrate That Adequate Services Will Be Provided (LAFCo Policies IV.A.2.b, IV.I.4 and 5, V.H.6)

LAFCo Policy V.H.6. states that LAFCo shall adopt a Master Services element only if projections of levels of service are accurate. Policy IV.I.4 states that annexation can be approved only if the services element of the SOI demonstrates that adequate services can be provided. The MSR's assertion, at Appendix H, that Applicant will be able to provide adequate, reliable, timely, and cost effective services to the annexation is not supported by substantial evidence.

Policy IV.A.2.b. requires that the Master Service Element demonstrate that adequate services will be provided within the time frame needed by the inhabitants within the proposed boundary. The Greenbriar MSR fails to do so in a number of important respects, some of which are listed below:

- a. The MSR's Plan to Finance Municipal Services Conflicts with City/County Revenue-Sharing Provisions of "Joint Vision MOU", thereby violating LAFCo Policy IV.A.2.h, inadequate description of how MSR will provide adequate services, and IV.A.2.j and Government Code §56430(a)(3) failure to accurately identify projected revenue (by failing to account for revenue-sharing under Joint Vision), V.H.2.d. (no information about how Joint Vision revenue sharing will affect financing to support projected service capability)**

In December 2002, City and Sacramento County executed the Joint Vision for Natomas MOU affecting an area which encompasses Greenbriar. In the Joint Vision MOU, City and County agreed that the 1% ad valorem property tax on parcels annexed by City within the Joint Vision area shall be distributed equally between County and City, that other revenues would be shared according to provisions of the MOU, and that the principles of Joint Vision MOU shall govern the adoption of a master Tax Sharing and Land Use Agreement for Annexations. (See Joint Vision, pp. 4, 5, **EXHIBIT A**).

The financing mechanisms relied upon by the MSR, proposed CEQA Mitigation Measures, and Revised Financing Plan, assume that the City will retain all municipal revenues generated by development at Greenbriar and do not mention sharing of tax revenue with County pursuant to the Joint Vision MOU. There is no Joint Vision Master Tax Sharing agreement. County states that it will not agree to remove Greenbriar from the Joint Vision, and wants a revenue sharing agreement. (See letter of Terry Shuttan to Ray Kerridge, January 24, 2006, **EXHIBIT B**). We are advised that County and City remain in substantial disagreement about the sharing of revenue generated by the Greenbriar project.

By failing to consider the revenue and financing constraints that may result from Joint Vision revenue sharing, the MSR is in violation of Government Code §56430(a)(3), which requires that an MSR identify financing constraints.

If Joint Vision revenue sharing is implemented, City's revenues relied upon by the MSR's analysis to provide municipal services will be reduced and City will be unable to provide adequate municipal services to the project unless other revenue sources are identified. There is no evidence that County will waive the revenue-share provisions of Joint Vision. LAFCo cannot determine the adequacy of funding to support municipal services until there is either (a) a City/County agreement regarding Joint Vision revenue-sharing, and revised MSR and Financing Plan which demonstrate how adequate municipal services will be financed despite sharing of Greenbriar's revenue with County; or (b) a waiver of revenue-sharing by County.

c. The MSR's assertion that adequate sewer service will be provided is unsubstantiated.

The MSR's finding that SRCSD and CSD-1 have sewer capacity to adequately serve Greenbriar is based only on "personal communication from Michael Myers," and his very short letter dated July 3, 2007, (FEIR App F), which Mr. Meyers qualifies with the cryptic phrase "based on information to date." No data is provided by SRCSD, CSD-1, or Mr. Myers' letter of July 3, 2007, which would show that sewer capacity will be available within five or ten years.

The MSR correctly identifies proposed SRCSD projects which will someday increase capacity, but no completion dates are stated. No data is presented by SRCSD which shows that its present sewer expansion project includes Greenbriar development in its baseline, nor capacity to accommodate Greenbriar. Much more information is needed before LAFCo would have sufficient information to determine whether and when adequate sewer service will be available to serve the project, or whether infrastructure improvements needed to serve new Greenbriar development would draw resources away from other sewer projects needed to serve existing or new development within existing urban boundaries.

d. Adequate protection against the potential deep flooding will not be provided prior to upgrade of the levees. The assertion that FEMA re-certification of the levees will be achieved by 2010 is speculative and not supported by substantial evidence.

The MSR and EIR acknowledge that Natomas Basin has less than 100-year flood protection, but that City will undertake no protective measures other than compliance with restrictions of FEMA floodplain designations (either A99, AR, or A).

The EIR and MSR fail to disclose that City is seeking FEMA A99 designation for Natomas Basin, which would allow unlimited development in this deep flood basin while awaiting levee upgrade, with no requirement that new structures be elevated above the base (100-year) FEMA-designated floodplain. The City is thus actively seek permission to expose additional new development, and its residents to the hazards of deep flooding without disclosing its intention to the public in the EIR and MSR.

If FEMA designates the Basin as an AR Zone (area protected by previously-certified levees which were de-certified), building within the developed area is still permitted provided that new structures are elevated three feet above ground, which is well below the projected base (100-year) flood elevations of up to 20 feet. New structures outside the "developed area" would be required

to be elevated one foot above the base flood elevation, which would likely make development prohibitive until the levees are re-certified as providing 100-year protection. The Greenbriar site is outside the developed area but the EIR and MSA incorrectly assert that Greenbriar is infill. Thus, if Natomas is designated as an AR zone, it appears that City may assert that Greenbriar is within the developed area and need elevate new homes only 3 feet above ground level, which is well below the base flood elevation.

Moreover, FEMA regulations allow re-designation as an A99 zone when FEMA determines that the planned flood control project is fully funded, 60% completed, and certain other requirements are met, even though 100-year protection has not yet been achieved.

There is no substantial evidence to support the assertions of SAFCA and the City Engineer that 100-year protection will be achieved by 2010. Year 2010 is SAFCA's target goal, but there are far too many physical and financial variables to make reliable estimates of the actual date of completion.

e. The assertion in the MSR and EIR that flood hazard would be mitigated to less than significant by 100-year flood protection is not supported by evidence: the 100-year level of protection is not adequate to protect urban development in a deep floodplain. (LAFCo Policies IV.H.3, IV.I.4 and 5, V.H.6.)

Both the MSR and EIR assert that flood protection at the 100-year level reduces flood hazard to less than significant. Yet the FEIR p. 4-488 admits that the likelihood of a 100-year flood during a 30-year period is 26%, which is highly significant where, as here, a 100-year flood would have catastrophic consequences to human life and property. Government and flood experts now advocate that development in a flood hazard area should be protected against the 200-year flood (0.5% chance per year recurrence interval).

The New Orleans flood tragically demonstrated that deep flooding of an urban area has catastrophic human and economic consequences for both the flooded area and surrounding communities, and that our society lacks the resources to adequately respond to such a massive catastrophe.

LAFCo should consider whether it should permit new development in a deep flood basin at all. Knowledgeable engineers advised that there are two types of levees: those which have failed, and those which will fail. The Netherlands, which has no choice, has invested huge sums in massive flood protection projects intended to provide protection against the 1000-year flood. The Sacramento region, though, has the ability to accommodate the projected population increase without building further into a deep flood basin and exposing thousands more people to the threat of catastrophic deep flooding.

f. Traffic generated by the project will worsen traffic congestion on Hwy 99 and I-5, potentially impeding access to the Airport during peak traffic conditions

In its letter dated May 25, 2007, (FEIR pp. 6-5 - 6-8), CalTrans explains that the peak hour level of service is presently unacceptable, that Greenbriar traffic will worsen the situation, and that the

project fails to mitigate for its impacts even though additional mitigation is feasible. The finance plan and MSR propose only minimal contribution towards needed highway improvements, and there is no assurance or evidence that additional capacity on I-5 and Hwy 99 will ever be built. The serious inadequacies of the traffic analysis relied upon by the EIR are extensively documented by the report letters of Neal Liddicoat, P.E., MRO Engineers, dated September 2, 2006 and May 27, 2007, submitted by William Kopper, Attorney. (FEIR pp. 4-541 -551, 6-14 -6-24).

3. Approval of the proposed SOI at this time would be inconsistent with Government Code §§ 56300(a) and 56301, 56377, and LAFCo Policy IV.1.d.

LAFCo has failed to meet the requirement of Government Code § 56300(a) that by January 1, 2002, all LAFCo's shall establish policies that "encourage and provide efficient urban development patterns with appropriate consideration of preserving open space and agricultural lands within those patterns." That failure has potential to expose approval of an SOI to challenge.

However, Government Code §56300(a) independently provides that LAFCo exercise its powers in a manner that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open space and agricultural lands within those patterns. "Open space" is defined by Sections 56060 and 65560 as any area of land or water which is essentially unimproved. This definition does not encompass artificial detention basins, improved urban parks, freeway buffers. A copy of Section 65560 is attached as **EXHIBIT C**.

Section 56301 states that "among the purposes of a commission are discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently providing government services." Section 56377 states that in considering proposals which could convert open space in to non-open space uses, the "commission shall consider . . . the following policies and priorities; (a) development shall be guided away from existing prime agricultural lands towards areas containing non-prime agricultural lands" . . . and "(b) development of existing vacant lands within the existing jurisdiction or SOI shall be encouraged before any proposal is approved which would lead to development of open space lands which are outside of the existing jurisdiction or the SOI or jurisdiction of the local agency."

LAFCo Policy IV.E.1.d states that LAFCo will approve a change of organization only if it finds that the proposal will lead to planned, orderly, and efficient development, and that certain criteria are met, including LAFCo Policy IV.E.1.d, which requires a finding that insufficient vacant non-prime lands exist within the SOI that are planned, accessible, and developable for the same general type of proposal.

Most of Greenbriar is prime farmland. (See DEIR p. 6.11-5.)

- a. Substantial evidence would not support a LAFCo finding that there is insufficient nonprime vacant land within the current SOI which could accommodate the type of development contemplated at Greenbriar; there is**

no evidence that Greenbriar would attract Federal funding for proposed light rail to Airport.

The FEIR, p. 1-13, states that LAFCo will determine whether expansion of the SOI is needed to provide adequate housing within its jurisdiction to meet future housing needs. An internal staff memorandum by Mr. Klousner, a consultant to LAFCo, dated February 17, 2007, **EXHIBIT D**, correctly points out that the need for an expansion of City's SOI must be demonstrated by a lack of developable land suitable for housing across the entire City jurisdiction and SOI, not just in North Natomas.

Vacant land throughout the City includes the proposed Panhandle annexation (over 500 acres suitable for residential, in City SOI), one to two thousand acres of additional vacant land within North Natomas, Delta Shores, Railyard, and numerous other parcels which the EIR fails to discuss. There is no substantial evidence that developing prime farmland at Greenbriar is needed to provide for City's housing need. Providing infrastructure and services to Greenbriar will be more difficult and expensive than at alternative sites within the City or its SOI because Greenbriar is isolated by two highways and has no infrastructure whatsoever.

The **claim that the Greenbriar project is needed because will generate Federal funding to build light rail to the Airport is unsubstantiated.** The projected completion date is now 2026 and estimated cost is \$800 M. Funding has not been identified. There is no evidence that the Federal government is interested in funding light rail to the Airport, and no evidence, other than a verbal assertion in the FEIR, that development of Greenbriar will induce Federal funding. No DEIR has yet been released for that project. RT has recently suspended its planning of light rail extensions due to shortfall in locally-generated operating revenues, and has reduced or eliminated service on some bus routes. Interestingly, the new Airport Master Plan provides no funding for transit to the Airport. Express bus from downtown RT station would be a much more cost-effective and feasible mode of transporting persons from downtown to the Airport.

b. Approval of Greenbriar will impede infill development within the existing urban area and divert municipal funding and private investment from the existing developed areas to Greenbriar

It is axiomatic that undeveloped farmland is more attractive to some developers because it is less difficult and less expensive than infill development and reuse within the existing urban areas. The result is that both private capital and municipal planning efforts gravitate to the urban edge while existing urban areas deteriorate due to lack of investment.

Consideration of development of Greenbriar is premature. As stated above, there is plenty of undeveloped land within the existing urban area. The City has admitted a \$70 M shortfall in funding for infrastructure promised in the NNCP area, and residents of Natomas complain about lack of City services, including police and fire. Smart Growth planning would focus resources on (1) completing development within the NNCP, Railyard, and other areas of the City, and (2) completing the infrastructure promised to North Natomas but never delivered.

Greenbriar is isolated from the rest of North Natomas development by two highways, and consequently Greenbriar will share little existing urban infrastructure within the developed area,

and there is insufficient nexus to require Greenbriar development to contribute to completion of infrastructure within the North Natomas Community Plan Area.

c. The project improperly counts wildlife habitat preserves as mitigation for loss of farmland

The EIR counts to-be-required habitat mitigation lands as mitigation for loss of prime farmland. This is inappropriate because habitat mitigation lands must be managed for highest wildlife habitat value, which may be inconsistent with the continued or best agricultural use of such lands. For example, the current NBHCP requires that 25% of the mitigation preserves be managed marsh. Another 25% must be managed as SWH foraging, which the Natomas Basin Conservancy has found is best accomplished by management as grassland or other uses which are not agriculturally productive, due to soil conditions in much of the Basin which preclude types of agriculture which can be used as SWH foraging habitat. It is possible that an HCP for Greenbriar (if approved by USFWS and DFG), may direct that all or a high proportion of those mitigation lands be managed exclusively for wildlife or converted to managed marsh. Meanwhile, there are available high quality working farms in Natomas that could be preserved as mitigation for development of Greenbriar

d. City's proposal for open space preservation is inconsistent with statute.

City proposes to mitigate under "Joint Vision" at a 1 to 1 ratio for loss of open space, with mitigation land being within the County's jurisdiction of the Basin.

However, the FEIR p. 5-75 (top paragraph) states that City intends to credit parks (presumably developed), bicycle paths, and detention basins (artificial, line with concrete) within the project as open space mitigation, and claims, with absolutely no substantiation, that City Council and the County Board of Supervisors have agreed. These uses are inconsistent with Government Code §56060, which defines open space for LAFCo purposes as: ". . . any parcel or area of land or water which is substantially unimproved and devoted to an open space use, as defined in Section 65560" (attached **EXHIBIT C**). Urban parks, bicycle paths and artificial detention basins within the project clearly are not encompassed by Section 65560.

4. The proposed SOI and Annexation is inconsistent with the General Plans of the City of Sacramento and County of Sacramento

The proposed SOI is inconsistent with the Sacramento County Urban Service Boundary, which is the primary mechanism by which the County preserves farmland and open space. LAFCo

The proposed SOI is also inconsistent with the City of Sacramento General Plan. The City General Plan is undergoing revision. Greenbriar should be considered and analyzed in the context of the overall revision of the City's General Plan. A General Plan amendment to annex land for a single landowner's project is inappropriate.

5. City has stated its intention to not comply with the Natomas Basin Habitat Conservation Plan (NBHCP), which could potentially jeopardize Incidental Take Permits issued to all Natomas jurisdictions.

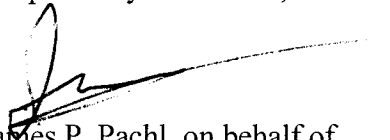
In the NBHCP, Implementing Agreement, p. 3, §3(a) (**attached EXHIBIT E**), City agreed that in the event of further urban development in the Basin, "prior to approval of any related rezoning or pre-zoning, such future development shall trigger a reevaluation of the Plan and Permits, a new effects analysis, potential amendments and/or revisions or the Plan, a separate conservation strategy and issuance of Incidental Take Permits . . . for that additional development".

The wildlife agencies have determined that the EIR's analysis of effects of the project on the Giant Garter Snake is inadequate. (See USFWS/DFG letter, FEIR p 5-5). City now claims that the agencies agreed that only the effects analysis needs to be completed (but not approved) before annexation, and the rest of the process, including issuance of Incidental Take Permits, need not be completed until prior to issuance of final tract maps by the City, (FEIR, Exhibit A, City letter) though the quoted provision of the NBHCP clearly states that issuance of Incidental Take Permits (if approved) must occur prior to approval of rezoning or pre-zoning. The City will be in gross violation its Incidental Take Permit if it proceeds with its unsubstantiated assertion that Incidental Take Permits need not be obtained until immediately prior to the final map.

Sutter County is justifiably apprehensive that violation of the terms of the NBHCP by City could adversely impact the Permit issued to Sutter County. (See Sutter County letter, FEIR pp. 5-67 -77). As a regional entity, LAFCo should not approve an annexation by City of Sacramento if it would adversely affect the Incidental Take Permits issued to Sutter County under the NBHCP.

5. California Environmental Quality Act. Some CEQA issues were mentioned above, but a supplemental letter discussing CEQA issues will be submitted prior to the September 19 meeting. Most CEQA issues were addressed in letters commenting on the Draft EIR and Recirculated EIR's.

Respectfully submitted,



James P. Pachl, on behalf of
Sierra Club and Friends of the
Swainson's Hawk.

transit orientation by addressing density, efficient design, and urban open space to provide sustainable, livable communities with fewer impacts than standard development.

- (8) The City and County will develop a joint planning process for major uses in Natomas that are likely to have important economic impacts to existing commercial facilities in the city or county. Among the goals of that process will be to avoid competition for tax revenues, in favor of balanced regional planning.

C. Economic Development.

(1) The area subject to revenue sharing between the County and the City shall include all that area depicted on Exhibit A except for those areas designated as Metro Air Park and the grounds of Sacramento International Airport, excepting those Airport properties currently used as buffer lands for Airport operations. If retail or commercial development other than Airport-related operations is permitted on such buffer lands, revenues derived from such development shall be subject to this MOU. For purposes of this section, airport-related operations are defined as airport support services such as terminal expansion, aviation fuel sales, aircraft maintenance and support; and hotel motel uses, to the extent such uses are existing or are relocated from existing premises.

(2) The one percent, general ad valorem tax levy on all property within defined area, which is annexed to the City, shall be distributed, from the effective date of annexation, equally between the County and the City prior to accounting for the impact of distribution of such taxes to the Education Revenue Augmentation Fund.

(3) It is generally intended that all other revenues from the area be shared as follows subject to an agreed upon projection of need for County or City services:

(a) Upon the effective date of the annexation of undeveloped property for single-purpose/regional tax generating land use the County and City will share the 1% Bradley-Burns sales tax and City General Fund share of transient occupancy tax equally.

(b) Upon issuance of certificates of occupancy, or their equivalent, property within the unincorporated area, except as excluded in Section C (1), which is approved for single-purpose/regional tax generating land use by County, the County and City will share the 1% Bradley-Burns sales tax and County General Fund share of transient occupancy tax equally.

(c) Upon the effective date of the annexation of undeveloped property for a Multi-Purpose/Master Planned Community Area but prior to commencement of development beginning, revenues (including the general ad valorem property tax but excluding special taxes, fees or assessments) shall be shared by comparing the projected City municipal revenues to projected City municipal expenses including capital/development costs funded by the City.

In the event of a projected City surplus (revenues exceed expenses), 50% of such surplus shall be allocated to the County by adjusting the County's property tax share for the area.

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EXHIBIT A

- (d) Upon the effective date of Annexation of any area developed for urban purposes as of the date of this MOU, the County municipal revenues transferred with the area shall be calculated against the costs of municipal services being transferred. The County's property tax share will be increased in the case of a surplus (i.e. County revenues transferred exceed County expenses transferred), and the City's share will be increased in case of a deficit (i.e. County revenues transferred are less than County expenses transferred). The County will consider a one-time contribution to the City upon annexation of any such area calculated on the basis of avoided, near-term capital maintenance costs together with a one-time contribution for the costs of necessary, significant infrastructure repairs which are identified prior to completion of annexation.
- (e) In the event either the County or the City approve development in a fashion which would require payment pursuant to Government Code Section 53084, the County or the City, as the case may be, should be entitled to the greater of the revenue calculated pursuant to either that section or the ultimate provisions of a revenue sharing agreement.
- (f) Should legislation be enacted which alters the manner in which local agencies are allocated revenue derived from property or sales taxes, any agreement shall be subject to good faith renegotiations.

II. The principles set forth are intended to guide further discussions and the ultimate negotiation of an agreement between the County and the City. It is recognized that certain of the terms used are subject to further definition and refined during the process of negotiation. It is the intent of the County and the City to work cooperatively to establish a review process, by agreement, to evaluate the likely impacts of large-scale commercial uses in Natomas on competing uses in the County and City. The goals of such a process will be to avoid competition for tax revenues, in favor of balanced regional planning and to assure that proposed land uses conform to the principles articulated in this MOU. It is further the intent of the County and the City that the revenue sharing principles set forth in this MOU shall govern the adoption of a Master Tax Sharing and Land Use Agreement for annexations.

Nevertheless, this Memorandum of Understanding is a good faith expression of the intent of the County and the City to cooperatively approach development and revenue within the Natomas area of our regional community.

~~WAR~~ 2793

County Executive
Terry Schutten



County of Sacramento

Board of Supervisors
Roger Dickinson, District 1
Illa Collin, District 2
Susan Peters, District 3
Roberta MacGlashan, District 4
Don Nottoli, District 5

January 24, 2006

Mr. Ray Kerridge
Interim City Manager
City of Sacramento
915 I Street, Fifth Floor
Sacramento, CA 95814

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JAN 31 2006

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION

RE: Greenbriar Farms
Letter of January 5, 2006 from
Remy, Thomas, Moose and Manley, LLP

Dear Ray:

Thank you for forwarding to us the January 5 correspondence you received from Remy, Thomas, Moose, and Manley, LLP regarding the Greenbriar Farms annexation.

We are concerned to see the direction the developer is proposing regarding Greenbriar and the Natomas Vision. To date, the city and county cooperation contained in the Natomas Joint Vision has been widely praised by community leaders, landowners, and others. Given this great success, we were surprised to see that the developer is suggesting to "amend the project description to reflect applicants' request that the city remove Greenbriar from the joint Vision Memorandum of Understanding (MOU) map." The developers then claim that removal from the map should not require the County's approval because the county never approved a map.

While we recognize that, at this time, the City has not agreed to the developer's request, it is important that you understand the County's perspective on this issue before proceeding. Setting aside the legal arguments as to whether the County should be involved in the decision to remove Greenbriar from the Joint Vision, it is certainly the county's belief that major changes to the Joint Vision should involve both the County Board of Supervisors and the City Council.

The success of the Joint Vision MOU has always been that it is a "joint" document, approved and negotiated by both the City and County. Significant changes - and it is our opinion that the removal of Greenbriar is significant - should involve approval of both bodies. Both of the City and the County agreed to the principles embodied in the MOU, and the document itself states this belief quite nicely in Section I. B.:

The best way to insure sustainable community building in Natomas is for the City and County to plan jointly. Such an effort will provide opportunity to focus more on sound long-term planning principles, and less on quick return revenue generation.

With or without a specific map, the principles approved by the Board of Supervisors and the City Council should not be selectively applied. If we do not "hold the line," we can expect developers who do not like certain aspects of the vision as it applies to their project to ask that they be removed from the Joint Vision area.

From the County's standpoint, the processing of the Greenbriar annexation to date has embodied the Natomas Joint Vision principles admirably. From sharing and working jointly in the development of the required revenue sharing agreement (which will require Board of Supervisors and City Council approval), to discussing and sharing meetings on the land use and annexation process, we have always agreed that Greenbriar is a critical component for implementation of the Joint Vision. In fact, we view Greenbriar as a pilot project for the Joint Vision. We would like this cooperative process to continue.

We respectfully disagree with Ms. Thomas' assertion that removing Greenbriar from the Natomas Joint Vision area is not inconsistent with the Joint Vision. She states that the County did not approve a map. First, the actual MOU does include a map showing the entirety of the Natomas Joint Vision area properties, and it includes the Greenbriar property.

The issue of the County not approving a "specific land use/zoning map" has nothing to do with Greenbriar, but instead was related to other properties within the Joint Vision, mainly smaller properties along the buffer areas, and whether they should be designated as open space, or ultimately developed. Exclusion of the Greenbriar property was never part of that discussion, and excluding those hundreds of acres seems to be a very major change that was never contemplated in any staff or public deliberations or discussions.

In conclusion, we request that the City of Sacramento denies the applicant's request for the City unilaterally to remove the Greenbriar properties from the Natomas Joint Vision area. We reiterate that the processing of the Greenbriar annexation and land use plan must be consistent with all the terms outlined in the jointly approved MOU. Should this not be the City's decision, then the County must reassess our position in relation to the Natomas Joint Vision.

We understand this issue, and others related to the Joint Vision, will be heard by the City Council at a hearing/workshop in March 2006. We think it important that you know the County's position in advance of that hearing. Given the very important implications of this decision, we request that you advise us in writing of your thoughts on this matter, preferably before the March 2006 hearing with the City Council.

In addition to the City Council hearing, several other issues related to the Greenbriar annexation need to be addressed in the coming months, including a revenue sharing agreement, the CEQA document, and LAFCO hearings. The City's decision on the proposed removal of Greenbriar will impact these other issues.

The Natomas Joint Vision has been, to date, a great example of how City/County cooperation works effectively for both entities, as well as their respective citizens. The county looks forward to continuing this interesting and exciting collaboration. We would be pleased to meet with you to at your convenience to discuss this further. If you wish to contact me, I can be reached at 916.874.4949.

Yours sincerely,



Terry Schutten

c: Tina A. Thomas-Attorney At Law, Remy, Thomas, Moose and Manley, LLP
Peter Brundage-Executive Officer, Sacramento Local Agency Formation
Commission (LAFCO)

B-3

GOVERNMENT CODE 65560. (a) "Local open-space plan" is the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563.

(b) "Open-space land" is any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays and estuaries; and coastal beaches, lakeshores, banks of rivers and streams, and watershed lands.

(2) Open space used for the managed production of resources, including but not limited to, forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including but not limited to, areas of outstanding scenic, historic and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.

(4) Open space for public health and safety, including, but not limited to, areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs and areas required for the protection and enhancement of air quality.

(5) Open space in support of the mission of military installations that comprises areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands.

(6) Open space for the protection of places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

EXHIBIT C

**Greenbriar Development Project
ADEIR dated February 2006**

**Klousner Comments
February 17, 2006**

I received this document on February 16, 2006 with a request from the City of Sacramento and the EIR preparer that comments be submitted no later than February 21, 2006. Given the short amount of time allowed to review that document, the following are my major substantive comments. I have not reviewed sections of the document other than those that were the subject of previous LAFCo comments.

Chapter 4 Alternatives

Section 4.4.1 Other Alternatives Considered and Rejected – Off-Site Alternative

In our previous comments on this ADEIR, LAFCo staff requested that the EIR explore a dispersed development alternative to evaluate whether there was sufficient available land, located outside of valuable agricultural and open space resources, within the City's existing SOI that would, in aggregate, be able to host the proposed land uses planned by the Greenbriar project. Staff additionally asked that this scenario be evaluated as an alternative, and that offsite locations not be confined to North Natomas. The EIR does not comply with this request.

Chapter 5 Project Consistency with Plans and Policies

Agricultural Land Conservation (p 5-5)

The discussion accurately reflects LAFCo's adopted policies with respect to the preservation of agricultural land.

*Section 5.4.3 Consistency with the Sacramento LAFCo Policies, Standards and Procedures
Agricultural Land Conservation (p 5-10)*

I am dissatisfied with the reasoning in bullet 4. The reasoning seems to be improperly focused on North Natomas only, and then only on a land use project similar to that proposed by the project. The evaluation misses or ignores LAFCo's requirement that the need for the expansion of an agency's SOI be demonstrated on the basis of lack of sufficient developable land across the entire jurisdiction, not merely in the vicinity of a proposed project. While LAFCo's consideration of potential urbanization must consider whether the potential land uses within a SOI could be sited elsewhere in the jurisdiction, this line of analysis doesn't necessarily require that such urban uses be delivered in the exact configuration proposed by an individual development project. Based on the information presented in the ADEIR, I'm not sure that the Commission could legitimately make the finding that sufficient vacant, nonprime land does not exist within the City's existing SOI.

EXHIBIT D

AGREEMENT

FOR AND IN CONSIDERATION of the recitals set forth above, which are incorporated by reference herein, the covenants set forth herein, and other considerations, the receipt and adequacy of which is hereby acknowledged, the Parties hereto agree as follows:

2 DEFINITIONS

Terms used in this Agreement with reference to the ESA shall have the same meaning as those same terms have under the ESA, or in regulations adopted by the USFWS, and terms used in this Agreement with reference to CESA, shall have the same meaning as those same terms have under CESA, or regulations adopted by CDFG. Capitalized terms used in this Agreement shall have the defined meanings specified in the NBHCP as attached hereto as Exhibit A and incorporated herein into this Agreement. Where additional terms are used in this Agreement, definitions are included within the applicable text. Any amendments to the definitions contained in this Agreement shall be deemed automatically to be amendments to the definitions contained in the NBHCP.

3 OBLIGATIONS OF THE PARTIES

3.1 CITY and SUTTER.

3.1.1 Limitation on Total Development in Natomas Basin and Individual Permit Areas. The NBHCP anticipates and analyzes a total of 17,500 acres of Planned Development in the Natomas Basin, 15,517 acres of which constitutes Authorized Development within CITY and SUTTER. (An additional 1,983 acres of development is allocated to the Metro Air Park project in Sacramento County under the Metro Air Park Habitat Conservation Plan and is analyzed within the NBHCP.) CITY agrees not to approve more than 8,050 acres of Authorized Development and to ensure that all Authorized Development is confined to CITY's Permit Area as depicted on Exhibit B to this Agreement). SUTTER agrees not to approve more than 7,467 acres of Authorized Development and to ensure that all Authorized Development is confined to SUTTER's Permit Area as depicted on Exhibit C to this Agreement). The Parties further agree:

(a) Because the effectiveness of the NBHCP's Operating Conservation Program is based upon CITY limiting total development to 8,050 acres within the CITY's Permit Area, and SUTTER limiting total development to 7,467 acres within SUTTER's Permit Area, approval by either CITY or SUTTER of future urban development within the Plan Area or outside of their respective Permit Areas would constitute a significant departure from the Plan's Operating Conservation Program. Thus, CITY and SUTTER further agree that in the event this future urban development should occur, prior to approval of any related rezoning or pre-zoning, 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.

(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

Implementing

Agreement, NBHCP

EXHIBIT E