

**SACRAMENTO LOCAL AGENCY FORMATION COMMISSION**  
**1112 I Street, Suite #100**  
**Sacramento, California 95814**  
**(916) 874-6458**

August 4, 2004

TO: Sacramento Local Agency Formation Commission  
FROM: Peter Brundage, Executive Officer  
RE: Elk Grove Mitigation Measure Status Report

**RECOMMENDATION**

Continue this report back to the date of September 1, 2004.

**DISCUSSION**

The Commission has not issued a Program Certificate Completion for the Mitigation Monitoring Reporting Program (MMPR) for the Elk Grove Incorporation because of two outstanding issues. Staff has been monitoring these issues and has given the Commission periodic updates. It appears significant progress has been made. However, staff requests a continuance of this issue to the date of September 1, 2004.

**Regional Transit District Mitigation Measure**

LAFCo has received a preliminary legal opinion [copy attached] that addresses whether or not LAFCo has the legal authority to enforce the mitigation measure it imposed during the Elk Grove Incorporation proceedings. The draft legal opinion indicates that there is no clear answer to whether or not the Commission has the authority to require the City to annex to Regional Transit District, i.e., enforce the condition without likely litigation.

Staff has not had time to discuss the preliminary legal opinion with Regional Transit District staff. In addition, Regional Transit and the City of Elk Grove are pursuing legislation that amends the Public Resources Code to allow the City to operate a local bus system within the city limits and utilize Regional Transit for regional services.

If the proposed legislation is adopted and the City of Elk Grove and Regional Transit District reach a service delivery agreement, the legislation provides that the mitigation measure will be satisfied.

## **Swainson's Hawk Habitat Acquisition**

The City of Elk Grove has taken a number of actions to enhance the protection of the Swainson's Hawk. Recently, the City has amended its Swainson's Hawk Ordinance to require developers to acquire habitat for the Swainson's Hawk in lieu of paying a fee for the purpose of acquiring habitat for the endangered species. The mitigation is 1:1, a high standard. Note: The payment of a mitigation fee still applies to projects of less than 40 acres.

The City is attempting to expend nearly \$1.8 million in Swainson's Hawk Mitigation funds. The City has been challenged to find willing sellers, at fair prices for approved sites. The City continues to acknowledge that it is obligated to expend those funds for the intended purposes. However, it has not been able to meet this objective, given the current market conditions.

PB:Maf

### Attachments

cc: City of Elk Grove  
Beverly Scott, Regional Transit District  
Mark Gilbert, Regional Transit District  
Friends of the Swainson's Hawk  
The Nature Conservancy

(Elk Grove Mitigation Status Report)