

**CALENDAR ITEM  
74**

A 15

04/06/11

S 1

W 25470  
E. Milstein  
C. Oggins

**CONSIDER A RESOLUTION TO OPPOSE THE CONVERSION AND EXPANSION OF  
THE EXISTING PRIVATELY-OWNED, NON-PUBLIC-USE MUSTANG AIRPORT  
LOCATED ADJACENT TO THE COSUMNES RIVER PRESERVE TO A PRIVATELY-  
OWNED, PUBLIC-USE AIRPORT WITH UP TO 100 HANGARS AND 25 TIE-DOWNS,  
SACRAMENTO COUNTY**

**BACKGROUND**

The Cosumnes River supports a mosaic of habitats and is noted for its abundance of rare aquatic invertebrates, river otters, and native trout and salmon populations. The river's natural process of seasonal flooding creates ideal wintering grounds for hundreds of thousands of migratory birds, including the tundra swan and the greater sandhill crane, listed as threatened by the State of California.

The Cosumnes River Preserve (Preserve), located along the Cosumnes River in Sacramento County, encompasses and protects thousands of acres of wetlands, including extensive vernal pools, and adjacent uplands which provide habitat for the giant garter snake and critical habitat for the Swainson's hawk, both listed as endangered species.

The primary goals for the Preserve include: 1) cooperative management as a single ecological unit for the protection, restoration and maintenance of the quality and diversity of valley oak riparian forest and freshwater seasonal wetlands as well as their associated wildlife habitat values; 2) cooperative management to protect, maximize, and enhance the benefits to declining, threatened, and endangered species of fish, wildlife and plants; 3) providing protected habitat and wintering grounds for migrating waterfowl and shorebirds in the Pacific flyway; and 4) protecting and managing additional habitat types, such as grasslands, to promote growth of native flora and provide habitat for wildlife.

Secondary goals include the accommodation and facilitation of research, teaching, nature study and appreciation, historical and cultural interpretation, agriculture, and compatible recreational, educational and scientific activities that are appropriate to the Preserve without detrimentally impacting its intrinsic ecological and wildlife values.

## CALENDAR ITEM NO. 74

### STATE LANDS COMMISSION JURISDICTION

Within the Preserve, the State, acting by and through the Commission, owns the bed of the Cosumnes River as sovereign lands subject to the Public Trust.

The Commission also owns a 263-acre parcel within the Preserve. On June 19, 1998, the Commission authorized the contribution of \$493,000 towards the purchase of the 263-acre parcel located adjacent to the then existing Cosumnes River Preserve (Minute Item 132). The monies used for this purchase came from the Kapiloff Land Bank Fund and was made in cooperation with the Wildlife Conservation Board who, using CALFED monies, contributed \$218,660 towards the total purchase price of \$811,660. The remaining \$100,000 was funded by other Cosumnes River Partners.

In return for the contribution of \$493,000, the Commission, as Trustee, took title to Parcel B of the subject property. Title to Parcel B was vested in the State as land of the legal character of tide and submerged lands subject to the Public Trust under the jurisdiction of the Commission, pursuant to the provisions of Division 6 of the Public Resources Code (commencing with section 6001). The Wildlife Conservation Board took title to Parcel A. See Exhibit A.

As part of the Commission's action on June 19, 1998, staff was authorized to enter into a lease with the U.S. Department of the Interior – Bureau of Land Management (BLM) for a term of 49 years for the management of Parcel B for the purpose of open space and wildlife habitat. As a result of these actions, Parcel B became part of the Cosumnes River Preserve.

On October 16, 2008, the Commission further authorized the Executive Officer to enter into an agreement with the BLM, California Department of Fish And Game, California Department of Water Resources, Ducks Unlimited, Galt Joint Union Elementary School District, Natural Resources Conservation Service, Sacramento County Regional Parks Department, and The Nature Conservancy, as partners in the Preserve (Partners), for the cooperative management of the Preserve (Minute Item 40).

### MUSTANG AIRPORT CONVERSION AND EXPANSION PROJECT

In early 2009, Commission staff learned that a proposal to convert a private use airstrip, surrounded on three sides by the Preserve, to a public airport with greatly expanded operations (Project) was moving through the entitlement process in Sacramento County. Discussions with the other Partners led to the consensus that this expansion of operations adjacent to and over the Preserve, created to attract large numbers of birds including large waterfowl, was a serious threat not only to wildlife in the Preserve but a threat to aviation and human

## CALENDAR ITEM NO. 74

safety as well. Consequently, the Partners agreed to oppose this incompatible Project as it moved through the entitlement process. Denial of the Project would not result in a closure or restriction of the existing airport operations.

On January 28, 2010, the Sacramento County Parks Commission voted to approve (advisory opinion) the conditional use permit for the Project even though the Parks Commission staff recommended denial. Similarly, on February 22, 2010, the Sacramento County Planning Commission approved the conditional use permit for the Project and certified the Environmental Impact Report for the Project, even though Planning Commission staff also recommended denial. The Partners appealed this decision to the Sacramento County Board of Supervisors.

Legal counsel for the Partners, including Commission staff, determined that there were numerous flaws with both the entitlement process and the environmental review for the Project. The Commission, during its closed session meeting of April 6, 2010, authorized staff to take all action necessary, including litigation, to oppose the Project.

The appeal to the County Board of Supervisors is still pending and currently scheduled for May 3, 2011.

Staff recommends that the Commission adopt the proposed resolution, attached as Exhibit B, opposing the Project because the Project will pose significant threats to public safety and have extremely negative impacts on the Preserve, including the Preserve lands within the Commission's jurisdiction.

### **OTHER PERTINENT INFORMATION:**

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of CEQA because it is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: Public Resources Code Section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

### **EXHIBITS:**

- A. Location and Site Map
- B. Resolution

**CALENDAR ITEM NO. 74**

**RECOMMENDED ACTION:**

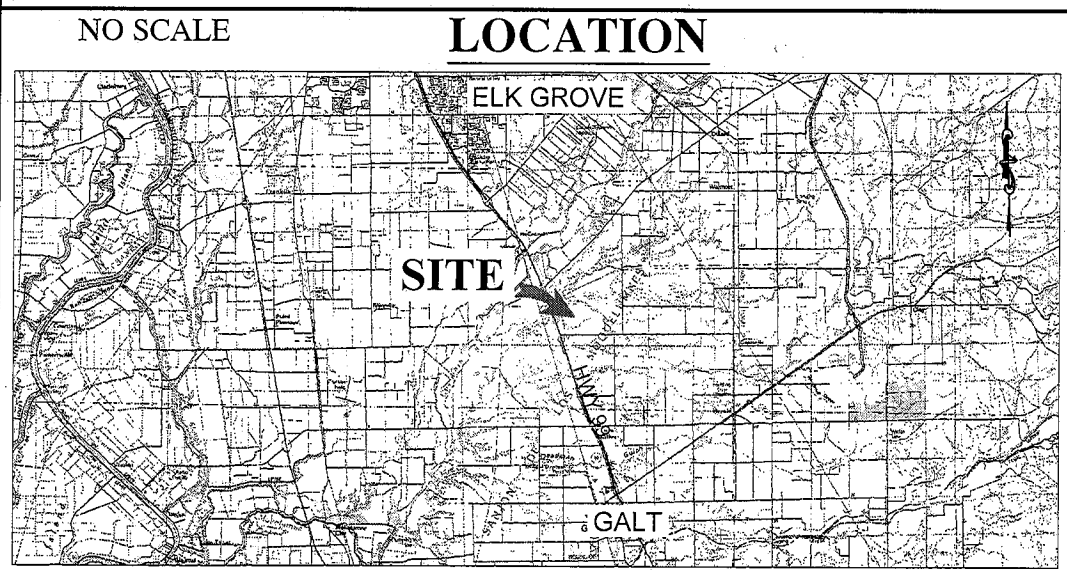
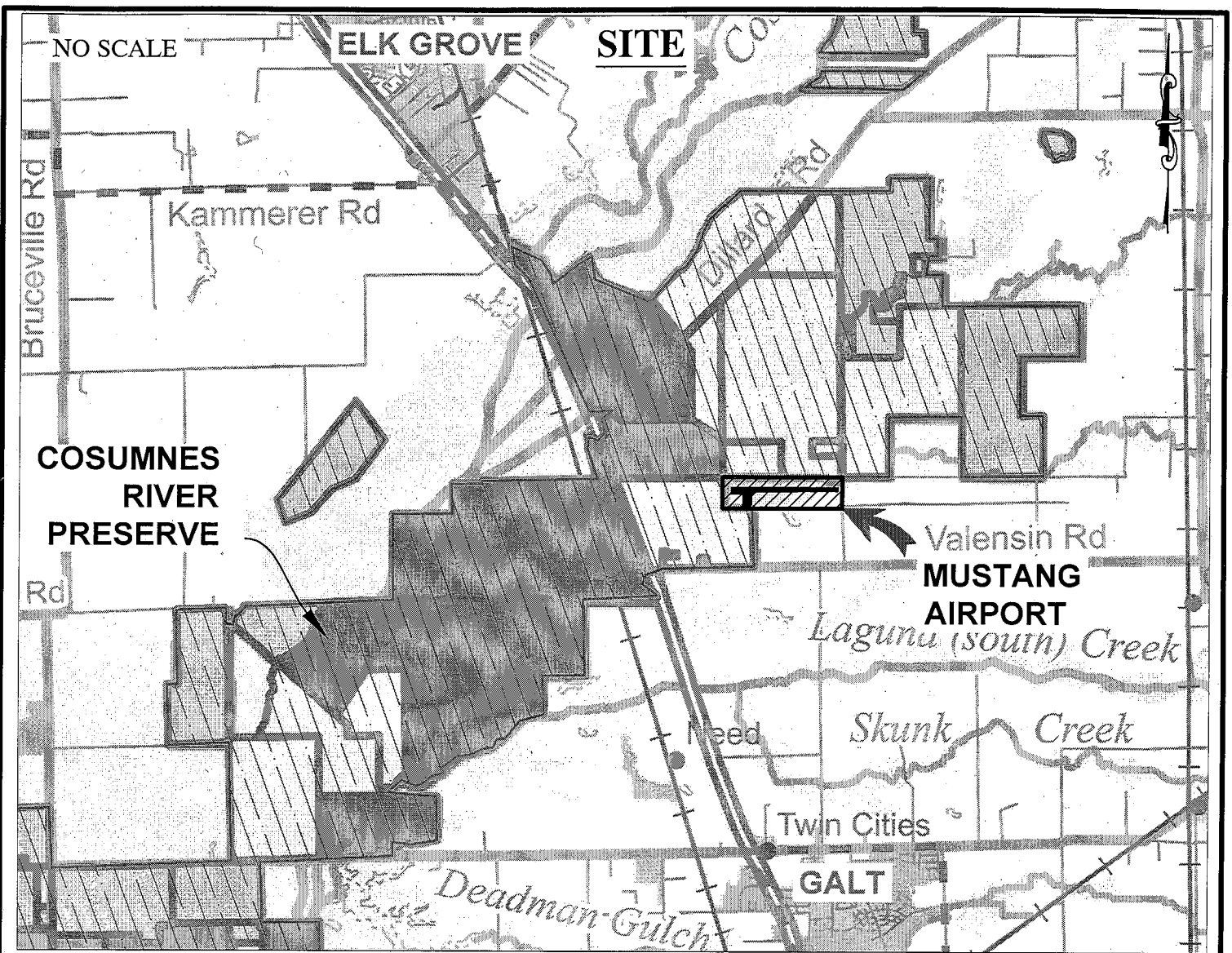
It is recommended that the Commission:

**CEQA FINDING:**

Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15060(c)(3) because the activity is not a project as defined by Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.

**AUTHORIZATION:**

Adopt a resolution opposing any conversion to a public use airport on expansion of the Mustang Airport and urging the Sacramento County Board of Supervisors not to certify the Final Environmental Impact Report and to deny the Conditional Use Permit for conversion and expansion of the Mustang Airport; and to direct the Executive Officer and direct the Executive Officer to transmit copies of this resolution to the Sacramento County Board of Supervisors, the Sacramento Area Council of Governments Airport Land Use Commission, and the California Department of Transportation, Division of Aeronautics.



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

**Exhibit A**  
MUSTANG AIRPORT  
CONVERSION AND  
EXPANSION/COSUMNES  
RIVER PRESERVE  
SACRAMENTO COUNTY



MJJ 03/11

## EXHIBIT B

### RESOLUTION BY THE CALIFORNIA STATE LANDS COMMISSION OPPOSING THE CONVERSION AND EXPANSION OF THE MUSTANG AIRPORT

**WHEREAS**, the Cosumnes River supports a mosaic of habitats and is noted for its abundance of rare aquatic invertebrates, river otters, and native trout and salmon populations. The river's natural process of seasonal flooding creates ideal wintering grounds for hundreds of thousands of migratory birds, including the state-listed threatened greater sandhill crane, which is also designated as a fully protected species by the State of California; and

**WHEREAS**, the Cosumnes River Preserve (Preserve), located along the river in Sacramento County, through a highly successful public/private partnership, encompasses and protects over forty-five thousand acres of wetlands, including extensive vernal pools, and adjacent uplands which provide habitat for the giant garter snake and the Swainson's hawk, both listed as threatened by the State of California; and

**WHEREAS**, the Preserve, or significant areas of the Preserve, have been designated as an Important Bird Area by the National Audubon Society, an Ecological Reserve by the California Department of Fish and Game, and a National Natural Landmark by the National Park Service; and

**WHEREAS**, the California State Lands Commission owns as sovereign lands the bed of the Cosumnes River and some 270 additional acres purchased with Kapiloff Land Bank funds and included as part of the Preserve; and

**WHEREAS**, the Sacramento County Planning Commission certified a flawed Final Environmental Impact Report and approved a conditional use permit for the owner of the Mustang Airport to convert and expand a little-used private airstrip surrounded on three sides by the Preserve, to a public use airport with 100 hangars, 25 tie-downs and an estimated 12,000 take-offs and landings annually; and

**WHEREAS**, this increased airport activity adjacent to the Preserve, whose purpose is to attract large numbers of birds, creates a significant safety hazard for aircraft, people on the ground, and the wildlife that the Preserve is designed to attract; and, could jeopardize the very existence of the Preserve and destroy the \$150 million invested in the Preserve since 1987; and

**WHEREAS**, The Nature Conservancy, the Commission, and the other partners in the Preserve are currently appealing the Planning Commission decision to the Sacramento County Board of Supervisors; now, therefore, be it

**RESOLVED** by the California State Lands Commission, that it opposes any conversion to a public use airport or expansion of the Mustang Airport; and that the Commission urges the Sacramento County Board of Supervisors not to certify the Final

Environmental Impact Report and to deny the Use Permit for conversion and expansion of the Mustang Airport; and be it further

**RESOLVED**, that the Commission's Executive Officer transmit copies of this resolution to the Sacramento County Board of Supervisors, the Sacramento Area Council of Governments Airport Land Use Commission, and the California Department of Transportation, Division of Aeronautics.

Adopted by the California State Lands Commission \_\_\_\_\_