



May 24, 2012

San Rafael Planning Commission  
c/o Kraig Tambornini  
City of San Rafael  
1400 Fifth Avenue  
P.O. Box #151560  
San Rafael ,Calif. 94915-1560  
By e-mail

**Re: San Rafael Airport Recreational Facility**

Dear Commissioners,

Over the past six years, Marin Conservation League has submitted comments on the subject project – on an Initial Study, scoping for an EIR, the Draft EIR, and finally on the Final EIR. On May 29, the San Rafael Planning Commission will consider the merits of the project. Throughout this lengthy process, MCL has addressed significant impacts of the project that underscore our contention that this is the wrong site for a project that, in another location, could fulfill the City’s objectives to expand recreational opportunities. Our focus in this letter is on three issues that must be considered in evaluating the merits of the project.

**1. The project continues to contradict the *intent* of the Declaration of Restrictions to limit development on the site.**

In spite of MCL’s requests that the FEIR elucidate the context in which the Declaration of Restrictions was agreed to and the history of negotiations between the City, County, and landowner, this was never provided. The FEIR simply restated the plain language of the Covenant, and staff continues to assert that the covenant did not constitute any intent to limit intensity of development on the airport site. The letter from Sierra Club Marin Group (February 4, 2006), which we have quoted before, remains relevant as the Commission considers merits of the project:

“...the long history of this parcel clearly shows a continuum of efforts to limit development of the site. The reference to ‘private and public recreational use’ clearly contemplated recreational uses consistent with this history and did not create a basis of support for any and all recreational uses. Using that faulty basis, a racetrack facility or professional football stadium could be considered a ‘recreational use’, which would clearly contradict the intent of the covenant. . . We believe the covenant’s limitation to ‘recreational use’ should be interpreted as contemplating recreational structures of de

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minimus size. An 85,700 square foot building is not de minimus."

Because the CEQA document does not tell the whole story, a major question remains for discussion of merits: "Is the proposed 85,700 square foot building, with its anticipated seven days-a-week, daily and nightly patronage, activities, and traffic consistent with either the language or intent of the Declaration?"

**2. The consideration of merits must recognize the continuing potential for significant impacts to California Clapper Rail population.**

The FEIR concluded that with adequate mitigation (buffers, timing of construction, etc.) the project would not have a significant impact on the clapper rail based on the *assumption* that, since clapper rails continue to inhabit the marshes in spite of existing disturbance on the north bank of North Fork Gallinas Creek, they would become habituated to new disturbances on the south bank.

This conclusion fails to note that existing disturbances are quantitatively and qualitatively different on the south side of the North Fork Gallinas Creek from those on the north side. Clapper rails have been observed frequently in the marshes along the south side, possibly seeking refuge from activity on the north side. On the south side of the creek, existing aircraft activity is sporadic and remote from the creek habitat; human presence near the creek is infrequent; there are no lights; motion and noise are infrequent; mowing is seasonal; traffic is limited to airport users; and nighttime activity is essentially nonexistent. In contrast, disturbance on the north bank is directly adjacent, frequent, and active, with nearby lights and noise. In effect, the project would bring to the south side types and levels of disturbance that are now limited to the north side.

Without lengthy observation, one can only *speculate* as to whether the *cumulative effect* of adding active, all-day and nightly disturbance to both sides of the creek, along with short-lived but intense construction noises such as in pile driving, may reach a threshold at which the local population of clapper rail cannot habituate to the disturbances. Even with seasonal restrictions on construction and buffers as specified in mitigation measures, it is impossible to state with certainty that the California clapper rail population can become habituated to this compounded disturbance. The existing refuge offered by the south bank marshes will no longer offer refuge.

The discussion of project merits must bear in mind that the FEIR is not conclusive on this issue. The population of California clapper rail is the most sensitive resource in the vicinity that could be "significantly" impacted by the project!

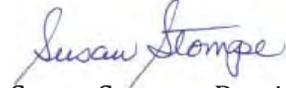
**3. Locating group recreational activities that are "prohibited" adjacent to the airport runway poses a serious liability for the City.**

In our past comments we have alluded to the safety hazard of locating group recreation activities close to an airport runway. After a detailed risk assessment, the FEIR dis-

missed this hazard as less-than significant, with mitigation. New rules communicated to City staff from the Division of Aeronautics, California Department of Transportation, now affirm that such activities would be prohibited on a public airport in Safety Zones 3 and 5 (Letter dated March 9, 2012). Although San Rafael Airport is not designated as a "public airport," it would be unconscionable for the City not to observe safety regulations such as this and to assume the liability of allowing group activities involving children to be permanently located in areas where it would be prohibited on comparable airports elsewhere.

Thank you for the opportunity to comment. FEIR suffered from a number of serious flaws but was nonetheless certified as legally adequate. These flaws should not be confused, however, with the need for certainty in considering the merits of the proposed project in this location.

Sincerely yours,



Susan Stompe, President



Nona Dennis, Secretary