The Sutter County Board of Supervisors' Response to the

2020-2021

Sutter County Grand Jury Individual Report

Nick Micheli	**District No. 1**
Dan Flores	**District No. 2**
Mike Ziegenmeyer	**District No. 3**
Karm Bains	**District No. 4**
Mat Conant	**District No. 5**

County of Sutter

Office of the County Administrator

1160 Civic Center Boulevard
Yuba City, California 95993
Phone: (530) 822-7100 Fax: (530) 822-7103

June 22, 2021

The Honorable Susan E. Green
Presiding Judge of the Sutter County Superior Court
1175 Civic Center Boulevard
Yuba City, CA 95993

Dear Judge Green:

On behalf of the Sutter County Board of Supervisors, I am herewith submitting its response to the findings and recommendations of the 2020-2021 Grand Jury Individual Report on Development in South Sutter County.

The Sutter County Board of Supervisors and administration thanks the Grand Jurors for their service to the citizens of Sutter County. Grand Jury service requires a great amount of time and effort and each juror's dedication is truly appreciated.

Sincerely,

Steven M. Smith
County Administrator

TABLE OF CONTENTS

Development in South Sutter County

The Board of Supervisors are required to respond to the report. The Sutter County Clerk-Recorder, the Sutter County Planning Commission, the City Council for the City of Sacramento, the Board of Directors for the Natomas Basin Conservancy and the Board of Supervisors of the County of Sacramento were all invited to respond.

FINDINGS

Grand Jury Finding #1:

"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."

Grand Jury Finding #2:

"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."

Grand Jury Finding #3:

"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."

Grand Jury Finding #4:

"F4: Commissions representing the City of Sacramento ignored the objections from Sutter County on developing outside Conservation Plan borders and proceeded with development."

Grand Jury Finding #5:

"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."

Grand Jury Finding #6:

"F6: Current plans for development in Sacramento County (not a member of the conservancy) disrupt planned Sutter County development in the Natomas Basin."

Response from the Board of Supervisors:

F1: The Board of Supervisors disagrees with this finding.

F2: The Board of Supervisors disagrees with this finding.

F3: The Board of Supervisors disagrees with this finding.

F4: The Board of Supervisors agrees with this finding.

F5: The Board of Supervisors disagrees with this finding.

F6: The Board of Supervisors disagrees with this finding in part. There is not currently adequate information available on the mitigation measures Sacramento County plans to take. Sutter County will evaluate the environmental documents and mitigation measures once it is published.

RECOMMENDATIONS

Grand Jury Recommendation #1:

"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."

Grand Jury Recommendation #2:

"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."

Grand Jury Recommendation #3:

"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."

Grand Jury Recommendation #4:

"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."

Grand Jury Recommendation #5:

"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."

Grand Jury Recommendation #6:

"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."

Response from the Board of Supervisors:

R1: This recommendation will not be implemented. Instead, County staff will include letters of resignation from committee/commission members in the correspondence section of the Board of Supervisors agenda. Staff will continue to email resignation letters to each Supervisor. Regarding Finding #2, the County Administrator, in fact, notified the Board of Supervisors via email the same day the CAO's Office received notice of the resignations (emails attached).

R2: This recommendation has been implemented. Effective immediately, the Clerk of the Board of Supervisors will return to the previous policy, which is to have the Board of Supervisors consider any vacancy where the applications exceed vacancies under Appearance for discussion and appointment as early as the Maddy Act will allow.

R3: This recommendation will be implemented by October 1, 2021. Staff will provide an annual presentation to the Board of Supervisors based upon the Natomas Basin Conservancy annual report and answer any related questions.

R4: This recommendation will not be implemented. The Grand Jury did not specify what policies it believes are risky. However, County staff, including the Acting Treasurer-Tax Collector, have reviewed the Natomas Basin Conservancy's investment policy. Investment priorities are safety, diversification, liquidity and returns. The current policy's diversification, allocation and restriction on investments reduces the risk of any single asset class or investment category.

R5: This recommendation will not be implemented. The County does not believe renegotiating the Plan is in the County's best interest because it could jeopardize benefits the County enjoys under the current Plan approval. If the Plan is renegotiated it would likely require a new biological opinion be prepared, which is a lengthy and expensive process, subject to legal challenge. The current plan has been successfully defended in Federal Court twice. Renegotiation of the Plan would likely result in a mitigation requirement greater than the 0.5:1 ratio in effect today. This could result in an increased cost burden for development in South Sutter County making development non-competitive in the region due to the high cost of developing urban infrastructure in an

area where little exists today.

If determined necessary, the County, in coordination with the City of Sacramento, may pursue activating "Area B" where the Plan contemplates up to 20 percent of mitigation land may be obtained.

R6: This recommendation will not be implemented. Mitigation for the City of Sacramento's development outside of their permit area is a resolved matter. It is Sutter County's understanding the mitigation plan/strategy is a stand-alone approval by the California Department of Fish and Wildlife and the US Fish and Wildlife Service for this development. It is Sutter County's understanding the Greenbriar project developers pursued mitigation for their development independent of the Natomas Basin Habitat Conservation Plan.

Sutter County is monitoring the processing of the "Grand Park" project by the County of Sacramento. At the time the project and its draft environmental impact report is released for public review, Sutter County will review and provide appropriate responses. The County has not reviewed a complete project plan, nor a proposed mitigation strategy for this development, so it is premature to comment on this project at this time.

Steven M. Smith

From: Steven M. Smith
Sent: Friday, August 16, 2019 6:33 PM
Cc: Donna Johnston; Jean Jordan
Subject: FW: Resignation
Attachments: NBC190816letterresignationhelm.pdf; Leaving Office - Form 700 - Jeff Helm.pdf; NBC190816letterresignationleal.pdf

Supervisors,

It is confirmed that Jeff Helm and Jill Leal have resigned from the Natomas Basin Conservancy Board. Please see the email below from John Roberts and the attached documents from Mr. Helm and Ms. Leal. Donna Johnston is being copied on this email and staff will begin the process required so the Board can appoint new representatives.

Steven M. Smith
Interim County Administrator
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Yuba City, CA 95993
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Sign up for emergency alerts in Sutter County at www.bepreparedsutter.org

From: Kimberli Burns <kburns@natomasbasin.org>
Sent: Friday, August 16, 2019 10:29 AM
To: Steven M. Smith <SMSmith@co.sutter.ca.us>
Cc: John Roberts <jroberts@natomasbasin.org>
Subject: Resignation

Steve,

Following up on our conversation this morning regarding Conservancy Board resignations:

1) Attached is Jeff Helm's letter of resignation via email to John Shirey, Conservancy Board Chair.
2) Attached is Jeff Helm's signed leaving office Form 700.
3) Attached is an unsigned letter of resignation from Jill Leal that was read at the August 7 meeting to the Conservancy's Board by Board member Mike Johnston. We emailed Jill regarding a leaving office Form 700. She acknowledged receiving the Form 700 and indicated she would return it as soon as she is able.

Please let us know if you need anything further.

Kim

THE NATOMAS BASIN CONSERVANCY

Kimberli Burns | Chief Financial Officer
The Natomas Basin Conservancy
kburns@natomasbasin.org
Office: 916.649.3331
Fax: 916.649.3322

Steven M. Smith

From: Steven M. Smith
Sent: Thursday, September 19, 2019 4:58 PM
Cc: Donna Johnston
Subject: Natomas Basin Conservancy Board of Directors - Van Ruiten
Attachments: doc20190919161834150307.pdf

Supervisors,

FYI, Anthony Van Ruiten has submitted his resignation from the Natomas Basin Conservancy Board of Directors. There are currently three vacant positions with the recent resignations of Ms. Leal and Mr. Helm.

Steven M. Smith
County Administrator
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Sign up for emergency alerts in Sutter County at www.bepreparedsutter.org

Steven M. Smith

From:	Steven M. Smith
Sent:	Wednesday, October 2, 2019 9:35 PM
Cc:	Donna Johnston
Subject:	Fwd: Norton-TNBC Resignation Ltr Signed.pdf
Attachments:	Norton-TNBC Resignation Ltr Signed.pdf

Supervisors,

Please see the attached letter from Jeff Norton resigning from the Natomas Basin Conservancy Board. Sutter now has vacancies in four of five seats. I will schedule a meeting with the NBC board chair to discuss, as suggested below.

Steve

Get Outlook for iOS

From: Donna Johnston <DJohnston@co.sutter.ca.us>

Sent: Wednesday, October 2, 2019 8:48 PM

To: Steven M. Smith

Subject: Norton-TNBC Resignation Ltr Signed.pdf

Hi Steve,

Mike just returned from a Natomas Conservancy meeting and informed me that Jeff Norton has now resigned. His letter to Mat is attached. Mike and the Chair of the Board would like to set up a meeting with you, Mat, and Ron to discuss. Mike's email is [redacted]

We have not received any applications for the 3 previously known vacancies, and now we are at 4.

Donna