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May 7, 2009

Planning Commission
City of San Rafael
1400 Fifth Avenue
P.O. Box #151560
San Rafael, CA 94915-1560

Re: Draft Environmental Impact Report (DEIR) for the San Rafael Airport
Recreational Facility

Dear Commissioners,

The Marin Conservation League (MCL) has reviewed the DEIR for the San Rafael (Smith Ranch) Airport Recreational Facility (the proposed project) and finds that it is inadequate in a number of respects. Our comments on the adequacy of this DEIR are as follows:

Alternatives. Although alternatives generally conclude an EIR, we feel the alternatives proposed in the DEIR for this project are so important and their analysis so problematic, that we discuss them at the outset.

The DEIR provides a rationale for defining the so-called No Project Alternative as the "...practical result of non-approval of the project." Thus, the No Project Alternative incorporates what the Master Use Permit would allegedly allow, i.e., the placement of outdoor day-use sports fields on the site similar to those located at McInnis Park across the North Fork of Gallinas Creek. The DEIR makes the claim that the impacts of the No Project Alternative are substantially the same as the mitigated proposed project and therefore the proposed project should be allowed as the preferred alternative. This interpretation of "No Project" can be challenged as not consistent with numerous San Rafael General Plan policies and zoning (see comment below). Therefore, we believe that a fourth "No Action Alternative," consisting of existing uses on the property, should be analyzed. Existing permitted uses include airport and aviation uses, non-aviation uses limited to those uses approved by the Use Permit ("...and there shall be no increase in the amount of square footage") and private and public recreational uses that are passive in nature rather than active recreational facilities. Whether it is called "No Project" (with the assumption of anticipated uses the DEIR outlines), or "No Action," an alternative that respects the sensitivities of the site, as reflected in City policy, must be considered in detail!

PHONE: 415.485.6257
FAX: 415.485.6259

EMAIL: mcl@marinconservationleague.org
URL: www.marinconservationleague.org

ADDRESS: 1623-A Fifth Avenue
San Rafael, CA 94901



The DEIR dismisses the No Project Alternative (the "Environmentally Superior Alternative") as not meeting the key objectives of the Project as proposed. It goes on to conclude that only the proposed project will meet the "crucial" objective of economic viability. The City of San Rafael has absolutely no obligation to dismiss an environmentally superior alternative, or approve a project that is not environmentally superior, on the basis of its economics, particularly where no formula for determining economic viability is provided. CEQA case law on this point is relevant and deserves explanation in the DEIR in order to inform the Planning Commission and the public.

Land Use and Planning.

This project site has a long and controversial history of land use planning issues and considerations. Chapter 4 of the DEIR describes this history in a summary manner only; it does not provide sufficient historical detail for the context of this proposed project. A detailed history of the entire 120-acre airport site, both east toward the Bay and west to Highway 101, should include the rationale of past planning decisions in 1983, and historical maps and photos showing the development history of the site over time. The DEIR should include maps showing all the jurisdictional planning boundaries involved.

For example, as mitigation (Biological Resources), the DEIR suggests a protective covenant for a small section of marsh habitats along the North Fork of Gallinas Creek. The protective covenant signed in 1983 limited uses of the entire eastern section of the property to open space and recreational uses along with the small Smith Ranch Airport. In an exchange of density, development of built uses was limited to the western part of the property. If that 1983 covenant can be broken, as this proposed project would do, that small DEIR-recommended covenant would be vulnerable as well.

In numerous respects, the DEIR fails to address inconsistencies between the proposed project and San Rafael planning policies and zoning. San Rafael General Plan 2020, Policy CON-13, states that it is the policy of San Rafael to "preserve and protect threatened and endangered species of plants and animals formally listed consistent with state and federal endangered species acts including protection of their habitat." Further, Policy CON-14 calls for "minimization of impacts to special status species through design, construction and operation of the project." The DEIR asserts that the proposed project with mitigations conforms to City of San Rafael General Plan 2020 Land Use Policies but does not adequately demonstrate what the very best design, construction and planned project operations must entail in order to comply with this San Rafael Policy. The City of San Rafael General Plan 2020 Map shows this site to be dedicated for Conservation with its borders to be Open Space. The DEIR should analyze the inherent conflict between the proposed project and the City's policies, and explain in detail why and how the proposed project conforms to the City's land use objectives.

Section S-17 (Levee Upgrading) of the San Rafael General Plan 2020, states that when waterfront properties are developed or redeveloped, (they will) require levee upgrading, as appropriate, based upon anticipated high tide and flood conditions, and maintain an appropriate levee height." Section S-18 (Rise in Sea Level) states that prior to levee heightening for flood control purposes, (the landowner should) contact the Intergovernmental Panel on Climate Change regarding the

most current estimates of sea level rise. Land Use and Development History of the Airport Site in the DEIR states in the 1975 approval of the Use Permit: "should a permanent use be applied for in the future, improvement to the levee would be required" The permanent use of the site for airport uses and activities was approved by the San Rafael City Council in 2001. These policies and planning approvals would appear to indicate that it is the responsibility of the property owner to improve and maintain the levee surrounding the site. The DEIR is completely silent on this point. It should explain what actions would be required of the property owner to improve and maintain the levee system to address potential flooding and sea level rise as part and parcel of the proposed project.

The project site lies within a Wetland Overlay District. Section 14.13.030 of the Municipal code states that (under this overlay district) recreation/scientific activities in or near wetlands should be low intensity uses, such as bird watching, fishing, nature photography and study, wildlife observation and scientific research and education. Without an amendment to the code, the project as proposed would clearly violate city law. The DEIR should explain what amendment is sought by the applicant and its impacts on the existing environment.

Biological Resources. Gallinas Creek, with its North and South Forks, is part of the San Pablo Bay marshes that extend from Point San Pedro on the south to the Petaluma River on the north. These marshes are noted for their wildlife, including year-round residents such as the endangered California Clapper Rail, and thousands of migrant birds in the winter. The "airport peninsula" between the north and south forks of Gallinas Creek was once tidal marsh. After diking, it became a seasonal marsh. Now after the addition of fill and regular pumping of rain water in recent years, the interior has become grassland with only small areas of ponding and marsh. The DEIR should describe the important habitat attributes of the creek, tidal marsh and grassland of the airport peninsula in the regional marsh and wetland system, and explain wildlife connections within it.

The DEIR states that the proposed Project will not result in any direct impacts to marsh habitats along the North Fork of Gallinas Creek. It should note, however, that in addition to noise (which it mentions), the height and bulk of the building, activities on soccer fields, and light on the fields and parking areas could interfere with the movement of wildlife and have definite adverse effects. The DEIR should also address the impact of the intermittent lights of vehicles on adjacent habitats as they turn through the S curves at the bridge and move along the long airport road paralleling the creek. 1,701 daily trips are expected.

Other impacts to Clapper Rail habitat currently occur through regular mowing by airport workers. The DEIR biologists state that no rail was observed on top of the levee or on the outboard side. Of course, if this area is mowed, there is no habitat there for rails, and naturally they would not be observed there. The DEIR suggests in MMBio-2c that no mowing should be allowed on the outer slopes of the levees in order to preserve vegetative cover for needed refuge from high tides. It should also specify NO mowing on the top as well as outer slopes.

Geology and Soils; Hydrology and Water Quality. The DEIR relies upon two test borings and literature review for information concerning the land area. We believe that this is an inadequate basis for determining the potential for liquefaction on site and flooding risks from levee failure in the event of a major earthquake. These risks do affect both building and levee safety. The Countywide Plan designates the airport project site as lying within the 100-year floodplain zone and as having a very high level of susceptibility to liquefaction. Additional test borings of the site, and particularly of the old and poorly maintained perimeter levees, are needed to assess their risk of failure from flooding and from earthquakes, and also to determine necessary measures to strengthen

them against such risk

Hazards. The project's near proximity to San Rafael airport airspace requires as mitigation posted signs cautioning visitors to avoid certain areas of parking – in other words, mitigation of this hazard relies on voluntary behavior to reduce risk. This alone should be sufficient evidence that an airport and a facility that attracts crowds are not compatible uses. Specifically, airport operations and aviation flight hazards at night are not analyzed in the DEIR. It is our understanding that the San Rafael Airport now allows pilot actuated runway lighting for nighttime take-off and landing. The prospect of nighttime use of the airport coinciding with nighttime use of the proposed recreational facility deserves further analysis to determine what additional mitigations may be required to reduce the risk to the anticipated high concentrations of visitors.

Transportation and Traffic

The DEIR traffic analysis is deficient in several aspects and should be corrected or amplified:

The DEIR does not describe traffic impacts of the project on local residents. The nearest residents live in Contempo Mobile Home Park (396 residences) and Captains Cove (over 50 residences.) Both of these neighborhoods are dependent on one outlet, Yosemite Drive, to Smith Ranch Road and beyond. The DEIR looks at traffic impacts of some intersections farther away, but not for this one, which is nearest to the airport road and critical for these approximately 450 local residents.

The traffic along Smith Ranch Road moves rapidly, to the movie theater or straight ahead to McInnis Park for soccer games, the restaurant, golf, or other activities there. Alongside this traffic, the Project would add traffic slowing down in the side lane to make the turn on the airport road. Even at the present time when driving north on Yosemite Road, it is difficult to cross Smith Ranch Road across four lanes of fast traffic and maneuver around traffic islands in order to reach and turn left onto a westbound lane. The EIR should consider potential impacts of additional traffic backed up at game times at the Project, when operational, at these already difficult intersections. This is a safety issue and the DEIR should address these impacts and suggest possible mitigation.

The DEIR describes numbers of participants expected for various soccer games and activities of the Project and contains a chart of various intersection delays at the airport road or at the distant Highway 101. Assumptions of number of participants and car trips are based on estimates of traffic to facilities in other areas. Since this Project is proposed for a remote site, numbers may be greater since participants would not be living within walking or bicycling distances. Thus, trip generation factors may differ substantially from factors for other recreation centers. The DEIR assumptions should reflect this difference. The DEIR concludes that "the proposed project would not cause any study intersections to operate below LOS D." This not only does not describe differences in Project traffic from other locations, but contradicts an earlier section which describes the General Plan + project as being at LOS E for PM traffic.

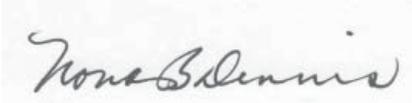
The DEIR states that the impact of traffic queuing at the bridge over Gallinas Creek will be less than significant whether the bridge is a single lane or double-lanes. It bases this on a mitigation MM Traf-1 which requires the City of San Rafael to approve a management plan for events. It does not describe hazards of the bridge, including the S-curve of the road leading to or from the bridge, or the problems of visibility due to weather, flooding,

and fogs which are common in this low area. This is another safety issue which the EIR should address.

Hazards of the railroad crossing are dismissed with the statement "...shows little evidence of regular use." Since the SMART ballot measure was approved last year, impact of regular rail use should be addressed. It would affect traffic in several directions as well as present safety concerns.

Thank you for the opportunity to comment. We believe that the DEIR suffers from a number of serious flaws that must be corrected in the FEIR.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nona Dennis", is written in black ink on a light-colored background.

Nona Dennis
President

cc: Robert Brown, Director, Community Development, City of San Rafael
Kraig Tambornini, Senior Planner, Community Development, City of San Rafael
San Rafael Mayor and City Council Members
Susan Adams, Marin Supervisor, 1st District