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memorandum

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to Jim Leland

from Harriet Ross

subject CEQA Compliance for the Travis Air Force Base Land Use Compatibility Plan

This memorandum addresses the required level of review for compliance with the California Environmental Quality Act (“CEQA”) for the proposed Travis Air Force Base (Travis AFB) Land Use Compatibility Plan (“LUCP”) currently under development by the County of Solano (“County”) Airport Land Use Commission (ALUC). As the California Supreme Court articulated in *Muzzy Ranch v. Solano County Airport Land Use Commission*, 41 Cal. 4th 372 (2007) (“*Muzzy Ranch I*”), lead agencies must engage in a three-tier process for reviewing the proposed project. The steps in the analysis include determining whether the activity is a project as defined by CEQA, whether the project qualifies for an exemption, and, if it does not qualify for an exemption, the preparation an initial study to determine if the project would result in significant environmental effects. Our analysis concludes that the proposed LUCP is a project under CEQA, but that it would fall within the “commonsense” exemption as discussed below.

I. Is the Activity a “Project” Subject to CEQA?

In *Muzzy Ranch I*, the California Supreme Court determined that an agency’s adoption of an airport land use compatibility plan is a “project” under State CEQA Guidelines Section 15378. The Court reasoned that airport land use compatibility plans, or revisions thereto, “can operate like a multijurisdictional general plan to trump the land use planning authority that affected jurisdictions might otherwise exercise through general and specific plans or zoning.” *Muzzy Ranch I, supra*, at 384-385. Therefore, the ALUC’s adoption of the Travis AFB LUCP meets the definition of a “project” and is therefore subject to CEQA.

II. Does the Travis AFB LUCP Fall Within An Exemption?

A. *Statutory Exemptions*

Once an activity is determined to be a project subject to CEQA, the next step is to determine whether it falls within one of the exemptions. In adopting CEQA, the Legislature granted exemptions for various projects as described in State CEQA Guidelines Sections 15260 through 15285. The statutory exemptions in these sections

include ministerial projects, emergency projects, and certain pipeline projects. The LUCP project does not fall within any of CEQA's statutory exemptions.

B. Categorical Exemptions

CEQA also includes a list of categorical exemptions for classes of projects that have been determined to not have a significant effect on the environment. The classes of categorical exemptions are described in State CEQA Guidelines Sections 15301 through 15333. Classes of categorically exempt projects include modifications to existing facilities, accessory structures, minor divisions of land, and qualified in-fill development. State CEQA Guidelines Section 15300.2 qualifies the use of categorical exemptions for certain classes when certain circumstances are present. For example, a categorical exemption may not be used for a project that could result in a substantial adverse change in the significance of a historical resource. The LUCP project does not fall within any of the classes of categorical exemptions.

C. "Commonsense" Exemption

If a project does not qualify for one of the statutory or categorical exemptions, it may "nonetheless be found exempt under what is sometimes called the 'commonsense' exemption, which applies "[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.'" *Muzzy Ranch I, supra*, at 380. The commonsense exemption and its requirements are included in State CEQA Guidelines Section 15061(b)(3).

In reviewing whether a project falls within the commonsense exemption, a lead agency must evaluate whether physical changes and environmental impacts are reasonably foreseeable. In *Muzzy Ranch I*, the Court explained that this evaluation need not be exhaustive, but that the level of detail of the analysis should be based on multiple factors, including the nature of the project and ability to forecast actual future effects. (see *Muzzy Ranch I, supra*, at 388.)

Most of the Travis AFB LUCP provisions are a continuation of existing policies and review procedures with some minor revisions. These revisions include expanding Compatibility Zone D to include updated aircraft flight tracks and a new Compatibility Zone E which covers the remainder of the County. Policies are generally the same as in the existing LUCP for all compatibility zones, and within the 14,500-foot Bird Strike Hazard Zone. Review by the ALUC of meteorological towers would be required depending on height and location under the proposed LUCP.

Expansion of Compatibility Zone D and the addition of Compatibility Zone E (Policies 3.6.5 and 3.6.6, respectively) are regulatory policy actions that would not include any direct physical action. Requiring ALUC review of meteorological towers (Policy 3.3.4 (c)) is similarly a policy change that would have no direct physical action. Therefore, implementation of these minor revisions in the updated LUCP would not result in any physical changes that could result in environmental impacts.

Other proposed revisions to the LUCP include limiting the height of new renewable energy facilities such as wind turbines, and limiting the facilities to certain locations within the County. New solar facilities would also be required to minimize glint and glare. In addition, future development within the new wildlife hazard boundary (Outer Perimeter) that extends five miles from the Air Operations Area would be required to demonstrate minimization of wildlife movement that would result in aircraft hazards. These revisions to the LUCP could result in displacement of future land uses and cause development to occur elsewhere within and outside of Solano

County. This is known as “displacement” as development would be displaced to another location, as discussed below.

i. Displacement Analysis

A development displacement analysis was conducted by ESA to inform local planning agencies of the potential for displaced development, and associated consequences, to enable them to plan accordingly. For residential development land uses, the housing elements of jurisdictions within the airport influence area (“AIA”) were evaluated relative to the proposed LUCP maps and restrictions. The analysis determined that all existing residential zoning and land use designations within the AIA are consistent with the densities in the proposed LUCP. Therefore, no displacement of residential uses would occur as a result of the proposed project.

The development displacement analysis also examined the potential for displacement of non-residential uses. The LUCP identified five non-residential land uses of particular concern related to safety: wind turbines, solar facilities, meteorological towers, wildlife hazards, and objects greater than 100 feet in height. It is important to note that the policies proposed by the LUCP do not affect any existing structures. For example, existing wind turbines within the AIA may be replaced at identical dimensions and materials as those existing at the time of adoption of the LUCP, per Policy 3.3.4 (a)(iii). Also, most requirements applicable to these land uses under the proposed LUCP are refinements of existing policies, particularly existing LUCP Policy 2.5.3 related to height restriction and existing LUCP Policy 2.5.6 regarding other flight hazards (e.g., glare, increased birds).

The concern with wind turbines is interference with radar operations, rotor turbulence, and vertical obstruction hazards. The LUCP does not restrict any non-commercial wind turbines less than 100 feet in height above ground level (AGL). New wind turbines greater than 100 feet in height AGL are required to prepare a line-of-sight analysis and be reviewed by the ALUC to ensure that no turbine is located within the line-of-sight of the Travis AFB Digital Airport Surveillance Radar (DASR). The height restrictions depicted in Policies 2.2.2, 3.3.4, 3.4.3, and 3.6.1 through 3.6.8 and the review procedures detailed in Policy 4.1.4 (3)(a) of the proposed LUCP are new policies and are more restrictive than existing regulations. However, future wind turbines can be built at lower heights in specific areas of Solano County, and at varying heights in surrounding counties, and in other areas of the State or country. Therefore, displacement would likely not occur.

If displacement were determined to occur as a result of the new policies, it would be highly speculative where it would occur and in what form it would occur, and therefore would not be appropriate for analysis of environmental impacts. A report comparing the environmental constraints and relative costs of various renewable energy zones determined that while Solano County is a desirable location for wind facilities from an economic perspective, there are other places within California that are more desirable from an environmental perspective.¹ According to this study, the next best alternative location for wind power from an economic perspective would have more wind resources and lesser environmental concerns.² According to the California Energy Commission (CEC), there are numerous areas within California with excellent wind potential.³ Given the wide range of factors

¹ RETI Coordinating Committee and RETI Stakeholder Steering Committee. *Renewable Energy Transmission Initiative, Phase 1B, Final Report*. January 2009. Figure ES-1, page ES-10.

² RETI Coordinating Committee and RETI Stakeholder Steering Committee. *Renewable Energy Transmission Initiative, Phase 1B, Final Report*. January 2009. Figure ES-1, page ES-10.

³ California Energy Commission, Systems Assessment & Facilities Siting Division, Cartography Unit. *Map of California Wind Resource Potential*. Update January 28, 2014. Available at <http://www.energy.ca.gov/maps/renewable/wind.html>. Accessed September 16, 2015.

in play when locating wind turbines, it is highly speculative where potentially displaced wind turbines could be developed.

A study published in July 2013 found that wind turbines are most effective at displacing CO₂ emissions when their use replaces coal-fired generators and wind resources are plentiful, such as the Midwest.⁴ The study stated that a wind turbine in West Virginia displaces twice as much CO₂ as the same turbine in California.⁵ Also, a wind turbine at the best site in California would displace 20 percent less CO₂ than at an average site in Ohio.⁶ Given the wide range of more suitable locations for wind turbines than in Solano County, analysis of potential environmental impacts would be highly speculative.

Solar facilities can create a reflective glint and glare hazard. Policy 2.5.6 of the existing LUCP prohibits sources of glare that could interfere with airport operations. Policy 3.3.4 (b)(i) of the proposed LUCP requires that all new or expansion of existing commercial-scale solar facilities to be reviewed by the ALUC and required to prepare a glint and glare study based on the Sandia National Laboratories-developed Solar Glare Hazard Analysis Tool (SGHAT). This represents a set of new policies in the LUCP that requires an additional analysis before implementation could occur; however, future solar facilities can be located in Solano County as long as they do not cause glint and glare. Therefore, no displacement would occur. The new policies do not affect existing facilities or small-scale solar facilities.

Meteorological towers can vary in height and may be temporary or permanent. Their main hazard to aircraft operations is height and visibility. The height and required markings and lighting of meteorological towers are currently governed by existing height requirements in the LUCP and the Federal Aviation Administration (FAA), though these types of towers were not specifically mentioned. Since the requirements included in Policy 3.3.4 (c) of the proposed LUCP are refinements on existing policies, namely Policy 2.5.2 of the existing LUCP, no displacement would occur.

Wildlife can pose a hazard to aircraft operations, particularly through bird strikes. Land uses that attract wildlife or encourage wildlife movement can create a hazard for airport operations depending on distance from the Air Force Base. Policy 2.5.6 of the existing LUCP discourages uses that would attract an increased number of birds within a 14,500-foot radius of the runway centerlines at Travis AFB. In Policy 3.3.4 (d)(i), the proposed LUCP identifies this inner perimeter as the Bird Strike Hazard Zone and indicates that the bird strike potential from new or expanded wildlife attractants needs to be minimized and subject to all feasible mitigation. In Policy 3.3.4 (d)(ii), the proposed LUCP also identifies an Outer Perimeter where wildlife movement into or across the Air Force Base's approach or departure zones, as a result of new or expanded land uses, are required to be minimized and subject to all feasible mitigation. Because Policy 2.5.6 in the existing LUCP already discourages increased bird strike hazards, the new policies regulating development within the Bird Strike Hazard Zone of the proposed LUCP are refinements on existing policies, but would not be more restrictive such that displacement would occur. In refining the existing LUCP policies through the proposed update pertaining to the Bird Strike Hazard Zone, the ALUC does not intend to alter the existing LUCP standard of discouraging land uses that may cause the attraction

⁴ Siler-Evans, et al. *Regional variations in the health, environmental, and climate benefits of wind and solar generation*. Proceedings of the National Academy of Sciences. July 16, 2013, vol. 110, no. 29, pp 11768-11769.

⁵ Siler-Evans, et al. *Regional variations in the health, environmental, and climate benefits of wind and solar generation*. Proceedings of the National Academy of Sciences. July 16, 2013, vol. 110, no. 29, p. 11768.

⁶ Siler-Evans, et al. *Regional variations in the health, environmental, and climate benefits of wind and solar generation*. Proceedings of the National Academy of Sciences. July 16, 2013, vol. 110, no. 29, p. 11769.

of birds to increase. Policy 3.3.4 (d)(ii), which requires the minimization of wildlife movement in the Outer Perimeter, is new, but land uses that have the potential to attract wildlife movement can still be implemented with incorporation of mitigation measures; thus, it is unlikely displacement of land uses that have the potential to attract wildlife would occur.

Existing policies restrict the height of objects within the various compatibility zones. The proposed LUCP includes Policy 2.5.2, which would require ALUC review of any structures greater than 100 feet in height AGL within Compatibility Zone C, and structures more than 200 feet in height AGL within Compatibility Zone D. Again, the proposed policies would not apply to existing structures. The requirements included in Policies 2.2.2, 3.3.4, 3.4.3, and 3.6.1 through 3.6.8 of the proposed LUCP are refinements on existing policies, but would not be more restrictive such that displacement would occur.

While the proposed LUCP includes more requirements for review than in existing policies, the proposed LUCP does not specify that, for example, structures taller than 100 feet AGL be denied. Rather, the proposed LUCP provides for review by the ALUC. There are other regulations in place (e.g., FAA requirements, general plan policies, and building codes) that would also be required to be met before any of the above land uses might be approved. Therefore, the proposed LUCP would not be the sole basis for denial of a land use. Existing policies would prohibit certain land uses that pose a safety hazard to aircraft operations, and the proposed LUCP refines those existing policies to account for new technologies and specific hazards that have the potential to occur within the area covered by the LUCP. As such, it is reasonably foreseeable that the proposed LUCP would not have a significant effect on the environment.

III. Conclusion

Because the proposed Travis AFB LUCP would have no adverse physical effects on the environment, it would qualify for use of the commonsense exemption under Section 15061(b)(3) of the State CEQA Guidelines.

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