San Joaquin County's Aviation System

Stockton Metropolitan Airport

Land Use Compatibility Plan

AIRPORT LAND USE
COMPATIBILITY PLAN UPDATE

for

STOCKTON METROPOLITAN AIRPORT

Prepared by

Coffman Associates, Inc.

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FOR

STOCKTON METROPOLITAN AIRPORT

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Chapter One

Purpose and Scope

Chapter One
PURPOSE AND SCOPE

1.0 INTRODUCTION

This document is an update of the state-mandated airport land use compatibility plan (ALUCP) for the Stockton Metropolitan Airport (SCK or the Airport), located in San Joaquin County, California. **Exhibit 1A** depicts the location of SCK and surrounding communities. This ALUCP was prepared by, the San Joaquin Council of Governments (SJCOG), in its designated role as the Airport Land Use Commission for San Joaquin County, under the authority of the State of California Aeronautics Law, *State Aeronautics Act*, Chapter 4, Article 3.5, California Public Utilities Code.

This ALUCP replaces the Stockton Metropolitan Airport portion of the *Airport Land Use Plan as amended in 1993* (1993 ALUP). The SCK airport layout plan (ALP), aviation activity forecasts, and noise contour maps have been updated since that time and are reflected in this updated ALUCP. This ALUCP has also been prepared with reference to, and is consistent with, the guidance provided by the Department of Transportation, Division of Aeronautics in the 2011 version of the *California Airport Land Use Planning Handbook* pursuant to California Public Utility Code (PUC) Sections 21674.5 and 21674.7.

Similar to the 1993 ALUP, this ALUCP is intended to protect and promote the safety and welfare of residents, businesses, and airport users near the airport, while supporting the continued operation of SCK. Specifically, the plan includes policies to protect the public from the adverse

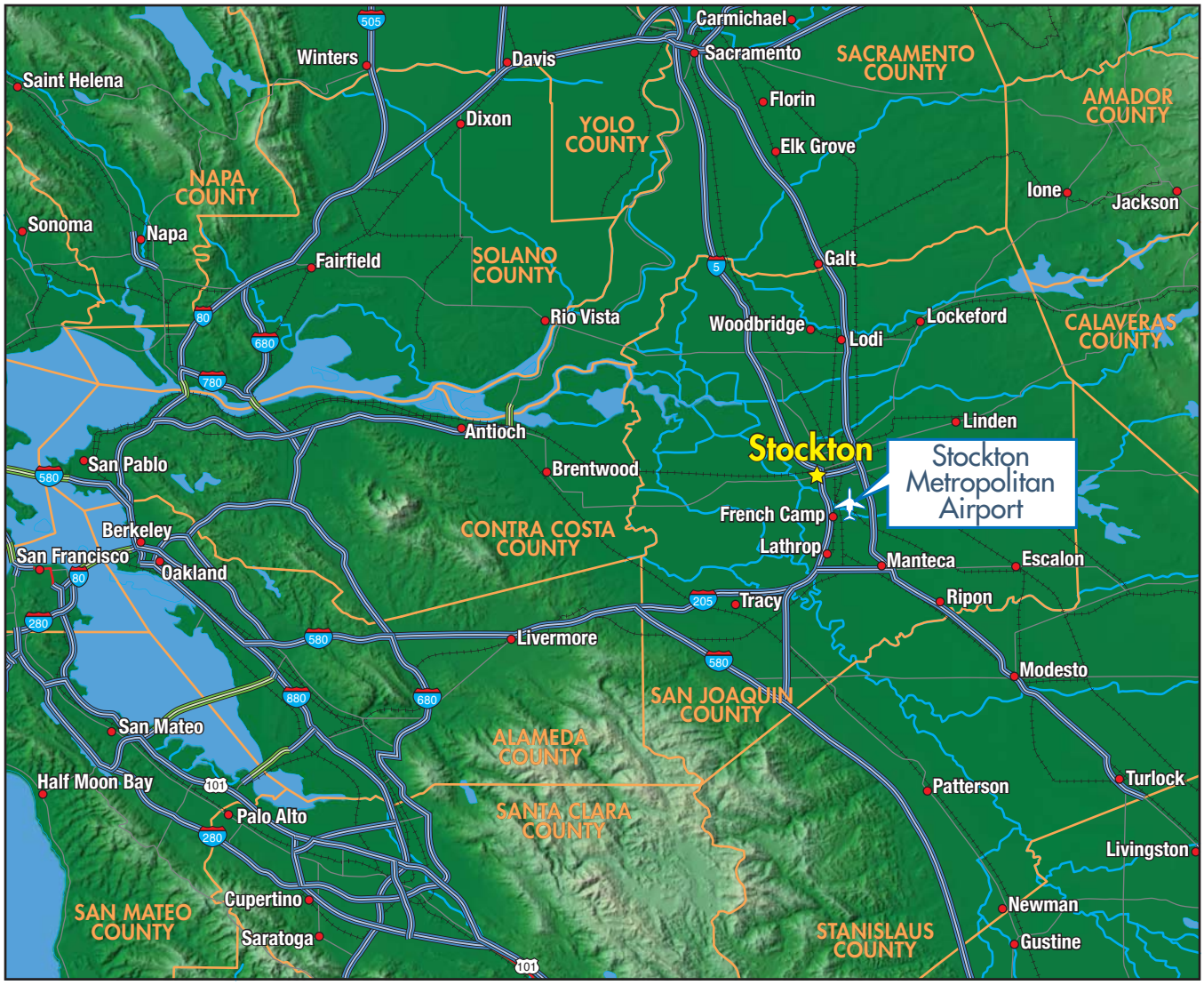


Exhibit 1A
LOCATION MAP

effects of airport noise, to ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and to ensure that no structures or activities encroach upon or adversely affect the use of navigable airspace.

1.1 PURPOSE OF THE ALUCP

1.1.1 Purpose

Airports play a vital role in the transportation system and economy of cities and counties throughout the nation. SCK provides services such as commercial and business travel, cargo, tourism, emergency response, law enforcement, and agriculture support. In recognition of the importance of the role airports play and proper land use compatibility planning within the State of California, the California State Legislature enacted laws that mandate the creation of Airport Land Use Commissions (ALUCs). Adopted in 1967 to assist local agency land use compatibility efforts, the laws are intended to protect:

> "… public health, safety, and welfare by encouraging orderly expansion of airports and the adoption of land use measures that minimizes exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses."

To achieve this goal, the ALUC has two primary functions:

- To prepare and adopt an airport land use compatibility plan (ALUCP) with a 20-year planning horizon for each airport within its jurisdiction.

- Review local agency land use actions and airport plans for consistency with the land use compatibility policies and criteria in the ALUCP.

The SCK ALUCP update is the key to implementation of the land use compatibility policies and criteria related to proposed development in the vicinity of the Airport. It also establishes the planning boundaries around SCK that define height/airspace protection, noise, and safety areas for policy implementation, and areas within which notification of SCK proximity is required as part of real estate transactions.

1.2 RESPONSIBILITIES AND REQUIREMENTS

Airport land use compatibility involves two overarching concepts: a community's need for safe and efficient air transportation and orderly compatible land use development within the airport environs. These two concepts need to be balanced to achieve a favorable result for the airport, the residents, and businesses in the airport's vicinity.

Airport land use compatibility planning can be a complicated matter when considering the various levels of government and documentation involved. Prior to addressing the local issues within SCK airport environs, a brief discussion of the specific responsibilities of each governmental entity with respect to aviation and land use is necessary. It is important to note that some levels of government are limited in the actions they may take with respect to airport land use compatibility, and care is taken to describe these limitations where appropriate.

1.2.1 Federal Government

The Federal Government, primarily through the Federal Aviation Administration (FAA), has the authority and responsibility to control aircraft operations associated with airport noise impacts through the following methods:

- **Implement and Enforce Aircraft Operational Procedures**. These include pilot responsibilities, compliance with Air Traffic Control instructions, flight restrictions, and monitoring careless and reckless operation of aircraft. Where and how aircraft are operated is under the complete jurisdiction of the FAA.

- **Manage the Air Traffic Control System**. The FAA is responsible for the control of navigable airspace and reviews any proposed alterations in flight procedures for noise abatement on the basis of safety of flight operations, safe and efficient use of navigable airspace, management and control of the national airspace and air traffic control systems, effects on security and national defense, and compliance with applicable laws and regulations.

- **Certification of Aircraft**. The FAA has required the reduction of aircraft noise through certification, modification of engines, or aircraft replacement as defined in Code of Federal Regulations Title 14, Part 36.

- **Pilot Licensing**. Individuals licensed as pilots are trained under strict guidelines concentrating on safe and courteous aircraft operating procedures, many of which are designed to lessen the effects of aircraft noise.

- **FAA Airport Compliance and Grant Assurances:** FAA Order 5190.6B, *FAA Airport Compliance Manual,* defines the airport sponsor's role with regard to land use planning and implementation actions "to reduce the effect of noise on residents of the surrounding area. Such actions include optimal site location, improvements in airport design, noise abatement ground procedures, land acquisition, and restrictions on airport use that do not unjustly discriminate against any user, impede the federal interest in safety and management of the air navigation system, or unreasonably interfere with interstate or foreign commerce." Additionally, upon receipt of FAA grant funding, the airport sponsor agrees to take appropriate action, including the adoption of zoning laws, to the extent reasonable to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations in accordance with FAA Grant Assurance 21, Compatible Land Use.

- **Noise Compatibility Studies**. 14 CFR Part 150 establishes procedures and criteria for the evaluation of airport noise-related impacts. Although the FAA may provide guidance for airport land use compatibility, it has no jurisdiction over local planning decisions.

1.2.2 State of California

The California Department of Transportation, Division of Aeronautics is responsible for funding, and permitting programs for airports and heliports. Assistance for the development and maintenance of aviation facilities through engineering and aviation experience is provided, as well as systems planning and environmental and community service programs.

The State of California grants the authority of land use regulation to local governments. This regulation is accomplished through the use of general plans and zoning ordinances. The state has also established airport noise standards, noise insulation standards, and requirements for the establishment of an ALUC. State staff may also coordinate with local agencies to encourage environmental mitigation measures intended to discourage the encroachment of incompatible land uses near airport facilities. As with the federal government, local planning decisions are at the discretion of the local jurisdiction and the state may not interfere with these decisions.

California State law also requires sellers of real property to disclose any fact materially affecting the value and desirability of the property. Such disclosure is required when the property is either within two miles of an airport or if it is within an Airport Influence Area (AIA). The law defines the AIA as the area where airport-related factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission. According to the State Division of Aeronautics, the AIA is usually the planning area designated by an airport land use commission for each airport. The AIA for SCK is defined in Section 1.4.2 of this chapter.

Title 24, Part 2, Section 1207.4 of the California Code of Regulations establishes standards for interior room noise attributable to outside noise sources for multi-family residential buildings. Once these buildings are sound-insulated to the proper performance standards, they are not considered “noise impacted.” These minimum noise insulation performance standards require that the CNEL shall not exceed 45 dB in any habitable room, with all doors and windows closed.

1.2.3 City and County Governments

Cities and counties may be engaged in the national aviation system by owning and operating an airport. As airport proprietors, cities and counties have limited power to control what types of civil aircraft use its airport or to impose curfews or other use restrictions if the airport has received federal funds. This power is limited by the rules of 14 CFR Part 161, which states that airport proprietors may not take actions that (1) impose an undue burden on interstate or foreign commerce, (2) unjustly discriminate between different categories of airport users, or (3) involve unilateral action in matters pre-empted by the federal government.

Within the limits of the law and financial feasibility, airport proprietors may mitigate noise or acquire land or partial interests in land, such as air rights, easements, and development rights, to assure the use of property for purposes which are compatible with airport operations.

Cities and counties bear responsibility for the orderly development of areas surrounding the airports within their respective jurisdiction. To achieve this goal, each jurisdiction is charged with making sure all applicable planning documents and building codes are consistent with the ALUCP or go through the overrule process as outlined in Government Code, Section 65302.3. Local jurisdictions that include territory within the AIA boundary are also obligated to bring local plans into consistency with the ALUCP and submit land use actions, such as general plan or specific plan amendments, revisions to ordinances or regulations, airport plans and individual development projects to the ALUC for a determination of consistency under Public Utility Code (PUC) Section 21676.

1.2.3.1 *Airport Land Use Commission*

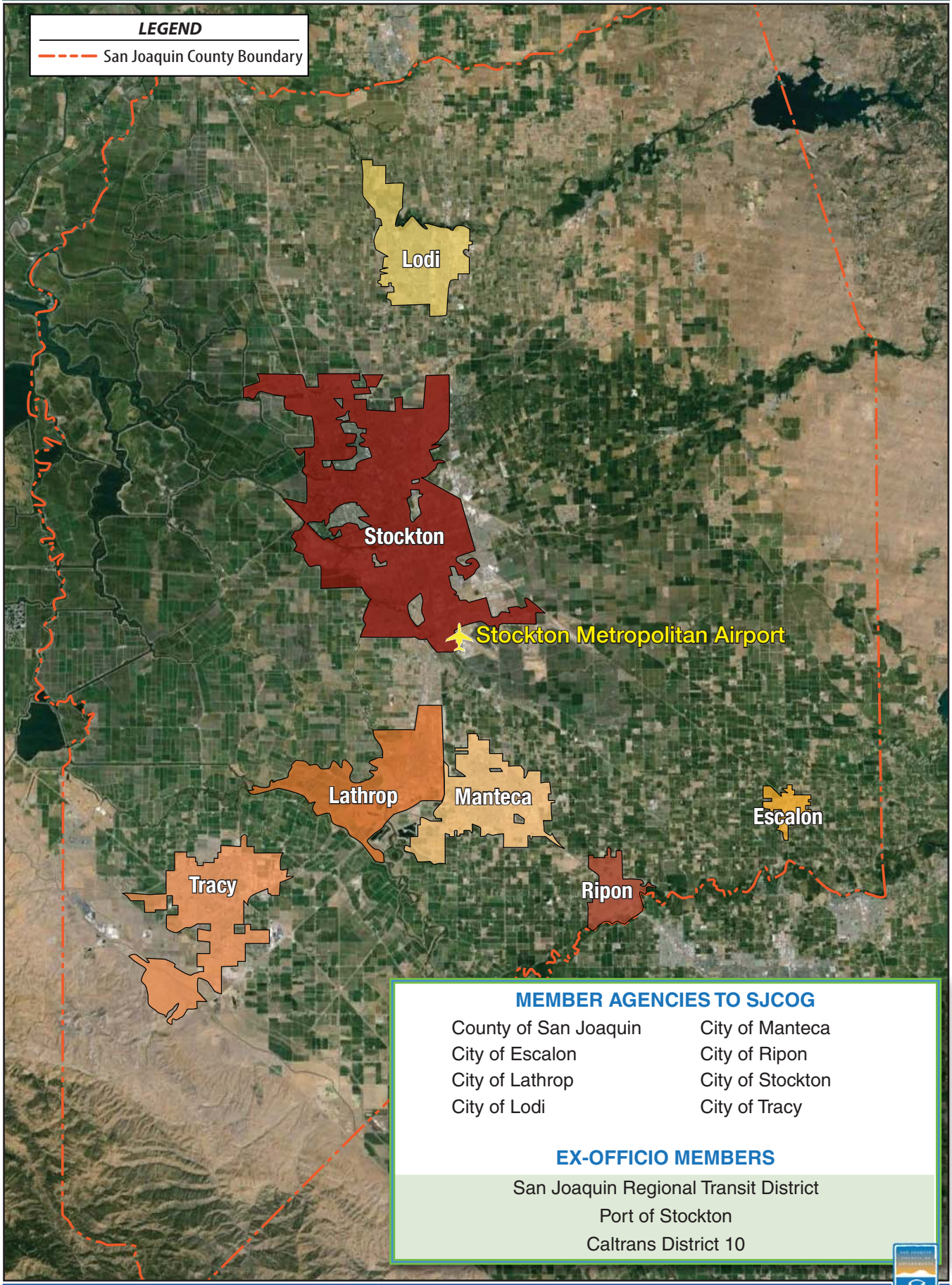
At the county level of government exists a unique intersection of airport and land use compatibility planning with the administration of the Airport Land Use Commission (ALUC). As previously discussed, the establishment of an ALUC is required for any county with an airport that is operated for the benefit of the public. The role of the commission is to "*formulate an airport land use compatibility plan that will provide for the orderly growth of each public use airport and the area surrounding the airport within the jurisdiction of the commission"* (State of California, Public Utilities Code Section 21675).

As previously mentioned, the SJCOG Board of Directors serves as the airport land use commission for San Joaquin County. The SJCOG was designated as the ALUC in May 1973. The San Joaquin Council of Governments (SJCOG) is a joint-powers authority comprised of the County of San Joaquin and the cities of Stockton, Lodi, Manteca, Tracy, Ripon, Escalon, and Lathrop. SJCOG serves as the regional transportation planning agency, which provides a forum for regional decision-making on issues such as growth, transportation, environmental management, housing, open space, air quality, fiscal management, and economic development. SJCOG also takes a look at population statistics, airport land use, habitat and open space planning, and other regional issues. The membership of SJCOG and geographic location of SJCOG member jurisdictions is depicted on **Exhibit 1B**.

1.3 SCOPE OF THE ALUCP

1.3.1 ALUCP Assumptions

The updated ALUCP is based on three sets of key planning assumptions: (1) the updated Airport Layout Plan (ALP); (2) the updated aviation activity forecasts; and (3) the updated noise exposure



MEMBER AGENCIES TO SJCOG

County of San Joaquin	City of Manteca
City of Escalon	City of Ripon
City of Lathrop	City of Stockton
City of Lodi	City of Tracy

EX-OFFICIO MEMBERS

San Joaquin Regional Transit District
Port of Stockton
Caltrans District 10

Exhibit 1B
SJCOG MEMBER AGENCIES

forecasts. These three key planning assumptions are provided by the Stockton Metropolitan Airport. State law requires that ALUCs base their ALUCPs on up-to-date airport master plans or ALPs (Pub. Util. Code §21675(a)). This ALUCP for SCK is based on the 2008 FAA-approved ALP. The updated ALUCP also relies on the latest aviation activity forecasts prepared for SCK. FAA-approved forecasts were prepared as part of the 2010 Master Plan and are used for this ALUCP update.

As part of the airport master plan for SCK, noise contour maps for the existing condition and 20-year forecasted conditions were prepared. The 20-year forecast contours define the boundaries within which the noise compatibility policies of this ALUCP are based. The ALUCP must use 20-year forecast conditions pursuant to PUC Section 21675.

1.3.2 Geographic Scope

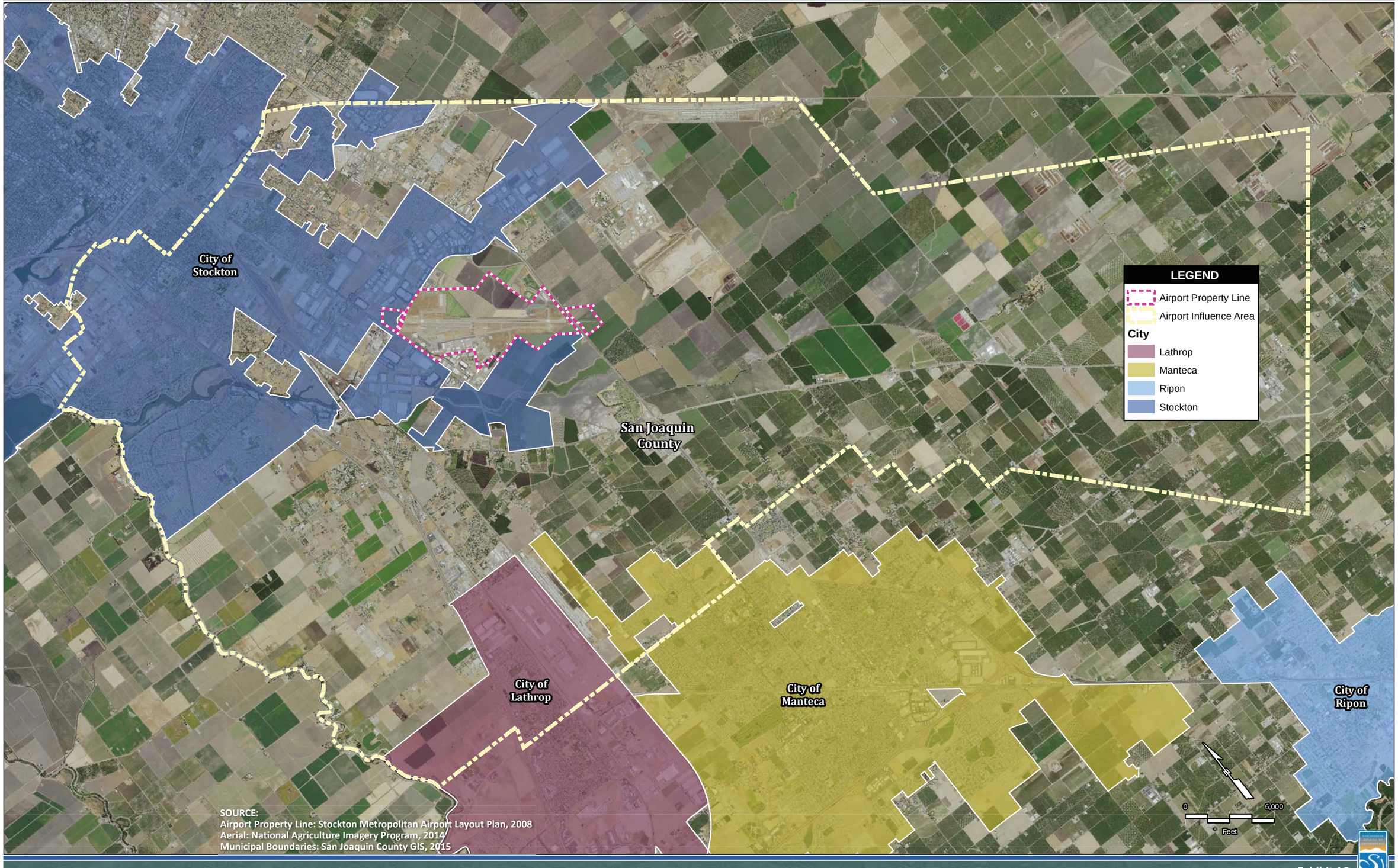
The SCK ALUCP applies to geographic areas in a portion of the City of Stockton and unincorporated areas in San Joaquin County that are located within the AIA. Pursuant to California Public Utilities Code Section 21675, each airport has an AIA that indicates those areas in which current or future airport-related overflights, noise, safety, or airspace protection conditions may significantly affect land uses and may require land use restrictions to address those conditions. The airport influence area indicates the area within which ALUC review of certain land use actions is required.

For SCK, the AIA boundary was established using a combination of the current AIA boundary and the outer boundary of the Title 14 of the Code of Federal Regulations Part 77 (14 CFR Part 77) imaginary surfaces for SCK. 14 CFR Part 77 defines a series of airspace boundaries around an airport to determine if there are obstructions to air navigation. For the purposes of this plan, the combination of the current AIA boundary, approach surface, and outer transitional surface are used to delineate the updated AIA. The portion of the current AIA boundary is defined by easily recognized geographic features and encompasses all the safety zones. The 14 CFR Part 77 approach surface and outer transitional surface are used at airports that have a precision runway, such as SCK. The AIA boundary is depicted on **Exhibit 1C**.

1.3.3 Limitations of the ALUCP

The Airport Land Use Commission (the SJCOG Board) has no authority over Airport operations (Pub. Util. Code, Section 21674[e]). Therefore, nothing in this ALUCP shall be interpreted as regulating or conveying any recommendations concerning aircraft operations to/from/at the Airport.

The SCK ALUCP update is not a specific development plan. This ALUCP does not designate specific land uses for any particular parcel or parcels of land. In addition, the land use compatibility pol-



SOURCE:
Airport Property Line: Stockton Metropolitan Airport Layout Plan, 2008
Aerial: National Agriculture Imagery Program, 2014
Municipal Boundaries: San Joaquin County GIS, 2015

Exhibit 1C
STOCKTON METROPOLITAN AIRPORT - AIRPORT INFLUENCE AREA

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icies and criteria contained within this document are intended to promote compatible land development in the vicinity of SCK. They are not intended to remove existing incompatible uses. ***None of the compatibility criteria contained herein are retroactive to existing land uses***.

Incompatible development that currently exists is recognized as existing nonconforming land use by the SJCOG ALUC. Although this nonconforming land use is recognized, neither this ALUCP nor the SJCOG ALUC, finds these uses to be consistent with this ALUCP.

In addition to land uses that are currently developed and in use, "existing land uses" shall also include vested development projects that have not yet been built if one or more of the following conditions is satisfied:

- A vesting tentative map has been approved pursuant to California Government Code, Section 66498.1, and has not expired as of the effective date of this ALUCP; or
- A development agreement has been executed pursuant to California Government Code, Section 65866, and remains in effect as of the effective date of this ALUCP; or
- As of the effective date of this ALUCP, a valid building permit has been issued, substantial work has been performed, and substantial liabilities have been incurred in good faith reliance on the permit, pursuant to the California Supreme Court decision in Avco Community Developers, Inc. v. South Coast Regional Com. (1976) 17 Cal.3d 785,791, and its progeny.

1.4 ALUCP ADOPTION, IMPLEMENTATION, AND AMENDMENTS

1.4.1 ALUCP Adoption

The adoption of this ALUCP is coordinated through the SJCOG. SJCOG is obligated to involve the affected local agencies in the adoption process by holding a public hearing on the document prior to formal adoption. As discussed in the Handbook, adoption of the ALUCP begins a statutory 180-day period within which the county and affected cities must either modify its general plan and applicable specific plans or take the steps necessary to overrule the ALUC (Government Code, Section 65302.3). The overruling process involves four mandatory steps:

1. the local agency must provide the local Airport Land Use Commission and the California Department of Transportation, Division of Aeronautics a copy of the proposed decision and findings within 45 days prior to any decision to overrule the commission;
2. the holding of a public hearing;
3. the adoption of specific findings that the local government's plans are consistent with the purposes of the State airport compatibility statute and that they provide for the orderly development of the airport; and
4. approval of the overrule action by a two-thirds majority of the governing body of the local government.

1.4.2 ALUCP Implementation

Upon adoption of the ALUCP and where local agencies have amended their general and specific plans to be consistent with the ALUCP, the following types of actions proposed within the airport influence area must be submitted to SJCOG for determination of consistency prior to approval by the local jurisdiction:

- Adoption of a general plan, specific plan, or any amendments.

- Airport and heliport plans, including master plans, expansion plans, and plans for the construction of a new facility.

1.4.3 ALUCP Amendments

The effectiveness of this document can be limited by its currency. As such, the ALUC should review the document as necessary to ensure that the information and assumptions used are still appropriate for SCK.[1] It is especially important to review the plan whenever the SCK airport master plan or airport layout plan is amended. Changes in runway lengths, in particular, could require an amendment to the ALUCP.

The ALUC should also review the ALUCP when new guidance documents are prepared by the California Department of Transportation. It is important for the ALUCP to reflect the latest information and research on aircraft noise and safety compatibility issues. It should be noted that California State law limits major amendments (revising the policies in a manner that would change their applicability to a public agency, adding new policies, or revising maps) of the ALUCP to no more than once per calendar year (Pub. Util. Code, Section 21675 [a]). Minor amendments (addressing grammatical, typographical, or minor technical errors that do not affect policies or the manner in which those policies are applied) may be adopted as needed.

1.5 ENVIRONMENTAL REVIEW

The preparation of *California Environmental Quality Act* (CEQA) documentation when adopting or amending an ALUCP is required based upon legal precedent. A decision reached by the California Supreme Court in 2007 clarified the application of CEQA to airport land use compatibility plans (*Muzzy Ranch Co. v. Solano County Airport Land Use Commission*, 41 Cal. 4th 372, June 21, 2007, modified September 12, 2007). The court ruled that an ALUCP is a "project" subject to environmental review under CEQA. The court explained that even if subsequent action by a local land use regulatory agency is required before development projects can be authorized, an ALUCP "carries significant, binding regulatory consequences for local government…" The court noted

[1] As outlined in the Handbook, a comprehensive review and update is recommended at least every five years.

that even if an ALUCP would not cause a direct physical change in the environment, it still might affect the environment indirectly. The court specifically discussed the possibility that adoption of land use restrictions in the vicinity of an airport could cause development that would have occurred in the airport area to shift elsewhere, potentially giving rise to an adverse effect on the environment.

According to the court, a "common sense" exemption from CEQA may be invoked by an airport land use commission "[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 …." The CEQA exemption may be used, however, only when the specific facts in question reveal that use of the exemption is justified.

In accordance with Public Resources Code, section 21096, the ALUCP and Handbook shall be utilized as technical resources to assist in the preparation of environmental documentation as the report relates to airport-related safety hazards and noise problems. Additionally, a lead agency shall not adopt a negative declaration for a development action unless the lead agency considers whether the project will result in a safety hazard or noise problem for persons using the airport or for persons residing or working in the project area.

1.6 ABOUT THIS DOCUMENT

This document includes all components of the updated ALUCP for SCK. In addition to this chapter, which outlines the ALUCP purpose and scope, the remaining three chapters provide the following information:

Chapter Two includes baseline information for SCK, including an overview of the airport and its operations, vicinity land uses, and noise exposure contours.

Chapter Three includes the safety, noise, and height restriction guidelines to be used when considering land use developments within the vicinity of the airport influence area boundary for SCK.

Additionally, appendices are included to supplement the analysis presented in the ALUCP. These include Airport Noise Analysis, Safety Issues and Alternatives, and Height Restriction Issues and Alternatives.

Appendices are also provided that include implementation materials for use by SJCOG staff and local planning agencies to achieve the land use compatibility goals of this plan.

Chapter Two

Airport Facilities, Operations, and Environs

Chapter Two
AIRPORT FACILITIES, OPERATIONS, AND ENVIRONS

2.0 INTRODUCTION

This chapter provides an overview of the existing and future airport facilities, aircraft operations, and surrounding land use for Stockton Metropolitan Airport (SCK). Prior to presenting this information, it is important to understand the framework within which the airport will be discussed. A discussion of the time horizon and geographic extent of the plan is also included to further define the scope of the plan. Additionally, an explanation of airport noise exposure contours is provided. Further information regarding the development of noise exposure contours is provided in **Appendix B**.

2.1 AIRPORT INFORMATION

Airport facility information is based upon several sources, including the most recent Airport Master Plan, Airport Layout drawings, and the Federal Aviation Administration's (FAA) Facility Directory. Airport facilities essential for the ALUCP update include runway orientation, runway length, runway strength, runway lighting, approach and departure procedures, and traffic pattern. Airport facilities are also an important component for developing an airport compatibility

plan. California State law (Section 21675[a]) declares that the ALUCP "shall include and shall be based on a long-range master plan or an airport layout plan, as determined by the Division of Aeronautics of the Department of Transportation that reflects the anticipated growth of the airport during at least the next 20 years." In accordance with this provision, the plans for SCK will be discussed and incorporated into the safety and noise analyses.

2.1.1 Airport Setting

Stockton Metropolitan Airport (SCK) is owned and operated by the County of San Joaquin, California. Located 65 miles east-northeast of San Francisco, SCK is designated as a Non-hub Commercial Service Airport within the Federal Aviation Administration's (FAA) National Plan of Integrated Airport Systems (NPIAS). The airport is served by Allegiant Air, which provides service to Phoenix/Mesa, Arizona and Las Vegas, Nevada. In addition to commercial service, Stockton Metropolitan Airport offers a wide range of fixed base operators (FBOs) providing fuel, aircraft maintenance, aircraft hangar and tie-down rental, aircraft rental, flight training, aircraft management services, and pilot lounges for corporate and general aviation pilots. The airport also houses FBOs that support air cargo operations. Stockton Metropolitan Airport is designated as a Foreign Trade Zone (FTZ), along with the Port of Stockton. The FTZ also encompasses the Airmetro Business Park located on the airport.

2.1.2 Airport Facilities

Stockton Metropolitan Airport is served by a parallel runway system in a northwest-southeast orientation. Runway 11L-29R is 10,650 feet long and 150 feet wide and is constructed of asphalt. Runway 11R-29L is 4,448 feet long and 75 feet wide and also constructed of asphalt. Runway 11L-29R is accommodated by several instrument approach procedures aiding pilots in navigation to the runway. Instrument approach procedures, along with additional runway information, are presented in **Table 2A**. Runway 29R contains a medium intensity approach lighting system with runway alignment lights (MALSR) to provide runway alignment guidance for pilots in reduced visibility conditions. Runway 11L-29R is served by a four-light Precision Approach Path Indicator (PAPI-4) at both ends and contains high intensity runway lighting (HIRL) to indicate the location of the runway edge. Runway 11R-29L does not contain approach or runway edge lighting.

TABLE 2A
Airside Facility Data
Stockton Metropolitan Airport

	Runway 11L-29R		Runway 11R-29L	
Length (ft.)	10,650		4,448	
Width (ft.)	150		75	
Surface Material	Asphalt (Grooved)		Asphalt	
Load Bearing Strength				
Single Wheel Loading	40,000		12,500	
Double Wheel Loading	150,000		N/A	
Dual Tandem Wheel Loading	360,000		N/A	
Instrument Approach Procedures	Rwy 11L RNAV (GPS)	Rwy 29R ILS-1E or LOC, RNAV (GPS), VOR	Rwy 11R None	Rwy 29L None
	ILS or LOC, RNAV (GPS), or VOR			
Approach Aids	Rwy 11L PAPI-4	Rwy 29R PAPI-4 and MALSR	None	None
Pavement Edge Lighting	HIRL		None	
Displaced Threshold (ft.)	990	1,000	None	None
Fixed Wing Aircraft Traffic Pattern	Left	Right	Right	Left
Weather Reporting	ASOS			

Source: Airport/Facility Directory Southwest U.S. Edition; June 22, 2015
VOR - VHF Omnidirectional Range
GPS – Global Positioning System
RNAV (GPS) – Area Navigation GPS
PAPI – Precision Approach Path Indicator
HIRL – High Intensity Runway Lights
ASOS – Automated Surface Observing System

2.1.3 Future Airport Plans

Throughout the planning horizon, Stockton Metropolitan Airport has a variety of improvements planned in the short, intermediate, and long-term or ultimate planning periods. The following list portrays the planned improvements found within the 2008 Airport Layout Plan, presented in **Exhibit 2A**, and 2010 Airport Master Plan.

Short-Term Plans

- **Improve Airline Terminal Complex**—Secure holdroom expansion, security checkpoint redesign, baggage handling improvements, building system upgrades, federal inspection services, aesthetic improvements, airline apron expansion, and concrete apron addition.
- **Northfield Preparation and Development**—Parallel Taxiway D extension, 'B' Street extension, and leased area preparation for development.
- **Property Interests**—Acquire easements over arrival and departure corridors, as well as release surplus lands for non-aviation development.
- **Additional Improvements**—Attain category II approach to Runway 29R, relocate Manteca VOR, establish precision obstacle free zone (POFZ) hold markings, and conduct routine pavement maintenance.

Intermediate Plans

- **Terminal Improvements**—Attain overall larger building footprint, attain larger secure holdroom space, improve functionality, dedicate space to security screening, improve passenger amenities, incorporate flexible airline space, comply with *Americans with Disabilities Act* (ADA) codes, improve security features, modernize building systems, modernize architecture for functionality, larger aircraft parking apron, ensure taxiway access, construct temporary facilities, and incorporate 2nd level passenger loading bridges.
- **Roadway Signage and Esthetic Improvements**—French Camp Interchange reconstruction and Sperry Road extension, State Route 99 South Stockton six-lane project, and State Route 4 Crosstown Freeway ramp extension.
- **Northfield Developments**—Airline terminal study and access recommendation, continuous planning for north field build-out, airplane fueling facilities, and complete Taxiway D.
- **South Taxiway System Improvements**—Reconfigure Taxiway 'B' parallel to Runway 11R-29L.
- **Consolidate Southfield Hangar Facilities**—Southfield hangar consolidation.
- **Additional Interim Needs**—Upgrade or reconstruct Aircraft Rescue and Firefighting (ARFF) facilities and routine pavement maintenance.

Ultimate Plans

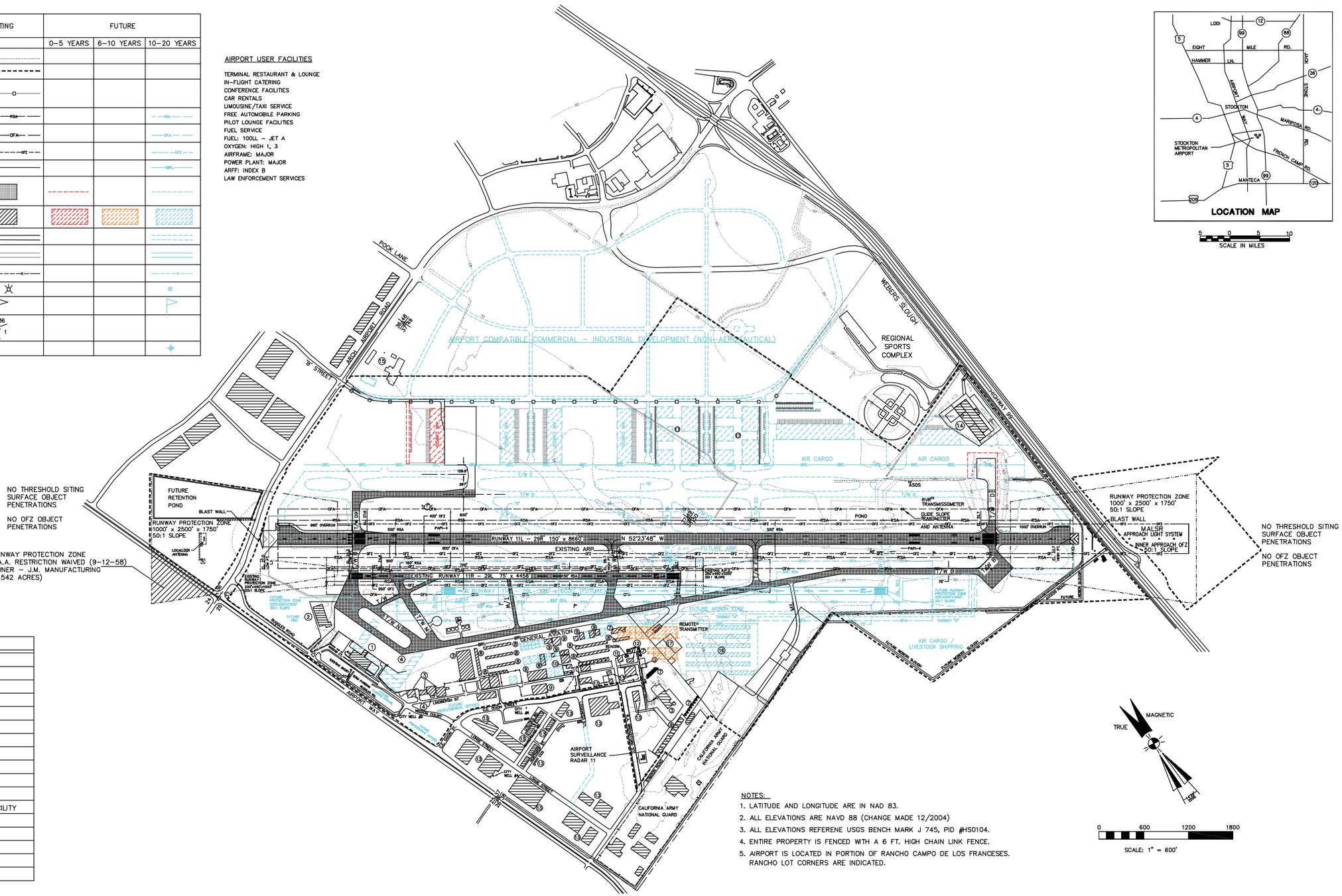
- **Continue Southfield Improvements**—Taxiway 'B', helipad, and compass calibration pad.
- **Runway 11R-29L Upgrades**—Upgrade to aircraft reference code (ARC) C-III, extend Runway 11R-29L to ultimate length of 7,000 feet, provide precision approach to Runway 29L, provide straight-in non-precision approach to 11R, install runway edge and taxiway edge lighting, mark runway accordingly (precision/non-precision), and install medium intensity approach lighting system (MALS) to Runway 29L.
- **Control Tower**—Relocate or raise control tower.

LEGEND

	EXISTING	FUTURE		
		0–5 YEARS	6–10 YEARS	10–20 YEARS
GROUND CONTOUR				
DEDICATED AIRPORT PROPERTY LINE				
BOUNDARY BETWEEN AVIATION RELATED DEVELOPMENT & DEDICATED NON–AERONAUTICAL USE / AIRPORT REVENUE GENERATION				
RUNWAY SAFETY AREA (RSA)	RSA			RSA
RUNWAY OBJECT FREE AREA (OFA)	OFA			OFA
RUNWAY OBJECT FREE ZONE (OFZ)	OFZ			OFZ
BUILDING RESTRICTION LINE (BRL)	BRL			BRL
AIRFIELD PAVEMENT AIRCRAFT MOVEMENT AREA				
FACILITIES				
ROAD (PAVED)				
DIRT/GRAVEL ROAD				
FENCE				
RUNWAY LIGHT				
SUPPLEMENTAL WINDCONE				
SECTION CORNER	36 / 35 / 2 / 1			
AIRPORT REFERENCE POINT				

AIRPORT USER FACILITIES

TERMINAL RESTAURANT & LOUNGE
IN–FLIGHT CATERING
CONFERENCE FACILITIES
CAR RENTALS
LIMOUSINE/TAXI SERVICE
FREE AUTOMOBILE PARKING
PILOT LOUNGE FACILITIES
FUEL SERVICE
FUEL: 100LL – JET A
OXYGEN: HIGH 1, 3
AIRFRAME: MAJOR
POWER PLANT: MAJOR
ARFF: INDEX B
LAW ENFORCEMENT SERVICES



NO.	BUILDING DESCRIPTION
1	TERMINAL
2	A.G. SPANOS JET CENTER
3	FBO
4	ELECTRICAL VAULT
5	FUEL FARM
6	FUTURE TERMINAL
7	PORT–A–PORTS
8	TEE HANGARS
9	COMMERCIAL HANGARS
10	AIRPORT MAINTENANCE
11	FIRE, RESCUE AND POLICE
12	AIR TRAFFIC CONTROL TOWER / TRACON FACILITY
13	AIRPORT COMMERCIAL / INDUSTRIAL
14	FARMINGTON FRESH
15	STOCKTON AG CENTER
16	FUTURE NESTED TEE HANGARS
17	FUTURE COMMERCIAL HANGARS

NOTES:
1. LATITUDE AND LONGITUDE ARE IN NAD 83.
2. ALL ELEVATIONS ARE NAVD 88 (CHANGE MADE 12/2004)
3. ALL ELEVATIONS REFERENE USGS BENCH MARK J 745, PID #HS0104.
4. ENTIRE PROPERTY IS FENCED WITH A 6 FT. HIGH CHAIN LINK FENCE.
5. AIRPORT IS LOCATED IN PORTION OF RANCHO CAMPO DE LOS FRANCESES. RANCHO LOT CORNERS ARE INDICATED.

Source: Stockton Metropolitan Airport, February 1, 2008

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- **Routine Pavement Maintenance**—Maintain pavement every five years and strengthen pavement on Runway 11L-29R.
- **Runway 11L**—Install approach lighting system.
- **Property Acquisition**—Proposed improvements shift runway safety areas (RSAs), specifically the runway protection zone (RPZ) for Runway 11R-29R, off airport property.

2.1.4 Airport Operations

According to the 2010 Airport Master Plan, Stockton Metropolitan Airport experienced 74,787 annual operations and 25,910 annual passenger enplanements during 2007, the forecasting base year. In 2007, annual operations were comprised of 54,026 itinerant operations and 20,761 local operations. Itinerant operations encompassed 473 air carrier, 52,314 general aviation (GA), and 1,239 military operations. At the same time, local operations consisted of 20,215 GA and 546 military operations. This information is depicted in **Table 2B**. The based aircraft at Stockton Metropolitan Airport were reported at 186 in the 2010 Airport Master Plan. The based aircraft fleet mix is comprised of 127 single-engine piston, 12 multi-engine piston, 14 turbo-prop, 15 turbo-jet, 2 helicopter, and 16 military aircraft. This information, along with the fleet mix forecast, is located in **Table 2C**. Throughout the planning horizon, passenger enplanements are expected to reach 73,815, annual operations are projected at 94,775, and total based aircraft are forecast to reach 261.

TABLE 2B
Airport Activity Forecast
Stockton Metropolitan Airport

		Itinerant Operations			Local Operations		
Year	Enplanements	Air Carrier	GA	Military	GA	Military	Based Aircraft
2007	25,910	473	52,314	1,239	20,215	546	186
2013	59,922	984	50,269	1,239	15,956	546	206
2018	63,604	1,044	58,329	1,239	16,845	546	225
2028	73,815	1,212	72,940	1,239	18,838	546	261

Source: Stockton Metropolitan Airport Master Plan (2010)

TABLE 2C
Based Aircraft Forecast
Stockton Metropolitan Airport

Aircraft	2007	2013	2018	2028
Single Engine Piston	127	137	145	163
Multi-Engine Piston	12	12	13	12
Turbo-prop	14	17	19	22
Turbo-jet	15	22	30	44
Helicopter	2	2	3	4
Military	16	16	16	16
Total	186	206	225	261

2.2 AIRPORT ENVIRONS

There are three important components necessary to understand when preparing an assessment of an airport's land use environs. These include an airport's influence area, the sphere of influence of nearby jurisdictions, and aircraft noise exposure contours.

2.2.1 Airport Influence Area Land Use Summary

For the purposes of this plan, the land use discussion is limited to those areas located within the AIA. As defined in Chapter One, the AIA includes those areas within the current AIA boundary and outer 14 CFR Part 77 conical and approach surfaces. As indicated in exhibits on the following pages, the portion of the current AIA boundary is defined by easily recognized geographic features and enclosure of all the safety and airspace zones. The conical surface is an oval area which coincides with airport's traffic pattern area and the approach surface is the trapezoidal area extended southeast of the airport. The approach surface extends 50,000 feet from the approach end of Runway 29R and is established due to availability of a precision instrument approach to this runway end. The acreage within AIA is 56,184 acres, of which 1,069 acres is designated as airport property and depicted on the ALP.

It is important to note the distinction between the primary land use concepts (existing land use, existing zoning, and general plan land use) used in evaluating development within the airport environs. Existing land use refers to property improvements as they *exist today*. This information is typically gathered from the county assessor's records. Existing zoning identifies the type of land use *permitted on* a given piece of property in accordance with the responsible jurisdiction's ordinances and maps. In the case of SCK, the responsible jurisdictions exerting land use authority within the vicinity of the airport are the City of Stockton and San Joaquin County. Of the 56,184 acres in the study area, 21,030 are within the City of Stockton, 4,614 are within the City of Lathrop, 1,836 are within the City of Manteca, and the remaining 28,704 acres are within unincorporated San Joaquin County.

Zoning is the primary regulatory tool for controlling development within a community. A community's zoning ordinance defines the type, size, and density of land uses allowed in the zones illustrated on the zoning map. Examples of zones include Airport, Residential, Commercial, Industrial, and Agricultural.

California Government Code Section 65300 requires each county and city to "adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries which in the planning agency's judgment bears relation to its planning." In some cases, the land use allowed in the zoning ordinance or depicted in the general plan may differ from the existing land use.

Sources of data, for this discussion include the following:

- Existing Land Use: San Joaquin Council of Governments 2014-2040 Regional Transportation Plan and Sustainable Communities Strategy.

- Zoning: San Joaquin County Community Development Department, 2015. City of Stockton, Community Development, Planning Division, 2015. City of Manteca Community Development Department, 2014. City of Lathrop, Community Development Department, 2012.

- General Plan: San Joaquin County Community Development Department, 2015. City of Stockton, Community Development, Planning Division, 2015. City of Manteca, Community Development Department, 2011. City of Lathrop, Community Development Department, 2004.

Within the discussions below, the term airport support is used to describe parcels that are adjacent or near the airport, which support airport operations, but are not located within the airport boundary as shown on the ALP.

Existing Land Use

Existing land uses within the AIA are depicted on **Exhibit 2B** and the corresponding acreages are summarized in **Table 2D**. As indicated in the table, the largest share of land is used for agricultural purposes. This is followed by industrial development, which is primarily located northwest of the airport. Additional industrial development is located southeast and southwest of the airport. Low density residential development follows industrial uses in total acreage. This type of development is located primarily northwest of the airport within the City of Stockton and in areas near Interstate 5, southwest of the airport within the City of Stockton and the City of Lathrop. Other notable parcels shown on the exhibit include the California Department of Corrections and Rehabilitation health care facility, located east of the airport; the landfill, located east of the airport; and San Joaquin General Hospital, located west of the airport. The remaining areas, in order of acreage, are classified as road and railroad right-of-way, open space, airport property, public facilities, commercial, medium density residential, vacant, and airport support. Airport support

land uses are those parcels adjacent to or near the airport, which support airport operations, but are not within airport boundary as shown on the ALP.

TABLE 2D
Airport Influence Area Existing Land Use Summary

Category	Acres	Percentage
Low Density Residential	5,070.3	9.03%
Medium Density Residential	862.2	1.54%
Mixed-Use	16.7	0.03%
Commercial	1,006.7	1.79%
Industrial	5,842.7	10.40%
Public	1,639.6	2.92%
Open	2,871.9	5.11%
Agricultural	32,492.1	57.83%
Right of Way	4,760.0	8.47%
Vacant	282.8	0.50%
Airport Property	1,069.0	1.90%
Airport Support	269.7	0.48%
Total	**56,183.7**	**100.0%**

Source: Existing Land Use: San Joaquin Council of Governments 2014-2040 Regional Transportation Plan and Sustainable Communities Strategy. Coffman Associates analysis.

Zoning

The largest amount of land within the study area is zoned as agricultural, followed by industrial and low density residential. Similar to the existing land use, much of the agricultural land is located southeast of the airport; and industrial and low density residential zoned lands are located northwest and southwest of the airport. The next largest portion of land is the airport property. This is followed by public land, right-of-way, commercial, medium and high density residential, open space and airport support. As mentioned previously, airport support is not an actual zoning designation for the cities of Stockton, Lathrop, or Manteca or San Joaquin County, but is used in conjunction with the airport area to identify areas located off airport property which are zoned for uses which support the airport. **Exhibit 2C** illustrates the zoning designations within the vicinity of the airport and **Table 2E** summarizes the acreages for each zoning district.

City of Stockton

San Joaquin County

City of Lathrop

City of Manteca

LEGEND

- Airport Property Line
- Airport Influence Area

Existing Land Use

- Low Density Residential
- Medium Density Residential
- Mixed-Use
- Commercial
- Industrial
- Public
- Open
- Agricultural
- ROW/No Data
- Vacant
- Airport Property
- Airport Support

N

0 14,000 Feet

SOURCES:
Airport Property Line - Stockton Metropolitan Airport Layout Plan, 2008; Aerial - National Agriculture Imagery Program, 2014
Existing Land Use - San Joaquin Council of Governments 2014-2040 Regional Transportation Plan and Sustainable Communities Strategy
Municipal Boundaries - San Joaquin County GIS, 2015;

Exhibit 2B
EXISTING LAND USE

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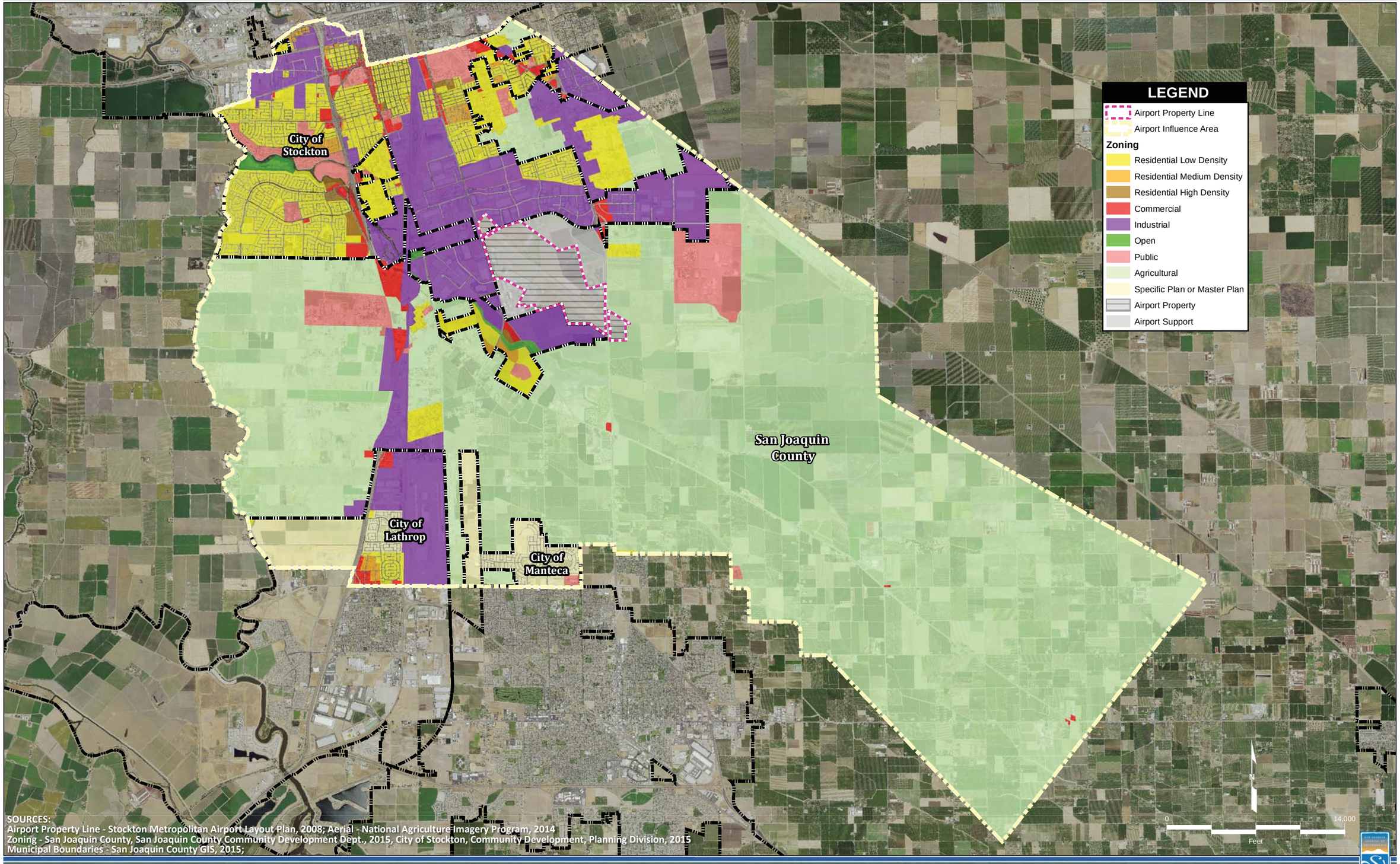

SOURCES:
Airport Property Line - Stockton Metropolitan Airport Layout Plan, 2008; Aerial - National Agriculture Imagery Program, 2014
Zoning - San Joaquin County, San Joaquin County Community Development Dept., 2015, City of Stockton, Community Development, Planning Division, 2015
Municipal Boundaries - San Joaquin County GIS, 2015;

Exhibit 2C
ZONING

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TABLE 2E
Airport Influence Area Zoning Summary

Category	Acres	Percentage
Residential Low Density	4,381.2	7.80%
Residential Medium Density	274.8	0.49%
Residential High Density	127.1	0.23%
Commercial	720.9	1.28%
Industrial	6,735.6	11.99%
Specific Plan or Master Plan	1,582.5	2.82%
Open	179.0	0.32%
Public	1,921.2	3.42%
Agricultural	36,474.5	64.91%
Right of Way	2,164.1	3.85%
Airport Property	1,069.0	1.90%
Airport Support	553.8	0.99%
Total	**56,183.7**	**100.0%**

Source: San Joaquin County Community Development Department, 2015. City of Stockton, Community Development, Planning Division, 2015. City of Manteca Community Development Department, 2014. City of Lathrop, Community Development Department, 2012. Coffman Associates analysis.

In addition to the zoning districts discussed above, the City of Stockton has adopted the Aircraft Operations overlay district. Land development within this overlay district is subject to the underlying zoning and height restrictions based on the airport's Part 77 imaginary surfaces.

General Plan

The General Plan land use designations for the City of Stockton and San Joaquin County are shown on **Exhibit 2D** with acreages summarized in **Table 2F**. As noted in the table, a majority of the land within the study area is planned for agricultural land uses. The next largest segment of land is planned for industrial land uses. Consistent with existing development, these areas are located northwest and southwest of the airport. The third largest acreage within the general plans is low density residential development. Areas planned for this type of development are also located northwest and southwest of the airport. Each community within the study area has outlined different ranges for this type of development. The *City of Stockton General Plan*, adopted in 2007, defines low density residential development as areas with up to 8.7 dwelling units per gross acre. The *San Joaquin County General Plan*, adopted in 1992, defines this type of development as having between two and six dwelling units per acre. According to the City of Lathrop *Comprehensive General Plan*, low density residential would have one to seven dwelling units per acre. Within the City of Manteca *General Plan,* low density is defined as 2.1 to 8 dwelling units per acre. The remaining areas, in order of acreage, include open space, airport property,

commercial, airport support, medium density residential, public, high density residential, and right-of-way. Airport support land uses are those parcels adjacent to or near the airport, which support airport operations, but are not within the airport boundary as shown on the ALP.

TABLE 2F
Airport Influence Area General Plan Summary

Category	Acres	Percentage
Low Density Residential	7,873.6	14.01%
Medium Density Residential	421.3	0.75%
High Density Residential	97.9	0.17%
Commercial	1,223.0	2.18%
Industrial	7,345.0	13.07%
Open	2,447.0	4.36%
Public	1,705.6	3.04%
Agricultural	33,211.9	59.11%
Right of Way	391.1	0.70%
Airport Property	1,069.0	1.90%
Airport Support	398.3	0.71%
Total	**56,183.7**	**100.0%**

Source: San Joaquin County Community Development Department, 2015.
City of Stockton, Community Development, Planning Division, 2015.
City of Manteca, Community Development Department, 2011.
City of Lathrop, Community Development Department, 2004.
Coffman Associates analysis.

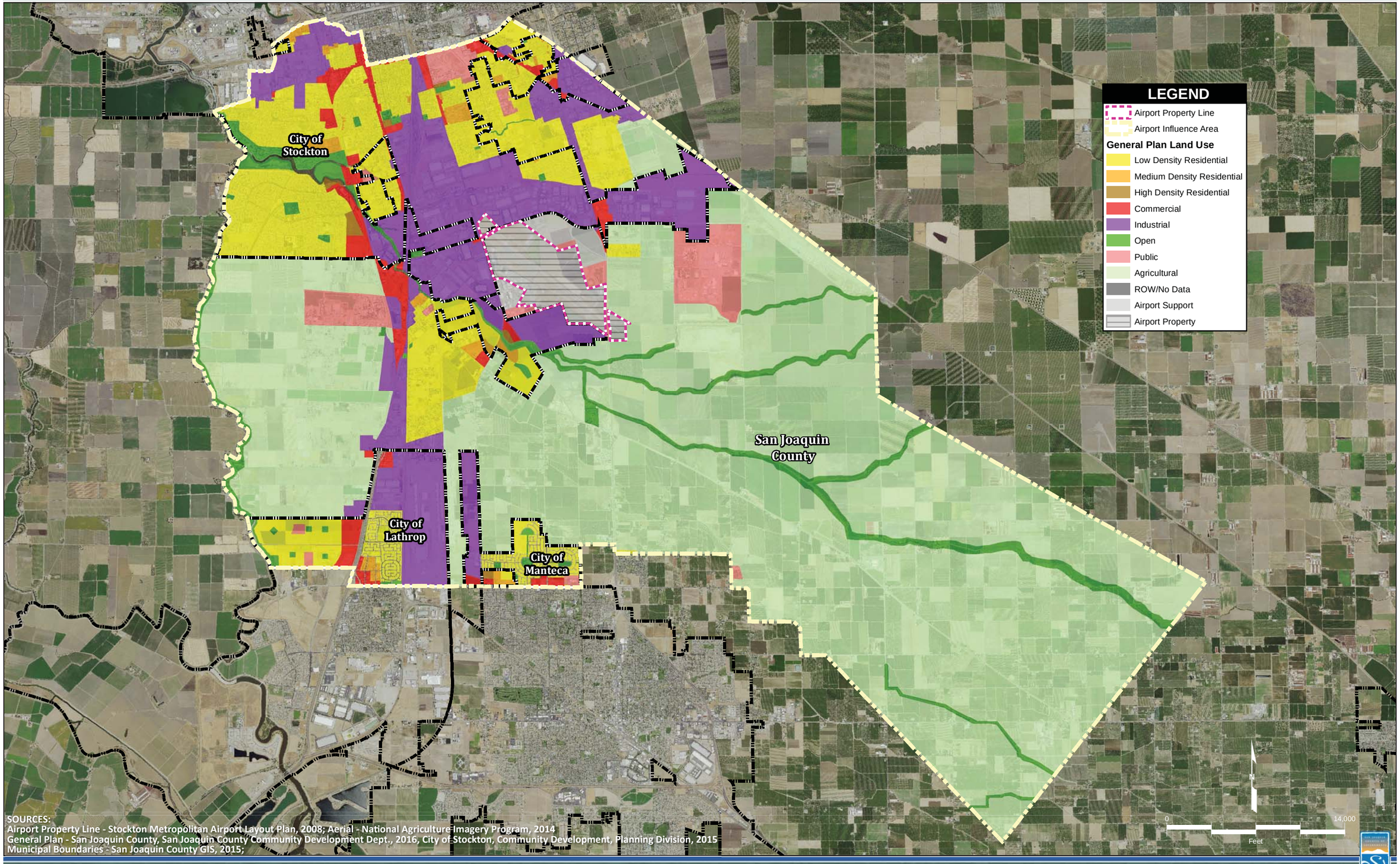
2.2.2 Sphere of Influence

Another important consideration for evaluating planning activities within the vicinity of an airport is the sphere of influence (SOI) of the incorporated cities of the county. A sphere of influence defines the area within which urban development is to be encouraged.

Established by the county's Local Agency Formation Commission, the sphere of influence establishes the probable physical boundary and service area of the local government. The lands lying within the sphere are those that the city may someday propose to incorporate through annexation and these areas are typically included within the scope of a city's general plan. The extent of the City of Stockton's SOI is shown on **Exhibit 2E.**

2.2.3 Noise Exposure Contours

Noise exposure contours were prepared as part of the 2010 Airport Master Plan to depict long range average annual noise exposure conditions. The locations of noise contours, depicted on **Exhibit 2F**, are among the factors used to determine land use compatibility. Noise contours,



SOURCES:
Airport Property Line - Stockton Metropolitan Airport Layout Plan, 2008; Aerial - National Agriculture Imagery Program, 2014
General Plan - San Joaquin County, San Joaquin County Community Development Dept., 2016, City of Stockton, Community Development, Planning Division, 2015
Municipal Boundaries - San Joaquin County GIS, 2015;

Exhibit 2D
GENERAL PLAN LAND USE

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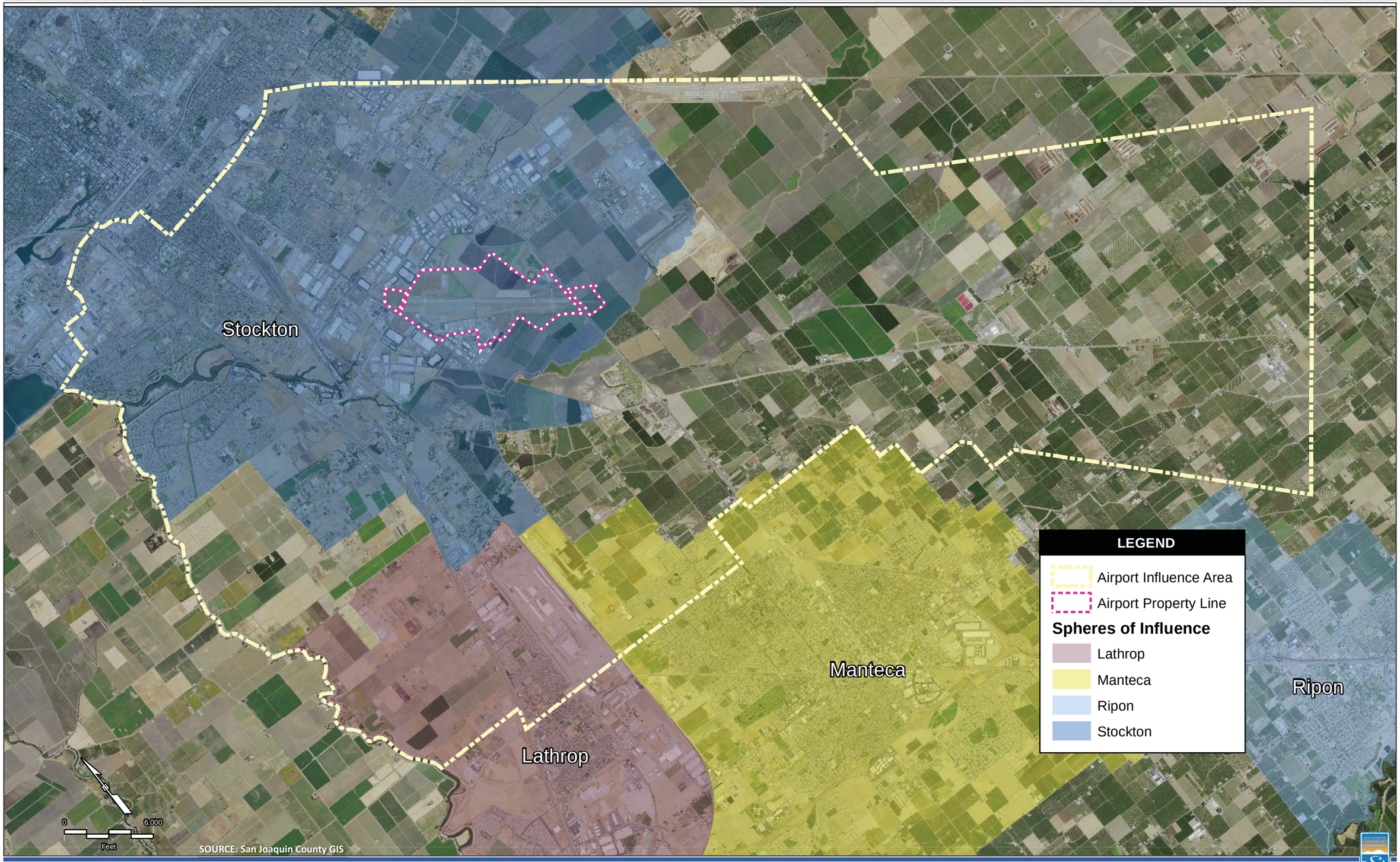

Exhibit 2E
SPHERE OF INFLUENCE

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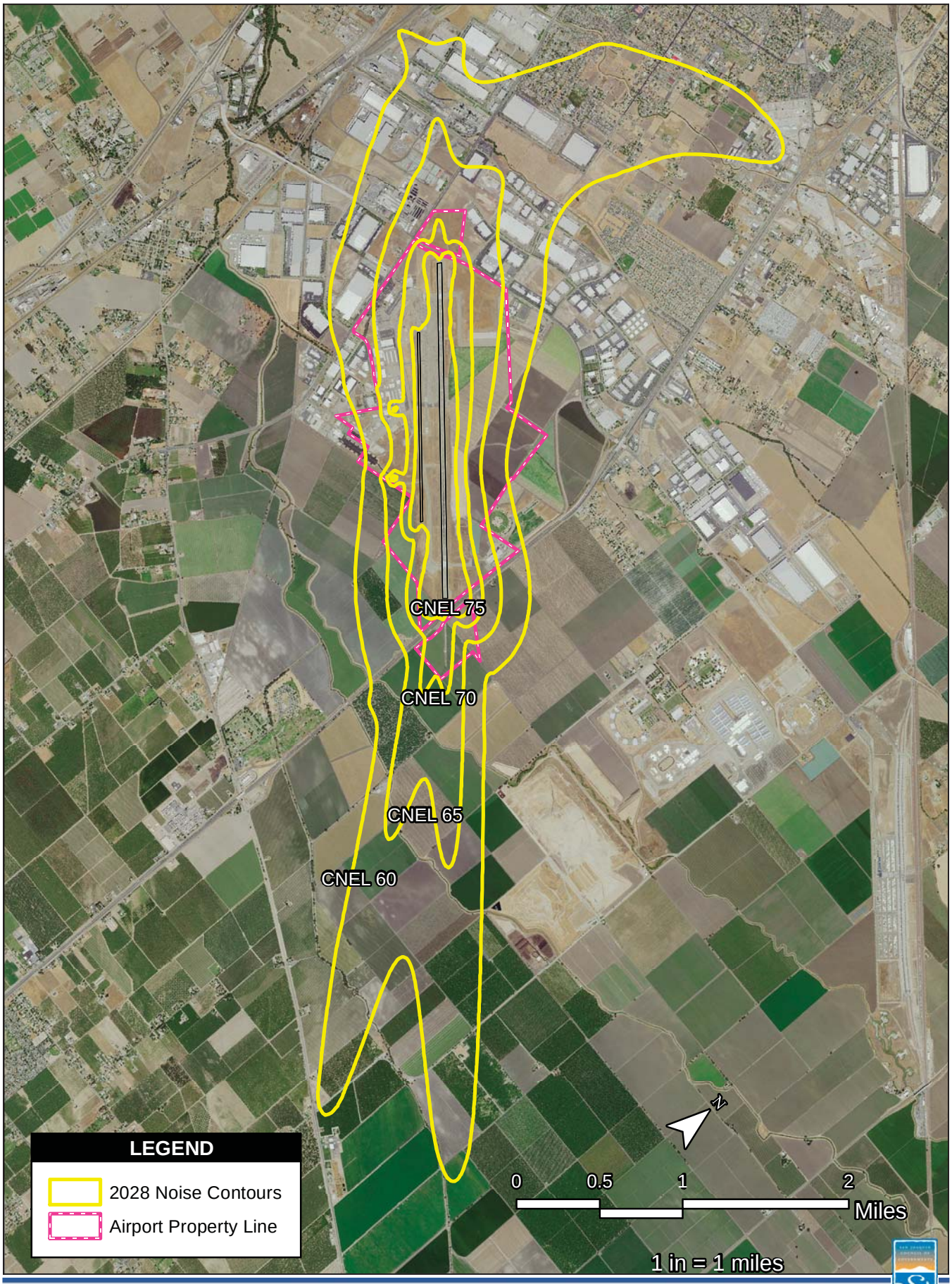


Exhibit 2F
LONG RANGE
CNEL NOISE EXPOSURE CONTOURS

calculated with the community noise equivalent level (CNEL) metric, are displayed in 5 dB increments from 60 to 75. The CNEL noise metric weights operations more heavily occurring during the evening hours (7:00 p.m. to 10:00 p.m.) and nighttime hours (10:00 p.m. to 7:00 a.m.). In calculating aircraft noise exposure, the noise levels for evening operations are increased by 4.77 dB and nighttime operations by 10 dB. The depicted noise contour boundaries, however, are not absolute determinants of compatibility. The inherent variability of aircraft flight paths and pilot training that occur at the airport all influence noise emissions in the vicinity of airports. This variability in aircraft flight paths and training activity can create significant single event noise levels that can be disruptive to noise-sensitive land uses. Additional information regarding the noise modeling assumptions can be found in **Appendix B**.

In addition to the cumulative noise metric, CNEL, a single event noise contour was also modeled. A commonly used method for determining the potential impact of single events on residential areas is to use sleep disturbance. The Federal Interagency Committee on Aviation Noise (FICAN) recommends using a 10 percent awakening value associated with indoor sound exposure levels (SEL) of 80 decibels (dB). **Exhibit 2G** illustrates the FICAN data collected regarding sleep disturbance. The typical home with the windows closed attenuates exterior noise at approximately 15 dB. Therefore, the 95 dB SEL will be used as a gauge for sleep disturbance.

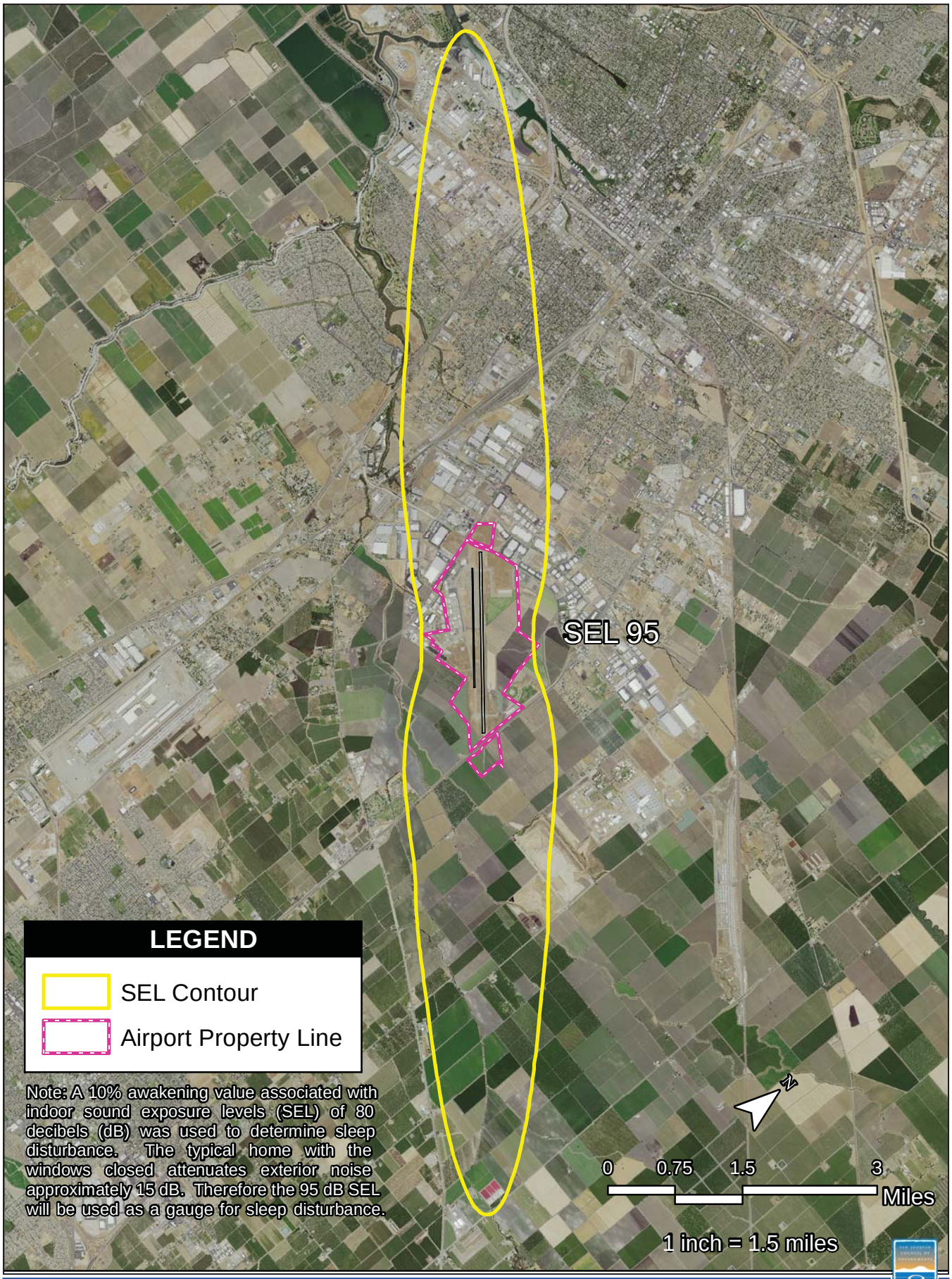


Exhibit 2G
SEL NOISE EXPOSURE CONTOURS

Chapter Three

Comprehensive Land Use Policies

Chapter Three
COMPREHENSIVE LAND USE POLICIES

The following policies are intended to ensure compatible development in the area surrounding the Stockton Metropolitan Airport within San Joaquin County. It has been developed in accordance with the *California Airport Land Use Planning Handbook* published in January 2011.

3.0 DEFINITIONS

The following definitions apply for the purposes of the policies set forth in this document:

3.0.1. Aeronautics Act: Except as indicated otherwise, the article of the California Public Utilities Code (Sections 21670 et seq.) pertaining to airport land use commissions.

3.0.2. Airport Influence Area (AIA): An area, as delineated in this Chapter herein, in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses. The airport influence area constitutes the area within which certain land use actions are subject to ALUC review.

3.0.3. Airport Land Use Commission (ALUC): The San Joaquin County Airport Land Use Commission.

3.0.4. Airport Land Use Compatibility Plan (ALUCP): The Stockton Metropolitan Airport Land Use Compatibility Plan.

3.0.5. Avigation Easement: An easement that conveys rights associated with aircraft overflight of a property, including creation of noise, limits on the height of structures and trees, etc.

3.0.6. Code of Federal Aviation Regulations (CFR) Part 77: The part of Federal Aviation Regulations which deals with objects affecting navigable airspace in the vicinity of airports. Objects which exceed the Part 77 height limits constitute airspace obstructions.

3.0.7. Community Noise Equivalent Level (CNEL): The noise metric adopted by the state of California for describing airport noise impacts. The noise impacts are typically depicted by a set of contours, each of which represents points having the same CNEL value.

3.0.8. Compatibility Zone: Any of the zones set forth herein for the purposes of assessing land use compatibility within the airport influence area.

3.0.9. Development Actions: See the definition of Local agency action, regulation, permits, and/or project.

3.0.10. Division of Aeronautics: California Department of Transportation, ***Division of Aeronautics***, or any successor agency that may assume the responsibilities of the ***Division of Aeronautics***.

3.0.11. Dwelling: A building or a portion thereof used or designed and intended to be used for human habitation.

3.0.12. Existing Land Use: The actual use of land or the proposed use of the land evidenced by a ***vested right*** to proceed with development or occupancy (provided the new occupancy remains within the same or reduced level of occupancy as the most recent one) as of the effective date of this compatibility plan analysis. Vested means the irrevocable right to complete construction notwithstanding an intervening change in the law that would otherwise preclude it.

3.0.13. General Plan: For this compatibility plan analysis, this term means any general plan, community plan, or specific plan, zoning ordinance, building regulation, land use policy document, or implementing ordinance or any change thereto, and any amendment thereto (see Pub. Util. Code §21676).

3.0.14. Gross Acreage: Gross acreage includes the property at issue plus up to the centerline of adjacent roads and any adjacent, permanently dedicated, open lands.

3.0.15. Handbook: The most recent version of the *California Airport Land Use Planning Handbook* published by the California Department of Transportation, Division of Aeronautics.

3.0.16. Heliport: A helicopter landing facility for which a Heliport Permit is required from the California Department of Transportation. Public-use and special-use heliports (including those at hospitals) are included within this definition, but helipads located on an airport are excluded. Personal-use heliports may or may not require a state permit depending upon their location and other factors.

3.0.17. Infill: Development of vacant or underutilized land within areas that are already largely developed or used more intensively. See Policy 3.1.5.3 for criteria used to identify infill areas for compatibility planning purposes.

3.0.18. Local Jurisdiction: The County of San Joaquin or any city or other government agency (except state or federal government agencies having jurisdiction over land uses within their boundaries).

3.0.19. Land Use Policy Action: Adoption of any city or county general plan, specific plan, or zoning ordinance (including zoning maps and/or text) or any amendment to a city or county general plan, specific plan, community plan or zoning ordinance (zoning maps and/or text). A land use policy action also refers to any school district, community college district, or special district facilities master plans or amendments to such master plans. Also see definition of Project.

3.0.20. Local Agency: A land use jurisdiction, school district, community college district, or other special district subject to the provisions of this ALUCP. The ALUC does not have authority over land use actions of federal agencies or Native American tribes.

3.0.21. Local agency actions, regulations, and permits: Any human-caused change to improved or unimproved real property that requires a discretionary permit or approval from any local agency or that is sponsored and proposed to be built by a local agency, developer, or the real property owner. Actions include, but are not limited to, buildings or other structures, mining, dredging, filling, grading, paving, an excavation or drilling operation, and/or storage of materials.

3.0.22. Lot of Record: A parcel of land platted and recorded as of the effective date of this compatibility plan analysis.

3.0.23. Lot Coverage: The ratio between the ground floor area of a building (or buildings) and the area of the lot or parcel on which the building (or buildings) are placed.

3.0.24. Nonconforming Use: In general, a land use, parcel, or building which does not comply with a current ALUCP or zoning ordinance, but which was legally permitted at the time the plan or ordinance was adopted. For the purposes of this Plan, a nonconforming land use is one which exists (see definition of "existing land use" in Policy 3.0.12) as of the plan's adoption date, but which does not conform with the compatibility criteria set forth herein.

3.0.25. Project: Any land use matter, either publicly or privately sponsored, that is subject to the provisions of this compatibility plan analysis. For this compatibility plan analysis, this term means any action, regulation, or permit (see Pub. Util. Code §21676.5).

3.0.26. **Real Estate Disclosure:** A written statement that notifies the prospective purchaser of real estate, prior to completion of the purchase, of the potential annoyances or inconveniences associated with airport operations. Typically, a real estate disclosure is provided at the real estate sales or leasing offices. A real estate disclosure is required by state law as a condition of the sale of most residential property if the property is located in the vicinity of an airport and is within its AIA (see, Bus. & Prof. Code, §11010; Civ. Code, §§1102.6, 1103.4, 1353). State law does not require the real estate disclosure to be recorded in the chain of title for the affected property.

3.0.27. **Residential Density:** For airport compatibility purposes, the chief distinguishing feature among residential land uses is the number of dwelling units per acre. To be compatible with airport activities, the number of dwelling units per acre should not exceed the criterion specified for the compatibility zone where the use would occur.

3.2.28. PUC: Public Utilities Code.

3.0.29. **Vested Right:** A right to the proposed use of land as demonstrated by any of the following:

(a) A vesting tentative map that has been approved pursuant to California Government Code section 66498.1, and has not expired; or

(b) A development agreement that has been executed pursuant to California Government Code section 65866, and remains in effect; or

(c) A valid building permit that has been issued, substantial work that has been performed, and substantial liabilities that have been incurred in good faith reliance on the permit, pursuant to the California Supreme Court decision in *Avco Community Developers, Inc. v. South Coast Regional Com* (1976) 17 Cal.3d 785,791, and its progeny.

3.1 GENERAL POLICIES

This section contains general and specific policies that guide overall ALUCP implementation. The general policies that follow are to be used, in addition to the specific policies, standards, and criteria defined later in this chapter, by the ALUC, affected local agencies, and others to implement the relevant provisions of the compatibility plan.

3.1.1 Compliance with State Law

The Airport Land Use Commission for San Joaquin County shall comply with the provisions in the Public Utilities Code, Chapter 4, Article 3.5 Section 21670 et. seq. (airport land use commission statutes), when administering these compatibility policies and the airport land use compatibility planning process in San Joaquin County.

The ALUC shall also implement Business and Professions Code, Section 11010 (b)(13), by establishing an AIA in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by the ALUC. Any property located in the vicinity of the Airport within the AIA must be provided a real estate disclosure notice.

3.1.2. Airport Influence Area

(a) All lands on which the uses could be negatively affected by present or future aircraft operations at any of the public use airports for which the ALUC has specifically adopted these procedures; also those lands on which the uses could negatively affect any of the same airports.

(b) The specific limits of the influence area for Stockton Metropolitan Airport is depicted on Exhibit 1C in Chapter 1, Purpose and Scope, of this document.

3.1.3 Amendments to the Compatibility Plan Analysis

Major amendments (revising the policies in a manner that would change their applicability to a public agency, adding new policies, or revising maps) to the compatibility plan analysis cannot be done more than once per calendar year, as provided in the airport land use commission statutes. Minor amendments (addressing grammatical, typographical, or minor technical errors that do not affect policies or the manner in which those policies are applied) can be done as needed.

The compatibility plan analysis shall be updated and amended as needed to maintain a current, updated document. Updates should be undertaken as soon as practicable after any of the following occurrences:

1. Adoption of a new airport master plan or an updated airport layout plan;
2. Update of long-range airport noise exposure forecasts.

3.1.4 Effective Date

This compatibility plan analysis shall become effective immediately upon a formal adoption action by the Airport Land Use Commission for San Joaquin County. Land use policy actions and development actions are subject to this compatibility plan analysis unless the circumstances defined below apply.

3.1.5 Applicability of Policies to Existing Land Uses

Existing land uses shall be exempt from the policies and criteria of this compatibility plan analysis, except as specifically provided in this Section.

3.1.5.1 *Modifications to Nonconforming Uses*

Existing uses (including a parcel or building), as defined in Section 3.0.12, not in conformance with this ALUCP, may only be expanded as follows:

(a) Nonconforming residential uses may be expanded in building size provided that it is not more than 10 percent beyond the permitted project size and does not result in more dwelling units than currently exist on the parcel at the time of the adoption of this ALUCP (a bedroom could be added, for example, but a separate dwelling unit could not be built unless the property owner is entitled to the development by right [See Policy 3.1.5.4]).

(b) A nonconforming nonresidential development may be continued, leased, or sold and the facilities may be maintained or altered (including potentially enlarged), provided that the portion of the site devoted to the nonconforming use is not expanded and the usage intensity (the number of people per acre) is not increased above the levels existing at the time of adoption of this ALUCP. For further guidance on the expansion of uses that may represent potential flight hazards, please see Sections 3.3.3.5 (Other Flight Hazards) and 3.3.3.6 (FAA Notification).

(c) Factors to be considered for any proposed expansion of a nonconforming use (in terms of the site size or the number of dwelling units or people on the site) include whether the development qualifies as infill (Policy 3.1.5.3) or warrants approval because of other special conditions (Policy 3.1.5.6).

(d) If a non-conforming use is abandoned or altered beyond what is specified in sections (a) and (b) above, all non-conforming restored land uses must conform to ALUCP policies.

3.1.5.2 *Reconstruction of Nonconforming Use*

An existing nonconforming development that has been fully or partially destroyed as the result of a calamity may be rebuilt only under the following conditions:

(a) Nonconforming residential uses may be rebuilt provided that the expansion does not result in more dwelling units than existed on the parcel at the time of the damage.

(b) A nonconforming nonresidential development may be rebuilt provided that it has been only partially destroyed and that the reconstruction does not increase the floor area of the previous structure or result in an increased intensity of use (i.e., more people per acre). Partial destruction shall be considered to mean damage that can be repaired at a cost of no more than 75% of the assessor's full cash value of the structure at the time of the damage.

(c) Any nonresidential use that has been more than 75% destroyed must comply with all applicable standards herein when reconstructed.

(d) Reconstruction under paragraphs (a) or (b) above must begin within 24 months of the date the damage occurred.
(e) The above exceptions do not apply within Zone 1 or where such reconstruction would be in conflict with a county or city general plan or zoning ordinance.

(f) Nothing in the above policies is intended to preclude work required for normal maintenance and repair.

3.1.5.3 *Infill*

Where development not in conformance with the criteria set forth in this ALUCP already exists, at the date of adoption of this ALUCP, additional infill development of similar land uses may be allowed to occur even if such land uses are to be prohibited elsewhere in the zone.

This exception does not apply within Zone 1.

(a) A parcel can be considered for infill development if it meets all of the following criteria plus the applicable provisions of either Sub-policy (b) or (c) below:

(1) The parcel size is no larger than 20.0 acres.

(2) At least 65% of the site's perimeter is bounded (disregarding roads) by existing uses similar to, or more intensive than, those proposed.

(3) The proposed project would not extend the perimeter of the area defined by the surrounding, already developed, incompatible uses.

(4) Further increases in the residential density, nonresidential usage intensity, and/or other incompatible design or usage characteristics (e.g., through use permits, density transfers, addition of second units on the same parcel, height variances, or other strategy) are prohibited.

(5) The area to be developed cannot previously have been set aside as open land in accordance with policies contained in this ALUCP unless replacement open land is provided within the same compatibility zone.

(b) For residential development, the average development density (dwelling units per gross acre) of the site shall not exceed the lesser of:

(1) The average density represented by all existing lots that lie fully or partially within a distance of 300 feet from the boundary of the parcel to be divided; or

(2) Double the density permitted in accordance with the criteria for that location as indicated in the Compatibility Criteria matrix, **Table 3A**.

(c) For nonresidential development, the average usage intensity (the number of people per gross acre) of the site's proposed use shall not exceed the lesser of:

(1) The average intensity of all existing uses that lie fully or partially within a distance of 300 feet from the boundary of the proposed development; or

(2) Double the intensity permitted in accordance with the criteria for that location as indicated in the Compatibility Criteria matrix, **Table 3A**.

(d) Infill development on some parcels should not enable additional parcels to then meet the qualifications for infill. The ALUC's intent is that parcels eligible for infill be determined just once. Thus, in order for the ALUC to consider proposed development under these infill criteria, the entity having land use authority (San Joaquin County or affected cities) must first identify the qualifying locations in its general plan or other adopted planning document approved by the ALUC. This action may take place in conjunction with the process of amending a general plan for consistency with the ALUC plan or may be submitted by the local agency for consideration by the ALUC at the time of initial adoption of this ALUCP. In either case, the burden for demonstrating that a proposed development qualifies as infill rests with the affected land use jurisdiction and/or project proponent.

3.1.5.4 *Development by Right:*

Nothing in these policies prohibits:

(a) Construction of a single-family home, including a second unit as defined by state law, on a legal lot of record if such use is permitted by local land use regulations.

(b) Construction of other types of uses if local government approvals qualify the development as effectively existing (see Policy 3.0.12 for definition).

(c) Lot line adjustments provided that new developable parcels would not be created and the resulting gross density or intensity of the affected property would not exceed the applicable criteria indicated in the Compatibility Criteria matrix, **Table 3A**.

3.1.5.5 *Parcels Lying within Two or More Compatibility Zones:*

For the purposes of evaluating consistency with the compatibility criteria set forth herein, any parcel that is split by compatibility zone boundaries shall be considered as if it were multiple parcels divided at the compatibility zone boundary line. However, the density or intensity of development allowed within the more restricted portion of the parcel can (and is encouraged to) be transferred to the less restricted portion.

3.1.5.6 *Other Special Conditions:*

The compatibility criteria set forth in this ALUCP are intended to be applicable to all locations within each airport's influence area. However, it is recognized that there may be specific situations where a normally incompatible use can be considered compatible because of terrain, specific location, or other extraordinary factors or circumstances related to the site.

(a) After due consideration of all the factors involved in such situations, the ALUC may find a normally incompatible use to be acceptable.

(b) In reaching such a decision, the ALUC shall make specific findings as to why the exception is being made and that the land use will not create a safety hazard to people on the ground or aircraft in flight nor result in excessive noise exposure for the proposed use. Findings also shall be made as to the nature of the extraordinary circumstances that warrant the policy exception.

(c) The burden for demonstrating that special conditions apply to a particular development proposal rests with the project proponent and/or the referring agency, not with the ALUC.

(d) The granting of a special conditions exception shall be considered site-specific and shall not be generalized to include other sites.
(e) Special conditions that warrant general application in all or part of the influence area of one airport, but not at other airports, are set forth in following sections of this ALUCP.

Under state law (Pub. Util. Code, Section 21676[c]), any public agency owning an airport must, prior to the adoption or modification of its airport master plan, refer the proposed action to the Airport Land Use Commission. According to the Handbook, "the question to be examined [by airport land use commissions] is whether any components of the airport plan would result in greater noise and safety impacts on surrounding land uses than are assumed in the adopted compatibility plan." Components of the airport plans that merit consideration in the consistency review include:

1. Aviation activity forecasts;
2. Changes to runway layout;
3. Changes to flight tracks resulting from the proposed action;
4. Changes to airspace parameters;
5. Noise impacts – will changes in any of the above items result in significantly increased noise impacts on surrounding lands;
6. Plans for non-aviation development on airport property (such as hotels, office buildings, or industrial buildings), which should be evaluated during the Airport Master Plan process and the same manner as projects proposed elsewhere in the project referral area.

The Airport Land Use Commission should update the compatibility plan analysis to account for the new airport plans. When an inconsistency exists between a proposed airport master plan and compatibility plan analysis, the ALUC has the option of first modifying its plan to reflect the

assumptions and proposals of the master plan. (Under state law, Airport Land Use Commissions have no jurisdiction over the operation of airports [Pub. Util. Code, Section 21674(e)].)

3.1.6 Types of Actions Reviewed

3.1.6.1 *Actions Which Require ALUC Review:*

As required by state law, the following types of actions shall be referred to the ALUC prior to their approval by the local jurisdiction:

(a) The adoption or approval of any amendment to a general or specific plan affecting the property within an airport influence area (PUC Section 21676(b)).

(b) The adoption or approval of a zoning ordinance or building regulation which (1) affects property within an airport influence area, and (2) involves the types of airport impact concerns listed in Section 3.1.7 (PUC Section 21676(b)).

(c) Adoption or modification of the master plan for an existing public-use airport (PUC Section 21676(c)).

(d) Any proposal for expansion of an existing airport or heliport if such expansion will require an amended airport permit from the state of California (PUC Section 21664.5).

(e) Any proposal for a new airport or heliport whether for public use or private use (PUC Section 21661.5) if the facility requires a state Airport Permit.

3.1.6.2 *Other Land Use Actions Subject to ALUC Review:*

In addition to the above types of land use actions for which ALUC review is mandatory, other types of land use actions are subject to review under the following circumstances:

(a) Until such time as (1) the ALUC finds that a local agency's general plan, specific plan, or zoning is consistent with the ALUCP, or (2) the local agency has overruled the ALUC's determination of inconsistency, state law provides that the ALUC may require the local agency to refer all actions, regulations, and permits involving land within an airport influence area to the ALUC for review (PUC Section 21676.5(a)). Only those actions that the ALUC elects not to review are exempt from this requirement. ALUC policy is that only major land use actions listed in Policy 3.1.6.3 shall be submitted for review.

(b) Proposed redevelopment of a property for which the existing use is consistent with the general plan and/or specific plan, but nonconforming with the compatibility criteria set forth in this plan, shall be subject to ALUC review. This policy is intended to address circumstances that arise when a general or specific plan land use designation does not conform to ALUC compatibility

criteria, but is deemed consistent with the compatibility plan because the designation reflects an existing land use. Proposed redevelopment of such lands voids the consistency status and is to be treated as new development subject to ALUC review even if the proposed use is consistent with the local general plan or specific plan. (Also see Policies 3.1.5.1 and 3.1.5.2)

3.1.6.3 *Major Land Use Actions:*

The scope or character of certain major land use actions, as listed below, is such that their compatibility with airport activity is a potential concern. Even though these actions may be basically consistent with the local general plan or specific plan, sufficient detail may not be known to enable a full airport compatibility evaluation at the time that the general plan or specific plan is reviewed. To enable better assessment of compliance with the compatibility criteria set forth herein, ALUC review of these actions may be warranted. The circumstances under which ALUC review of these actions is to be conducted are indicated in Policy 3.1.6.2 above.

(a) Actions affecting land uses within any compatibility zone.

(1) Proposed residential development, including land divisions, consisting of five or more dwelling units or lots.

(2) Proposed development agreements or amendments to such agreements.

(3) Any proposed expansion of the sphere of influence of a city or special district.

(4) Proposed pre-zoning associated with future annexation of land to a city.

(5) Any discretionary development proposal for projects having a building floor area of 20,000 square feet or greater unless only ministerial approval (e.g., a building permit) is required.

(6) Major capital improvements (e.g., water, sewer, or roads) which would promote urban uses in undeveloped or agricultural areas to the extent that such uses are not reflected in a previously reviewed general plan or specific plan.

(7) Proposed land acquisition by a government entity for any facility accommodating a congregation of people (for example, a school or hospital).

(8) Any off-airport, non-aviation use of land within the *r*unway protection zone (RPZ) of any airport.

(9) Proposals for new development (including buildings, antennas, and other structures) having a height of more than:

- No development is allowed within the RPZ;
- 35 feet above ground level (AGL) within the Inner Approach/Departure Zone, Inner Turning Zone, Sideline Safety Zone, and Airport Property;
- 70 feet AGL within Outer Approach/Departure Zone; or
- 100 feet AGL within or Traffic Pattern Zone.

(10) Any obstruction reviewed by the Federal Aviation Administration (FAA) in accordance with Part 77 of the CFR that receives a finding of anything other than "not a hazard to air navigation."

(11) Any project having the potential to create electrical or visual hazards to aircraft in flight, including:

- Electrical interference with radio communications or navigational signals;
- Lighting which could be mistaken for airport lighting;
- Glare in the eyes of pilots of aircraft using the airport; and
- Impaired visibility near the airport.

(12) Projects having the potential to cause attraction of birds or other wildlife that can be hazardous to aircraft operations to be increased within the vicinity of an airport in accordance with Advisory Circular 150/5200-33B, *Hazardous Wildlife Attractants On or Near Airports.*

(13) Proposed non-aviation development of airport property (hotels, motels, restaurants and non-aviation related commercial/office buildings) if such development has not previously been included in an airport master plan or community general plan. (See Policy 3.3.1.1(f)).

(b) Regardless of location within San Joaquin County, any proposal for construction or alteration of a structure (including antennas) taller than 200 feet above the ground level at the site. (Such structures also require notification to the Federal Aviation Administration in accordance with Code of Federal Regulations, Part 77, Paragraph 77.13(a)(1).)

(c) Any other proposed land use action, as determined by the local planning agency, involving a question of compatibility with airport activities.

3.1.6.4 *Airport Land Use Commission Review after Local Agency Makes Local Plans Consistent with Compatibility Plan Analysis or Overrides Compatibility Plan Analysis*

After local agencies have either made their local plans and zoning ordinances or facilities' master plans consistent with the compatibility plan analysis or overridden the compatibility plan analysis as provided by law, Public Utilities Code, Section 21676 (b) requires local agencies to submit only proposed ***land use policy actions*** to the airport land use commission for a determination of the consistency of the proposed action with the compatibility plan analysis prior to local agency approval of such action. In addition to this statutory requirement, the ALUC will request review of the development proposal, if any, which triggered the proposed land use action. This requirement shall apply to any proposed land use policy action that affects property within the AIA.

3.1.7 Types of Airport Impacts

3.1.7.1 *Compatibility Concerns:*

The ALUC is concerned with the potential impacts related to:

(a) Land use safety with respect both to people on the ground and the occupants of aircraft;
(b) Exposure to aircraft noise;
(c) Protection of airport airspace; and
(d) General concerns related to aircraft overflights.

3.1.7.2 *Airport Impacts Not Considered:*

Other impacts sometimes created by airports (e.g., air pollution, automobile traffic, etc.) are not addressed by these compatibility policies and are not subject to review by the ALUC. In accordance with state law (PUC Section 21674(e)), this Plan and the ALUC do not have authority over the operation of any airport (including where and when aircraft fly, and airport security).

3.1.7.3 *Advisory Review of Development Proposals:*

Under state law, local governments may submit development proposals within the AIA to the Airport Land Use Commission for voluntary, non-binding advisory review. ALUC reviews are voluntary only if the jurisdiction's general plan and/or specific plan is fully consistent with the compatibility plan analysis (if these plans are not consistent, then ALUC review is mandatory). The Airport Land Use Commission shall encourage local governments to submit the following types of development proposals within the AIA for advisory review:

- Commercial or mixed-use development of more than 100,000 square feet of gross building area;
- Residential or mixed-use development that includes more than 50 dwelling units;
- Public or private schools;
- Hospitals or other inpatient medical care facilities;
- Libraries;
- Places of public assembly; and/or
- Towers.

When an ALUC review is advisory, the local jurisdiction does not need to take the special steps necessary to overrule the ALUC if it disagrees with the outcome of a review.

3.1.8 ALUC Overrule Policies

3.1.8.1 *Overruling Process:*

Various sections of the ALUC statutes provide for local agencies to overrule ALUC decisions on land use matters and airport master plans. The overruling process involves three mandatory steps:

(a) The holding of a public hearing (except when the ALUC finds a county or city action inconsistent with the ALUCP prior to having adopted a compatibility plan update);

(b) The making of specific findings that the action proposed is consistent with the purposes of the ALUC statute; and

(c) Approval of the proposed action by a two-thirds vote of the agency's governing body.

3.1.8.2 *Substance of the Finding:*

The essential substance of the findings which accompany a local agency overruling of an ALUC decision is indicated in PUC Section 21670. Section 21670(a) indicates that five separate purposes for the legislation are stated:

- "…to provide for the orderly development of each public use airport in this state…"
- "…to provide for the orderly development of…the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards…"
- "…to provide for the orderly development of…the area surrounding these airports so as…to prevent the creation of new noise and safety problems."
- "…to protect the public health, safety, and welfare by ensuring the orderly expansion of airports…"

- "…to protect the public health, safety, and welfare by…the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses."

Although findings do not need to address each of these purposes point by point, it is essential that, collectively, all of the purposes be addressed. The following sections outline possible approaches to demonstrating a proposed action would indeed be consistent with these purposes.

(a) Providing for Orderly Development of the Airport. The findings shall document:

(1) How the local agency has considered any adopted long-range development plans that may exist for the airport;
(2) How the local agency plans to support development of the airport over at least the next 20 years; and

(3) How local land use planning and zoning actions would serve to protect the approaches to the airport runways.

(b) Relationship to California Airport Noise Standards. The findings should:

(1) Document any inconsistencies between noise element policies and noise compatibility criteria in the ALUC compatibility plan and attempt to resolve why the differences exist;

(2) Show how noise element policies will assure conformance with the state noise airport standards; and

(3) Identify any measures to be incorporated into local development to mitigate existing and foreseeable airport noise problems.

(c) Preventing Creation of New Noise and Safety Problems. The findings should:

(1) Document any inconsistencies between the proposed land use action and safety compatibility criteria in the ALUC compatibility plan;

(2) Describe the measures taken to assure that risks – both to people and property on the ground and to the occupants of aircraft – associated with the land use proposal are held to a minimum; and

(3) Indicate that the proposed land use action falls within a level of acceptable risk considered to be a community norm.

(d) Protecting Public Health, Safety, and Welfare by Ensuring Orderly Expansion of the Airport. The findings should:

(1) Document any inconsistencies between the proposed land use action and safety compatibility criteria in the ALUC compatibility plan;

(2) Describe the measures taken to assure that risks – both to people and property on the ground and to the occupants of aircraft – associated with the land use proposal are held to a minimum; and

(3) Indicate that the proposed land use action falls within a level of acceptable risk considered to be a community norm.

(e) Minimizing the Public's Exposure to Excessive Noise and Safety Hazards. The statute implies a quantitative assessment of noise exposure and safety hazards. The purpose of the statute is not merely to reduce the public's exposure to noise and safety hazards, but to minimize exposure in areas with excessive noise or safety concerns. To adopt a finding demonstrating consistency with this purpose, the local agency first must determine whether the existing noise exposure or safety hazards are excessive.

(1) If existing noise and safety hazards are not excessive, then the actions taken by the local agency must "prevent the creation of new noise and safety problems" (see the third bullet above).

(2) If the existing exposure is excessive, the local agency would have to show how its action in overruling an ALUC determination of inconsistency nonetheless minimizes additional exposure to those noise and safety concerns that have been identified.

(3) Finally, the local agency needs to show the extent to which land uses in the area in question are already incompatible with airport operations and how an action to overrule would not create a new incompatible use or would not expose additional persons or property to noise and safety hazards associated with existing compatible uses.

3.1.9 Review Fees

A 1989 amendment to the *State Aeronautics Act* granted ALUCs the authority to charge fees for review of land use proposals and airport plans (Section 21671.5(f)). The ALUC fees are based upon on the typical number of staff hours involved in a project review and attempt to cover the full cost of staff time. Fees for ALUC should be reviewed annually and adjusted to cover staff review costs. A current fee schedule is to be made available on the ALUC website and at the ALUC offices.

3.1.10 ALUCP Update

ALUC should review and, when appropriate, update their compatibility plans at least every five years. More frequent reviews may be appropriate for airports or communities where conditions

are changing rapidly. However, amendments can be made no more than once per calendar year for countywide policies and once per calendar year for policies pertaining to individual airports.

3.2 REVIEW PROCESS

3.2.1 Timing and Public Input

3.2.1.1 *Timing of Project Submittal:*

Proposed actions listed in Policy 3.1.6 should be submitted to the ALUC early enough in the review process for the ALUC's evaluation to be duly considered by the local jurisdiction prior to formalizing its actions. The timing may vary depending upon the nature of the specific project. However, all projects must be submitted to the ALUC for review prior to final approval by the local government entity.

3.2.1.2 *Public Input:*

Where applicable, the ALUC shall provide public notice and obtain public input in accordance with PUC Section 21675.2(d) before acting on any plan, regulation, or other land use proposal under consideration.

3.2.2 Review Process for Community Land Use Plans and Ordinances

3.2.2.1 *Initial ALUC Review of General Plan Consistency:*

In conjunction with adoption or amendment of this ALUCP, the Commission shall review the general plans and specific plans of affected local jurisdictions to determine their consistency with the ALUC's policies.

(a) Within 180 days of the ALUC's adoption or amendment of the ALUCP, each local agency must amend its general plan and any applicable specific plan to be consistent with the ALUC's plan or, alternatively, adopt findings and overrule the ALUC in accordance with PUC Section 21676(b) and (Government Code Section 65302.3) and outlined in Policy 3.1.8.

(b) Prior to taking action on a proposed amendment, the local agency must submit a draft of the proposal to the ALUC for review and approval.

3.2.2.2 *Subsequent Reviews of Related Land Use Development Proposals:*

As indicated in Policies 3.1.6.1(a) and 3.1.6.1(b), prior to taking action on an amendment of a general plan or specific plan or the addition or approval of a zoning ordinance or building regulation affecting an airport influence area as defined in Policy 3.0.2, local agencies must submit a complete copy of the proposed plan, ordinance, or regulation to the ALUC for review. In addition, supporting documentation, associated mapping exhibits depicting the boundaries of the plan, and any environmental documentation prepared for the plan/ordinance should be submitted.

Subsequent land use development actions that are consistent with applicable, previously reviewed, local plans, ordinances, and regulations are subject to ALUC review only under the conditions indicated in Policies 3.1.6.2 and 3.2.3.5.

3.2.2.3 *ALUC Action Choices:*

When reviewing a general plan, specific plan, zoning ordinance, or building regulation for consistency with the Compatibility Plan, the ALUC has three choices of action:

(a) Find the plan, ordinance, or regulation consistent with the ALUCP.

(b) Find the plan, ordinance, or regulation consistent with ALUCP, subject to conditions and/or modifications that the ALUC may require

(c) Find the plan, ordinance, or regulation inconsistent with the ALUCP. In making a finding of inconsistency, the ALUC shall note the specific conflicts or shortcomings upon which its determination is based.

3.2.2.4 *Response Time:*

The ALUC must respond to a local agency's request for a consistency determination on a general plan, specific plan, zoning ordinance, or building regulation within 60 days from the date of referral (PUC Section 21676(d)).

(a) The 60-day review period may be extended if agreed upon in writing by the submitting agency or project applicant.

(b) The date of referral is deemed to be the date on which all applicable project submittal information is received by the ALUC staff.

(c) If the ALUC fails to make a determination within that period, the proposed action shall be deemed consistent with the ALUCP.

(d) Regardless of ALUC's action or failure to act, the proposed action must comply with other applicable local, state, and federal regulations and laws.

(e) The referring agency shall be notified of the ALUC's action in writing.

3.2.2.5 *ALUC Response to Notification of Proposed Overruling:*

If a local agency proposes to overrule an ALUC action regarding a community land use plan or ordinance, it must provide 45 days' notice to both the ALUC and the California Division of Aeronautics and these agencies then have 30 days in which to respond (PUC Sections 21676(a) and (b)).

3.2.3 Review Process for Airport Master Plans and Development Plans

3.2.3.1 *Project Submittal Information:*

An airport master plan or development plan submitted to the ALUC for review shall contain sufficient information to enable the ALUC to adequately assess the noise, safety, airspace protection, and overflight impacts of airport activity upon surrounding land uses. A master plan report should be submitted, if available.

(a) At a minimum, information to be submitted shall include:

(1) A layout plan drawing of the proposed facility showing the location of:

- Property boundaries;
- Runways or helicopter takeoff and landing areas;
- Runway or helipad protection zones;
- Aircraft or helicopter approach/departure flight routes.

(2) Code of Federal Regulation Part 77 airspace drawing.

(3) Activity forecasts, including the number of operations by each type of aircraft proposed to use the facility, the percentage of day, evening, and night operations, and the distribution of takeoffs and landings for each runway direction.

(4) Existing and proposed flight track locations, current and projected noise contours, and other supplementary noise impact data that may be relevant.

(5) A map showing existing and planned land uses in the areas affected by aircraft activity associated with implementation of the proposed master plan or development plan.

(6) Any environmental document (initial study, draft environmental impact report, etc.) that may have been prepared for the project.

(7) Identification and proposed mitigation of impacts on surrounding land uses.

(b) Any applicable review fees per Policy 3.1.9 as established by the ALUC shall accompany the application.

3.2.3.2 *Commission Action Choices for Plans of Existing Airports:*

When reviewing airport master plans or expansion plans for existing public-use airports, the Commission has three action choices:

(a) Find the airport plan consistent with the ALUCP.

(b) Find the airport plan inconsistent with the ALUCP.

(c) Modify the ALUCP (after duly noticed public hearing) to reflect the assumptions and proposals in the airport plan.

3.2.3.3 *Commission Action Choices for Reviews of New Airports or Heliports:*

When reviewing proposals for new airports or heliports, the ALUC's choices of action are:

(a) Approve the proposal as being consistent with the specific review policies listed in Section 3.3.2.5.

(b) Approve the proposal and adopt an ALUCP for that facility. State law requires adoption of such a plan if the airport or heliport will be a public-use facility (PUC Section 21675(a)).

(c) Disapprove the proposal on the basis that the noise, safety, airspace protection, and overflight impacts it would have on surrounding land uses are not adequately mitigated.

3.2.3.4 *Response Time:*

The ALUC must respond to a local agency's submittal of an airport master plan or development plan within 60 days from the date of referral (PUC Section 21676(d)).

(a) If the ALUC fails to make a determination within that period, the proposed action shall be deemed consistent with the ALUCP.

(b) Regardless of ALUC action or failure to act, the proposed action must comply with other applicable local, state, and federal regulations and laws.

(c) The referring agency shall be notified of the ALUC's action in writing.

3.2.3.5 *ALUC Response to Notification of Proposed Overruling:*

If a local agency proposes to overrule an ALUC action regarding an airport master plan or development plan, it must provide 45 days' notice to both the ALUC and the California Division of Aeronautics and these agencies then have 30 days in which to respond (PUC Section 21676(c)).

3.2.4 Review Process for Major Land Use Actions

3.2.4.1 *Project Submittal Information:*

A proposed major land use action submitted to the ALUC for review shall include:

(a) The following information:

(1) Property location data (assessor's parcel number, street address, subdivision lot number).

(2) An accurately scaled map showing the relationship of the project site to the airport boundary and runways.

(3) A description of the existing and proposed uses of the land in question.

(4) The type of land use action being sought from the local jurisdiction (e.g., zoning change, building permit, etc.).

(5) For residential uses, an indication of the potential or proposed number of dwelling units per acre (including any secondary units on a parcel); or, for nonresidential uses, the number of people potentially occupying the total site or portions thereof at any one time.

(6) If applicable, a detailed site plan showing ground elevations, the location of structures, open spaces, and water bodies, and the heights of structures and trees.

(7) Identification of any characteristics which could create electrical interference, confusing lights, glare, smoke, or other electrical or visual hazards to aircraft flight.

(8) Any environmental document (initial study, draft environmental impact report, etc.) that may have been prepared for the project.

(9) Any staff reports regarding the project that may have been presented to local agency decision makers.

(10) Other relevant information which the Commission or its staff determine to be necessary to enable a comprehensive review of the proposal.

(b) Any applicable review fees as established by the ALUC per Policy 3.1.9.

3.2.4.2 *ALUC Action Choices:*

When reviewing a major land use project proposal, the ALUC has three choices of action:

(a) Find the project consistent with the ALUCP.

(b) Find the project consistent with the ALUCP, subject to compliance with such conditions as the ALUC may specify. Any such conditions should be limited in scope and described in a manner that allows compliance to be clearly assessed (e.g., the height of a structure).

(c) Find the project inconsistent with the ALUCP. In making a finding of inconsistency, the ALUC shall note the specific conflicts upon which the determination is based.

3.2.4.3 *Response Time:*

In responding to major land use actions submitted for review, the policy of the ALUC is that:

(a) When a major land use action is submitted for review on a mandatory basis as required by Policy 3.1.6.3:

(1) Reviews by the ALUC shall be completed within 60 days of when a complete application is submitted.

(2) The date of referral is deemed to be the date on which all applicable project submittal information as listed in Policy 3.2.4.1 is received by the ALUC.

(3) If the ALUC fails to make a determination within the above time periods, the proposed action shall be deemed consistent with the compatibility plan.

(4) Regardless of action or failure to act on the part of the ALUC, the proposed action still must comply with other applicable local, state, and federal laws and regulations.

(5) The referring agency shall be notified of the ALUC's action in writing.

3.2.4.4 *ALUC Response to Notification of Proposed Overruling:*

If a local agency proposes to overrule an ALUC action regarding a major land use action for which ALUC review is mandatory, it must provide 45 days' notice to both the ALUC and the California Division of Aeronautics and these agencies then have 30 days in which to respond (PUC Section 21676.5(a)).

3.2.5 Ruling Conformation

3.2.5.1 *Subsequent Review:*

The ALUC often reviews airport master plans, development plans, general plans, specific plans, ordinances, and land use action documents when they are in draft form.

(a) The ALUC reserves the right to reconfirm determinations made on draft documents if material changes and/or modifications have been made before the document is finalized.

(b) If the ALUC or local agency deems material changes and/or modifications have been made between the draft and final versions of a plan/ordinance/land use action that may affect the ALUC determination, the document must be submitted to the ALUC for reconfirmation.

(c) ALUC reconfirmation should be completed by staff within 30 days of when a final document is submitted for reconfirmation.
(d) If the ALUC fails to reconfirm or make a new determination within the 30-day period, the ALUC determination on the draft document will remain valid.
(e) Regardless of ALUC action or failure to act, the plan/ordinance/land use action must comply with other applicable local, state, and federal regulations and laws.

3.3 LAND USE ACTION COMPATIBILITY CRITERIA

3.3.1 Safety and Compatibility Criteria

The criteria for assessing whether a land use plan, ordinance, or development proposal is to be judged compatible, with respect to safety, with a nearby airport are set forth in the Safety Criteria matrix, **Table 3A**. These criteria are to be used in conjunction with the safety zone map depicted on **Exhibit 3A**. The Safety Criteria matrix represents a compilation of compatibility criteria associated with each of the four types of airport impacts listed in Policy 3.1.7. For the purposes of reviewing proposed amendments to community land use plans and zoning ordinances, as well as in the review of individual development proposals, the safety criteria in the matrix are anticipated to suffice. ALUC may refer to the supporting criteria, as listed in Sections 3.3.2 and 3.3.3, to clarify or supplement its review of such actions.

3.3.1.1 *Safety and Compatibility Zones:*

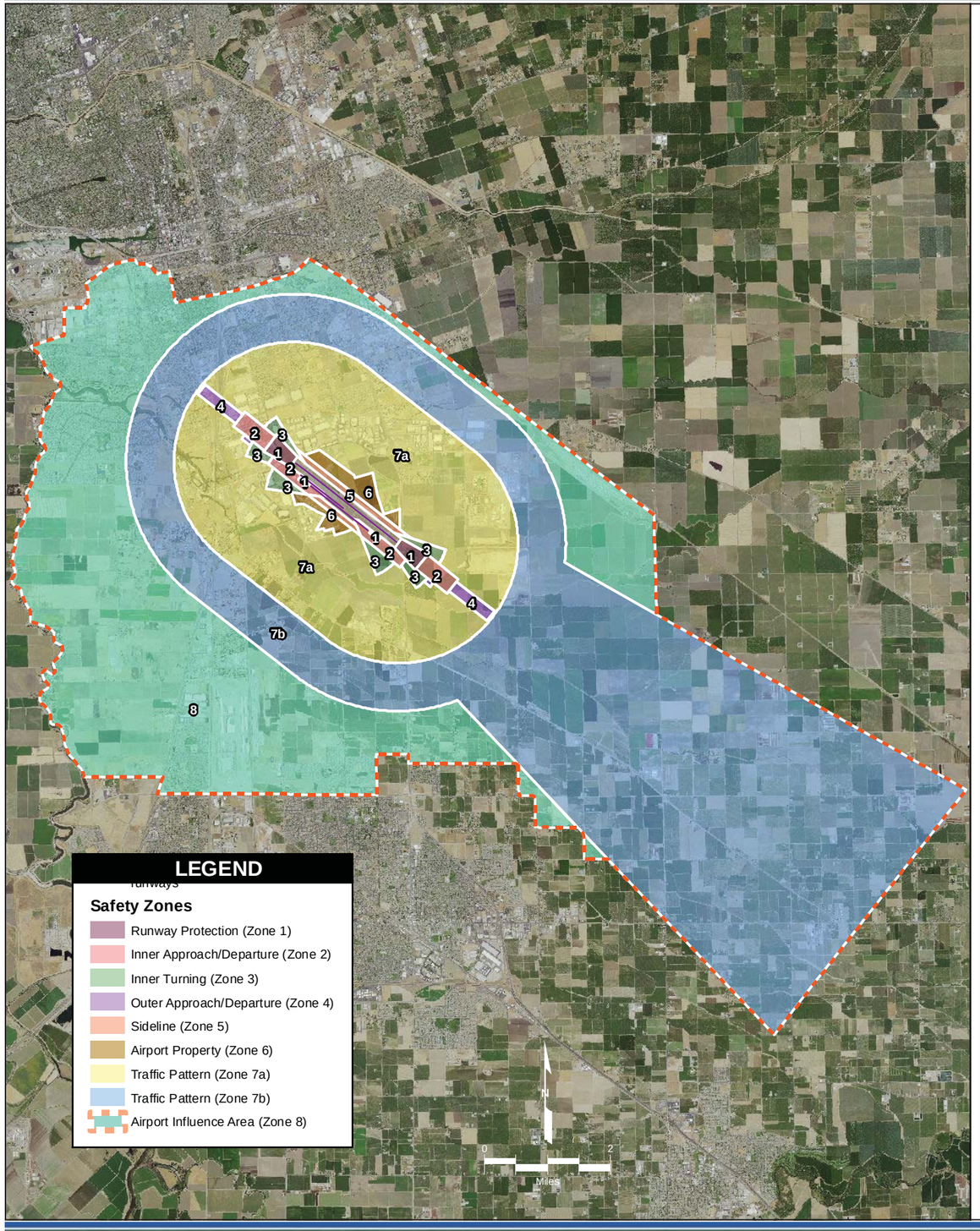
There are eight safety zones defined for the airport which include:

(a) Zone 1, Runway Protection Zone. Runway protection zones are trapezoidal-shaped areas located at ground level beyond each end of a runway. Ideally, each runway protection zone should be entirely clear of all objects. Places of worship, schools, hospitals, office buildings, shopping centers, and other places of public assembly, as well as fuel storage facilities, should be prohibited. **Table 3A** provides a complete list of prohibited uses and conditions for Zone 1.

(b) Zone 2, Inner Approach/Departure Zone. This zone encompasses areas overflown at low altitudes, typically only 200 to 400 feet above runway elevation. Residential uses except on large, agricultural parcels should be prohibited. Nonresidential uses to activities which attract people (uses such as shopping centers, most eating establishments, theaters, meeting halls, multi-story office buildings, and labor-intensive manufacturing plants) should be prohibited. In addition, children's schools, day care centers, hospitals, nursing homes, and hazardous uses (e.g., above-ground bulk fuel storage) should be prohibited. **Table 3A** provides a complete list of prohibited uses and conditions for Zone 2.

TABLE 3A
Safety Criteria Matrix

	Maximum Densities/Intensities/ Required Open Land			Additional Criteria	
Zone	**Dwelling Units per Acre[1]**	**Maximum Non-residential Intensity[2]**	**Req'd Open Land[3]**	**Prohibited Uses[4]**	**Other Development Conditions[5]**
Zone 1 (RPZ)	None	None	All unused	• All structures except ones with location set by aeronautical function • Assemblages of people • Public & quasi-public services • Objects exceeding 14 CFR Part 77 height limits • Storage of hazardous materials • Chemicals and allied products & storage • Petroleum refining & storage • Electrical & natural gas generation & switching • Oil & gas extraction • Natural gas & petroleum pipelines[12] • Waterways that create a bird hazard[6] • Hazards to flight[6] • New dumps and landfills or the expansion of existing dumps or landfills subject to applicable law and implementing advisories[7]	• Avigation easement dedication[5]
Zone 2 (IADZ)	1 d.u. per 10 acres	50 persons per acre	30%	• Residential, except for very low density residential Manufacturing and industrial uses: • Chemicals and allied products & storage • Petroleum refining & storage • Rubber & plastics • Passenger terminals & stations • Radio, TV & Telephone centers • Electrical & natural gas generation & switching • Oil & gas extraction • Natural gas & petroleum pipelines[12] • Petroleum truck terminals Businesses & personal services: • Hotels, motels, restaurants Public & quasi-public services:	• Avigation easement dedication[5] • Locate structures maximum distance from extended runway centerline • Minimum NLR of 45 dB residences (including mobile homes) and office buildings[9] • Airspace review required for objects > 35 feet tall[10]



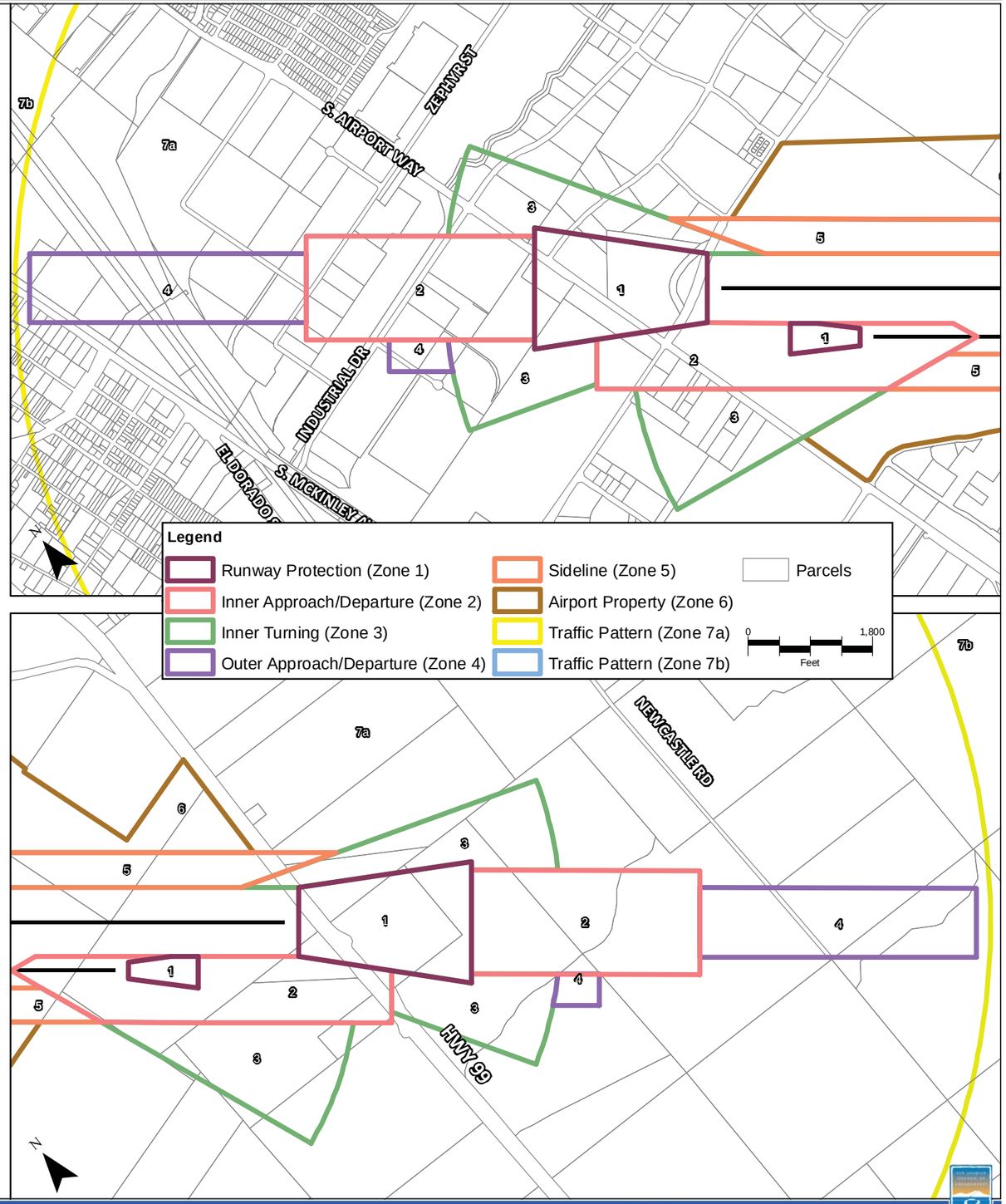


Exhibit 3A
SAFETY ZONE MAP

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TABLE 3A (Continued)
Safety Criteria Matrix

	Maximum Densities/Intensities/ Required Open Land			Additional Criteria	
Zone	**Dwelling Units per Acre[1]**	**Maximum Non-residential Intensity[2]**	**Req'd Open Land[3]**	**Prohibited Uses[4]**	**Other Development Conditions[5]**
Zone 2 (IADZ)	1 d.u. per 10 acres	50 persons per acre	30%	• Children's schools, day care centers, libraries • Hospitals, nursing homes • Places of worship • Schools Recreational uses: • Athletic fields, playgrounds, & riding stables • Theaters, auditoriums, & stadiums Waterways that create a bird hazard[6] Hazards to flight[6] New dumps and landfills or the expansion of existing dumps or landfills subject to applicable law and implementing advisories[7]	• Avigation easement dedication[5] • Locate structures maximum distance from extended runway centerline • Minimum NLR of 45 dB residences (including mobile homes) and office buildings[9] • Airspace review required for objects > 35 feet tall[10]
Zone 3 (ITZ)	1 d.u. per 5 acres	120 persons per acre	20%	Same as Zone 2	• Same as zone 2
Zone 4 (OADZ)	1 d.u. per 5 acres	180 persons per acre	20%	• Children's schools, day care centers, libraries • Hospitals, nursing homes • Bldgs. with >3 aboveground habitable floors • Highly noise-sensitive outdoor non-residential uses[8] • New or expansion of existing dumps or landfills, other than those consisting entirely of earth & rock. • Waterways that create a bird hazard[6] • Hazards to flight[6] • New dumps and landfills or the expansion of existing dumps or landfills subject to applicable law and implementing advisories[7]	• Minimum NLR of 25 dB in residences (including mobile homes) and office buildings[9] • Airspace review required for objects >70 feet tall[11]
Zone 5 (SSZ)	1 d.u. per 2 acres	160 persons per acre	25%	• Same as Zone 2	• Same as Zone 2
Zone 6 (AP)	None	No Limit	No Requirement	• Hazards to flight[6]	• Airspace review required for objects >35 feet tall[11]
Zone 7a (TPZ)	No Limit	450 persons per acre	10%	• New or expansion of existing dumps or landfills, other than those consisting entirely of earth & rock. • Waterways that create a bird hazard[6] • Hazards to flight[6] • New dumps and landfills subject to applicable law and implementing advisories[7] • Outdoor stadiums	• Airspace review required for objects >100 feet tall[11]

TABLE 3A (Continued)
Safety Criteria Matrix

	Maximum Densities/Intensities/ Required Open Land			Additional Criteria	
Zone	**Dwelling Units Per Acre[1]**	**Maximum Non-residential Intensity[2]**	**Req'd Open Land[3]**	**Prohibited Uses[4]**	**Other Development Conditions[5]**
Zone 7b (TPZ)	No Limit	450 persons per acre	10%	• Hazards to flight[6] • New dumps and landfills subject to applicable law and implementing advisories[7] • Outdoor stadiums	• Airspace review required for objects >100 feet tall[11]
Zone 8 (AIA)	No Limit	No Limit	No Requirement	• Hazards to flight[6] • New dumps and landfills subject to applicable law and implementing advisories[7]	• Airspace review required for objects >100 feet tall[11]

Notes:

1 Residential development must not contain more than the indicated number of dwelling units (excluding secondary units) per gross acre (d.u./ac). Clustering of units is encouraged. Gross acreage includes the property at issue plus a share of adjacent roads and any adjacent, permanently dedicated, open lands.

2 Usage intensity calculations shall include the peak number of people per gross acre (e.g., employees, customers/visitors, etc.) who may be on the property at a single point in time, whether indoors or outside. Gross acreage includes the property at issue plus a share of adjacent roads and any adjacent, permanently dedicated, open lands.

3 Open land requirements are intended to be applied with respect to an entire zone. This is typically accomplished as part of a community general plan or a specific plan, but may also apply to large (10 acres or more) development projects.

4 The uses listed here are ones that are explicitly prohibited regardless of whether they meet the intensity criteria, subject to applicable state or federal law. In addition to these explicitly prohibited uses, other uses normally permitted may not be permitted in the respective compatibility zones because they do not meet the usage intensity criteria.

5 As part of certain real estate transactions involving residential property within any compatibility zone (that is, anywhere within an airport influence area), information regarding airport proximity and the existence of aircraft overflights must be disclosed. This requirement is set by state law. Easement dedication and deed notice requirements indicated for specific compatibility zones apply only to new development and to reuse if discretionary approval is required.

6 Hazards to flight include physical (e.g., tall objects), visual, and electronic forms of interference with the safety of aircraft operations. Land use development that may cause the attraction of birds or other wildlife hazards to increase is also prohibited. Such uses (e.g. stormwater management facilities, other waterways, golf courses) are further detailed in FAA Advisory Circular 150/5200-33B or subsequent advisory (Hazardous Wildlife Attractants On or Near Airports). See Appendix D.

7 New dumps or landfills and the expansion of existing dumps or landfills are subject to FAA notification and review and are further subject to restrictions and conditions outlined in U.S. Code Title 49, Subtitle VII, Part A, Subpart iii, Chapter 447, Section 44718; 40 CFR Section 258.10; FAA Advisory Circular 150/5200-34A or subsequent advisory (Construction or Establishment of Landfills Near Public Airports); FAA Advisory Circular 150/5200-33B or subsequent advisory, (Hazardous Wildlife Attractants On or Near Airports). See Appendix D.

8 Examples of highly noise-sensitive outdoor nonresidential uses that should be prohibited include amphitheaters and drive-in theaters. Caution should be exercised with respect to uses such as poultry farms and nature preserves.

9 NLR = Noise Level Reduction, the outside-to-inside sound level attenuation that the structure provides.

10 Objects up to 35 feet in height are permitted. However, the Federal Aviation Administration may require marking and lighting of certain objects.

TABLE 3A (Continued)
Safety Criteria Matrix

11 This height criterion is for general guidance. Shorter objects normally will not be airspace obstructions unless situated at a ground elevation well above that of the airport. Taller objects may be acceptable if determined not be obstructions.

12 Natural gas & petroleum pipelines less than 36 inches below the surface.

RPZ	Runway Protection Zone	SSZ -	Sideline Safety Zone
IADZ	Inner Approach/Departure Zone	AP -	Airport Property
ITZ	Inner Turning Zone	TPZ -	Traffic Pattern Zone
OADZ	Outer Approach/Departure Zone	AIA -	Airport Influence Area

(c) Zone 3, Inner Turning Zone. Encompasses locations where aircraft are typically turning from the base to final approach legs of the standard traffic pattern and are descending from traffic pattern altitude. Zone 3 also includes the area where departing aircraft normally complete the transition from takeoff power and flap settings to a climb mode and have begun to turn to their en route heading. Residential uses should be limited to one dwelling unit per five acres in Zone 3. Nonresidential uses having moderate or higher usage intensities (e.g., major shopping centers, fast food restaurants, theaters, and meeting halls) are unacceptable. Children's schools, large day care centers, hospitals, nursing homes, and hazardous uses (e.g., aboveground bulk fuel storage) should also be avoided in Zone 3. **Table 3A** provides a complete list of prohibited uses and conditions for Zone 3.

(d) Zone 4, Outer Approach/Departure Zone. Zone 4 is situated along extended runway centerline beyond Zone 3. Approaching aircraft are usually at less than traffic pattern altitude in Zone 4. Residential uses should be limited to one dwelling unit per five acres in Zone 4. Children's schools, large day care centers, hospitals, nursing homes, and highly noise-sensitive nonresidential uses (amphitheaters, drive-in theaters, and nature preserves) should also be avoided in Zone 4. **Table 3A** provides a complete list of prohibited uses and conditions for Zone 4.

(e) Zone 5, Sideline Safety Zone. Zone 5 encompasses close-in area lateral to runways, but not on airport property. The primary risk in Zone 5 is with aircraft losing directional control on takeoff. Prohibited land uses are similar to Zone 2. **Table 3A** provides a complete list of prohibited uses and conditions for Zone 5.

(f) Zone 6, Airport Property Zone. This zone is further divided into Airport Building Areas and Aircraft Activity Areas. Airport Building Areas include terminal areas, fixed base operator buildings, hangars, tie-down areas, automobile parking areas, and areas planned for aviation uses. Airport buildings, aviation support facilities, hotels and motels, airport-related commercial uses, offices, light industrial uses, and sewage facilities if they are constructed so as not to constitute a hazard are permitted in the Airport Building Area. Aircraft Activity Areas include runways, taxiways, and associated safety areas and setbacks per FAA regulations. All uses within the Aircraft Activity Areas must meet FAA regulations or be approved by the FAA. **Table 3A** provides a complete list of prohibited uses and conditions for Zone 6.

(g) Zone 7, Traffic Pattern Zone. Zone 7 includes all other portions of regular aircraft traffic patterns and pattern entry routes. This zone is further divided into the TPZ area under the 14CFR Part 77 Horizontal Surface Area (7a) and the remainder of the TPZ (7b) which corresponds to the outer boundary of the 14 CFR Part 77 conical, approach, and outer transitional surfaces. Outdoor stadiums and similar uses with very high intensities should be prohibited. In addition, hazards to flight (physical [e.g., tall objects], visual, and electronic forms of interference with the safety of aircraft operations) are also prohibited. **Table 3A** provides a complete list of prohibited uses and conditions for Zones - 7a and 7b.

(h) Zone 8, Airport Influence Area (AIA). Properties within the AIA are routinely subject to over-flights by aircraft using public-use airports. Hazards to flight (physical [e.g., tall objects], visual, and electronic forms of interference with the safety of aircraft operations) are prohibited within the AIA. **Table 3A** provides a list of prohibited uses and conditions for the AIA.

3.3.2 Noise

The purpose of noise compatibility policies is to avoid establishment of noise-sensitive land uses in the portions of airport environs that are exposed to significant levels of aircraft noise. Projected noise contours depicted on **Exhibit 3B** are calculated based upon forecasted aircraft activity as indicated in an airport master plan or that is considered by the ALUC to be plausible (refer to activity data in **Appendix B**). The ALUC or the entities that operate airports in San Joaquin County should periodically review these projected noise level contours and update them if appropriate.

The locations of CNEL contours are among the factors used to determine land use compatibility. The depicted noise contour boundaries, however, are not absolute determinants of the compatibility. The inherent variability of aircraft flight paths and pilot training that occur at the airport all influence noise emissions in the vicinity of airports. This variability in aircraft flight paths and training activity can create significant single event noise levels that can be disruptive to noise-sensitive land uses.

A commonly used method for determining the potential impact of single events on residential areas is to use sleep disturbance. The Federal Interagency Committee on Aviation Noise (FICAN) recommends using a 10 percent awakening value associated with indoor sound exposure levels (SEL) of 80 decibels (dB). The typical home with the windows closed attenuates exterior noise of approximately 15 dB. Therefore, the 95 dB SEL depicted on **Exhibit 3C** will be used to identify noise-sensitive areas (residential, hospitals, hotels, and motels) that require disclosure for potential of sleep disruption from aircraft overflights.

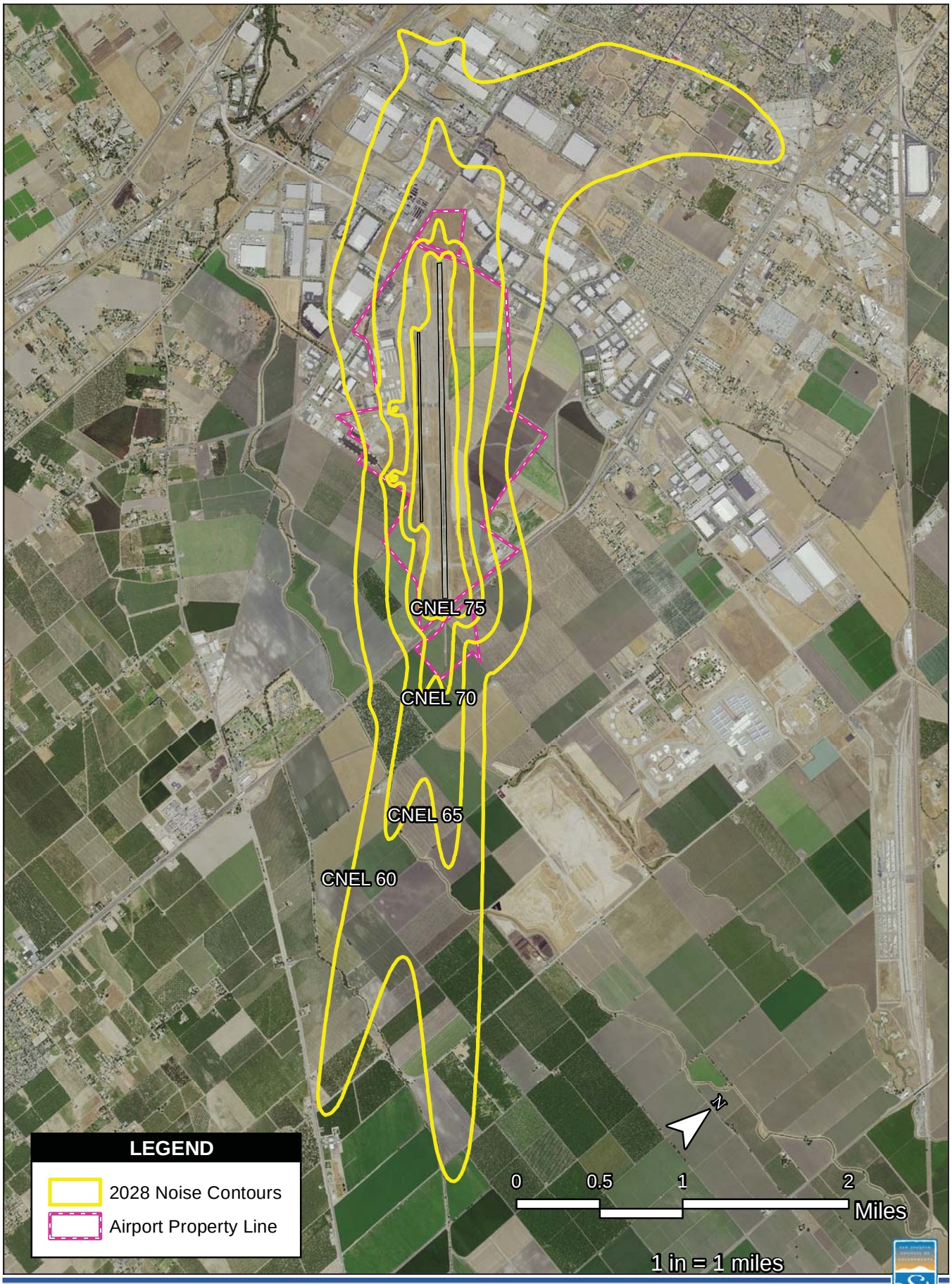

Exhibit 3B
LONG RANGE CNEL NOISE EXPOSURE CONTOURS

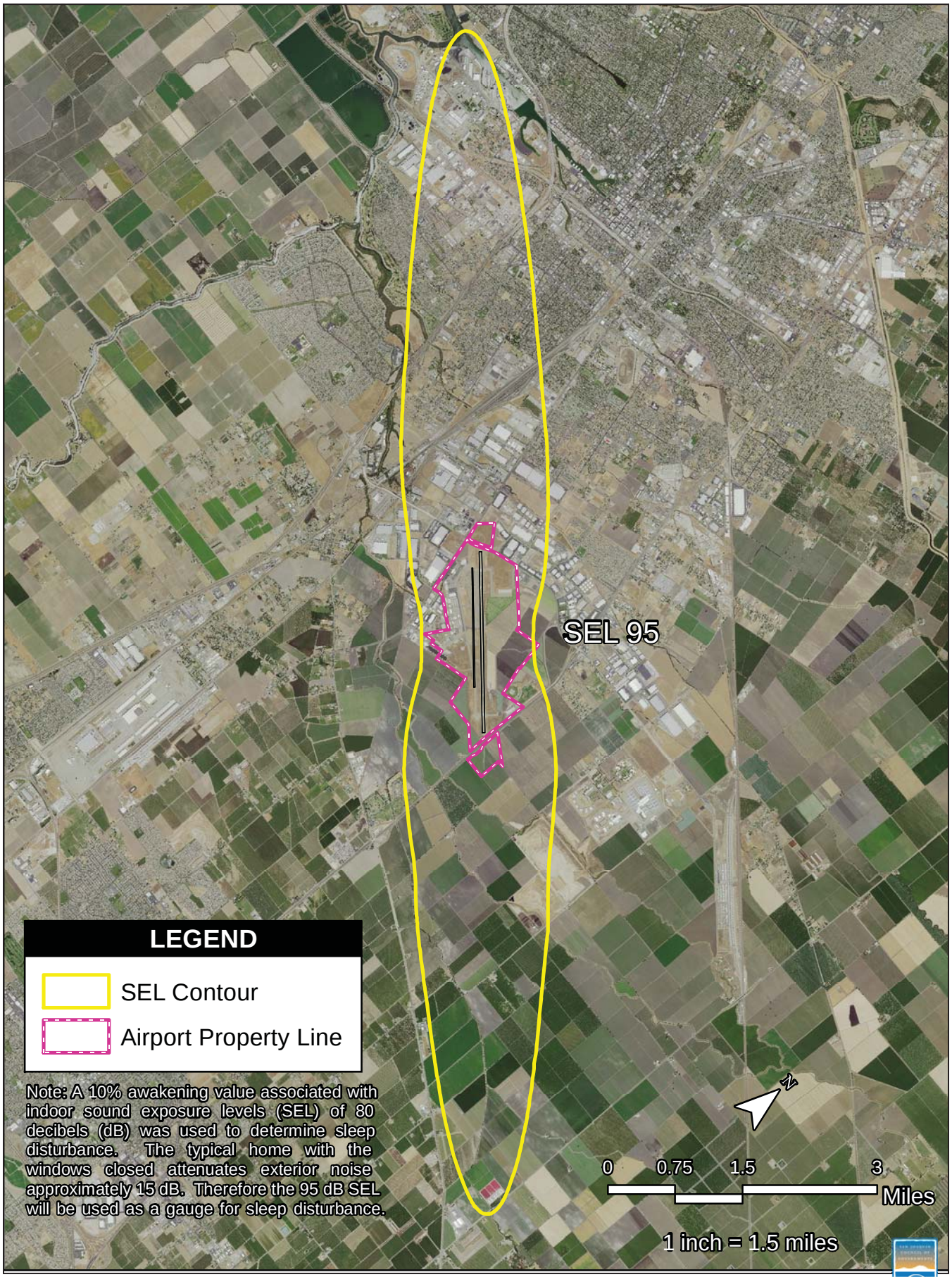

Exhibit 3C
SEL NOISE EXPOSURE CONTOURS

3.3.2.1 *Application of Noise Contours:*

The locations of CNEL contours are among the factors used to define compatibility zone boundaries and criteria. Because of the inherent variability of flight paths and other factors that influence noise emissions, the depicted contour boundaries on **Exhibit 3B** and **3C** are not absolute determinants of the compatibility or incompatibility of a given land use on a specific site or a portion thereof. Noise contours can only quantify noise impacts in a general manner.

3.3.2.2 *Noise Exposure in Residential Areas:*

Unless otherwise indicated in the airport-specific policies listed in the next section, the maximum CNEL considered normally acceptable for new residential land uses in the vicinity of the airports covered by this ALUCP is 60 CNEL. These standards shall be based upon noise contours calculated as described above.

3.3.2.3 *Noise Exposure for Other Land Uses:*

Noise level compatibility standards for other types of land uses shall be applied in the same manner as the above residential noise level criteria. The extent of outdoor activity associated with a particular land use is an important factor to be considered in evaluating its compatibility with airport noise. Examples of acceptable noise levels for other land uses in an airport's vicinity are presented in **Table 3B**.

TABLE 3B
Noise Compatibility Criteria

	SEL	CNEL		
	95	60-65	65-70	70-75
RESIDENTIAL				
Single family, duplex, multi-family, manufactured housing	Y[1]	Y[1,2,3]	N	N
Manufactured housing	Y[1]	N	N	N
PUBLIC FACILITIES				
Education facilities	Y	Y[1,2,3]	N	N
Religious facilities, libraries, museums, galleries, clubs and lodges	Y	Y[1,2,3]	N	N
Outdoor sport events, entertainment and public assembly except amphitheaters	Y	Y	N	N
Indoor recreation, amusements, athletic clubs, gyms and spectator events, parks, outdoor recreation: tennis, golf courses, riding trails, etc.	Y	Y	Y	Y
COMMERCIAL				
Hotels/motels	Y[1]	Y[1,2,3]	N	N
Hospitals and other health care Services	Y[1]	Y[1,2,3]	N	N
Services: finance, real estate, insurance, professional and government offices	Y	Y	Y[1]	Y[1]

TABLE 3B (Continued)
Noise Compatibility Criteria

	SEL	CNEL		
	95	60-65	65-70	70-75
Retail sales: building materials, farm equipment, automotive, marine, mobile homes, recreational vehicles and accessories	Y	Y	Y[1]	Y[1]
Restaurants, eating and drinking Establishments	Y	Y	Y[1]	Y[1]
Retail sales: general merchandise, food, drugs, apparel, etc.	Y	Y	Y[1]	Y[1]
Personal services: barber and beauty shops, laundry and dry cleaning, etc.	Y	Y	Y[1]	Y[1]
Automobile service stations	Y	Y	Y	Y
Repair services	Y	Y	Y	Y[1]
INDUSTRIAL				
Processing of food, wood and paper products; printing and publishing; warehouses, wholesale and storage activities	Y	Y	Y	Y
Refining, manufacturing and storage of chemicals, petroleum and related products, manufacturing and assembly of electronic components, etc.	Y	Y	Y	Y
Manufacturing of stone, clay, glass, leather, gravel and metal products; construction and salvage yards; natural resource extraction and processing, agricultural, mills and gins	Y	Y	Y	Y
AGRICULTURE				
Animal husbandry, livestock farming, breeding and feeding; plant nurseries (excluding retail sales)	Y	Y	Y	Y[1]
Farming (except livestock)	Y	Y	Y	Y

1 Fair disclosure statement required as a condition of development approval or building permit issuance.
2 Avigation easement required as a condition of development approval or building permit issuance.
3 Sound insulation required to reduce interior to exterior noise levels by at least 25dB.

3.3.2.4 *Interior Noise Levels:*

Land uses for which interior activities may be easily disrupted by noise shall be required to comply with the following interior noise level criteria.

(a) The maximum, aircraft-related, interior noise level that shall be considered acceptable for land uses near airports is 45 dB CNEL in:

- Any habitable room of single or multi-family residences;
- Hotels and motels;
- Hospitals and nursing homes;

- Religious, meeting halls, theaters, and mortuaries;
- Office buildings; and
- Schools, libraries, and museums.

(b) The noise contours depicted in Chapter Two of this ALUCP shall be used in determining compliance with these criteria. The calculations should assume that windows are closed.
(c) When reviewed as part of a general plan or zoning ordinance amendment or as a major land use action, evidence that proposed structures will be designed to comply with the above criteria shall be submitted to the ALUC under the following circumstances:

(1) Any single or multi-family residence situated within an airport's 60 CNEL contour. [Wood frame buildings constructed to meet current standards for energy efficiency typically have an average NLR of approximately 20 dB with windows closed.]

(2) Any hotel or motel, hospital or nursing home, church, meeting hall, office building, religious facility, school, library, or museum situated with an airport's 65-dB CNEL contour.

3.3.2.5 *Construction of New or Expanded Airports or Heliports:*

Any proposed construction of a new airport or heliport or expansion of facilities at an existing airport or heliport which would result in a significant increase in cumulative noise exposure (measured in terms of CNEL) shall include measures to reduce the exposure to a less-than-significant level. For the purposes of this plan, a noise increase shall be considered significant if:

(a) In locations having an existing ambient noise level of less than 60 CNEL, the project would increase the noise level by 5.0 CNEL or more.

(b) In locations having an existing ambient noise level of between 60 and 65 CNEL, the project would increase the noise level by 3.0 CNEL or more.

(c) In locations having an existing ambient noise level of more than 65 CNEL, the project would increase the noise level by 1.5 CNEL or more.

3.3.3 Airspace Protection

Tall structures, trees, and other objects, particularly when located near airports or on high terrain, may constitute hazards to aircraft in flight. Federal regulations establish the criteria for evaluating potential obstructions. These regulations also require that the Federal Aviation Administration be notified of proposals for creation of certain such objects. In response to filing FAA Form 7460-1, Notice of Proposed Construction or Alteration, the FAA conducts aeronautical studies of these objects and determines whether they would be hazards, but it does not have the authority to prevent their creation. The purpose of ALUC airspace protection policies, together

with regulations established by local land use jurisdictions and the state government, is to ensure that hazardous obstructions to the navigable airspace do not occur.

3.3.3.1 *Basis for Height Limits:*

The criteria for limiting the height of structures, trees, and other objects in the vicinity of an airport shall be based upon: Part 77, Subpart C, of the CFR; the United States Standard for Terminal Instrument Procedures (TERPS); and applicable airport design standards published by the Federal Aviation Administration. Airspace plans depicting the critical areas for airspace protection around each of the airports covered by this ALUCP are depicted on **Exhibit 3D**.

3.3.3.2 *ALUC Review of Height of Proposed Objects:*

Based upon FAA criteria, proposed objects that would exceed the heights indicated below for the respective compatibility zones potentially represent airspace obstructions issues. Development proposals that include any such objects shall be reviewed by the ALUC. Objects of lesser height normally would not have a potential for being airspace obstructions and, therefore, do not require ALUC review with respect to airspace protection criteria (noise, safety, and overflight concerns may still be present). Caution should be exercised, however, with regard to any object more than 50 feet high proposed to be located on a site that is substantially higher than surrounding terrain.

(a) Within Zone 1, the height of any proposed development, including vegetation, requires review.

(b) Within Zones 2, 3, 5, and 6, ALUC review is required for any proposed object taller than 35 feet AGL unless the airport controls an easement on the land on which the object is to be located and grants a waiver to height restrictions.

(c) Within Zone 4, ALUC review is required for any proposed object taller than 70 feet AGL.

(d) Within Zone 7 and the AIA, ALUC review is required for any proposed object taller than 100 feet AGL.

3.3.3.3 *Height Restriction Criteria:*

The height of objects within the influence area of each airport shall be reviewed, and restricted if necessary, according to the following criteria. The locations of these zones are depicted on the respective Compatibility Map for each airport.

(a) Within Zone 1, the height of all objects shall be limited in accordance with applicable Federal Aviation Administration criteria, including CFR Part 77, TERPS, and/or airport design standards.

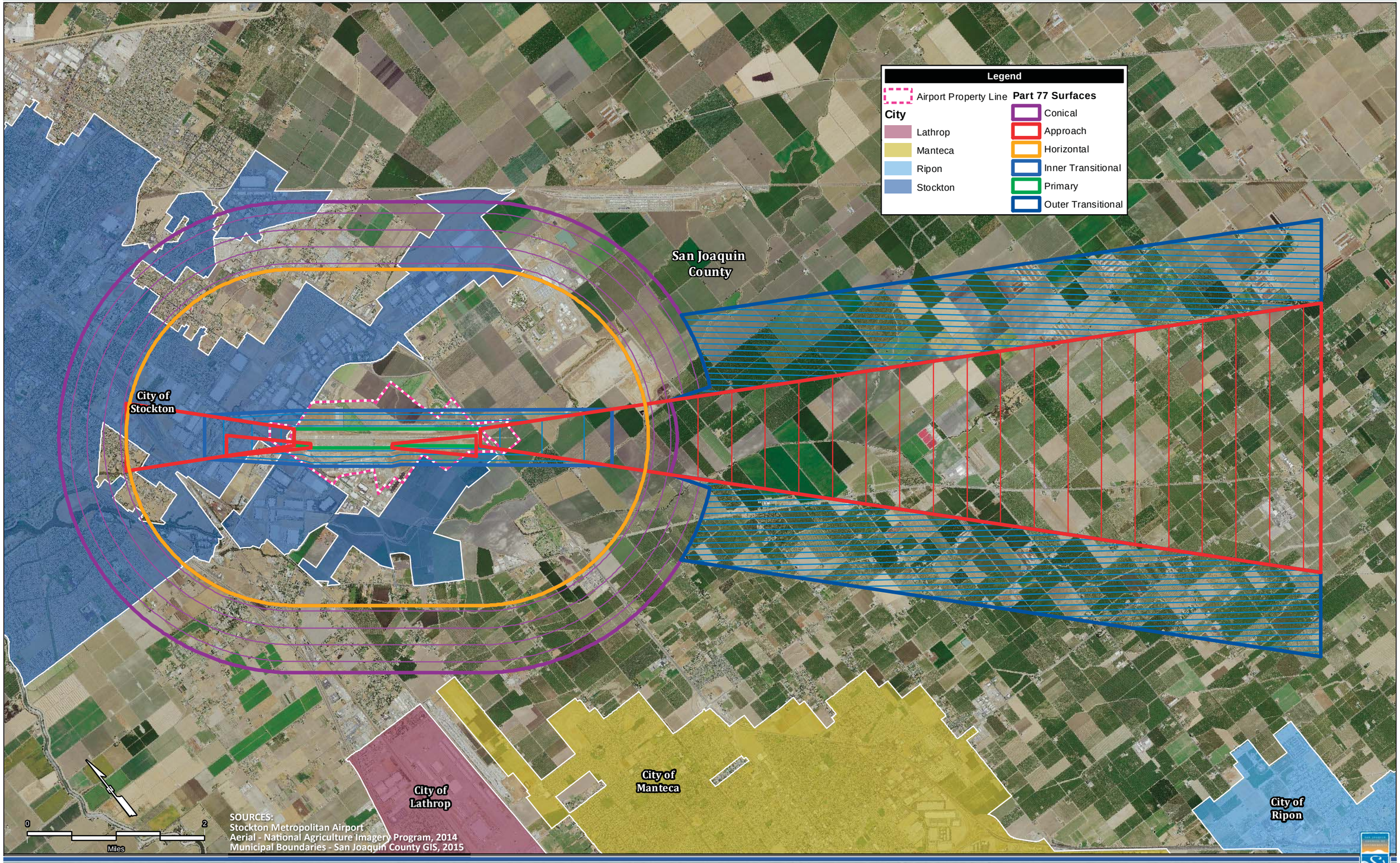

Exhibit 3D
14 CFR PART 77 SURFACES

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(b) Within Zones 2, 3, 5, and 6:

(1) Objects up to 35 feet AGL tall are acceptable and do not require ALUC review for the purposes of height factors.

(2) ALUC review is required for any proposed object taller than 35 feet AGL.

(3) Federal Aviation Administration review may be necessary for proposed objects adjacent to the runway edges and the FAA may require marking and lighting of certain objects (the affected areas are generally on airport property).

(c) Within Zone 4, generally, there is no concern with regard to any object up to 70 feet AGL tall unless it is located on high ground or it is a solitary object (e.g., an antenna) more than 35 feet AGL taller than other nearby objects.

(d) Within Zone 7 and AIA, generally, there is no concern with regard to any object up to 100 feet AGL tall unless it is located on high ground or it is a solitary object (e.g., an antenna) more than 35 feet AGL above the ground.

3.3.3.4 *Avigation Easement Dedication:*

As a condition for development approval, the owner of any property proposed for development within Zones 1, 2, 3, 4, and 5 shall be required to dedicate an avigation easement to the entity owning the affected airport. The avigation easement shall:

(a) Provide the right of flight in the airspace above the property;

(b) Allow the generation of noise and other impacts associated with aircraft overflight;

(c) Restrict the height of structures, trees, and other objects;

(d) Permit access to the property for the removal or aeronautical marking of objects exceeding the established height limit; and

(e) Prohibit electrical interference, glare, and other potential hazards to flight from being created on the property. An example of an avigation easement is provided in Appendix D.

3.3.3.5 *Other Flight Hazards:*

New land uses that may cause visual, electronic, or increased bird strike hazards to aircraft in flight shall not be permitted within any airport's influence area. Specific characteristics of land use proposals to be evaluated include:

(a) Glare or distracting lights which could be mistaken for airport lights;

(b) Sources of dust, steam, or smoke which may impair pilot visibility;

(c) Sources of electrical interference with aircraft communications or navigation; and

(d) Any proposed use, especially landfills and certain agricultural uses, that creates an increased attraction for large flocks of birds. (Refer to FAA Advisory Circular 150/5200-33B, *Hazardous Wildlife Attractants On or Near Airports* and Advisory Circular 150/5200-34A, *Construction or Establishment of Landfills Near Public Airports* or latest version of these advisory circulars.)

3.3.3.6 *FAA Notification:*

Proponents of a project involving objects that may exceed a CFR Part 77 surface must notify the Federal Aviation Administration as required by CFR Part 77, Subpart B, and by the PUC, Sections 21658 and 21659. (Notification to the Federal Aviation Administration under CFR Part 77, Subpart B, is required even for certain proposed construction that does not exceed the height limits allowed by Subpart C of the regulations. Refer to Appendix D for the specific FAA notification requirements.)

(a) Local jurisdictions shall inform project proponents of the requirements for notification to the FAA.

(b) The requirement for notification to the FAA shall not necessarily trigger an airport compatibility review of an individual project by the ALUC if the project is otherwise in conformance with the compatibility criteria established herein.

(c) FAA review is required for any proposed structure more than 200 feet above the surface level of its site. All such proposals shall also be submitted to the ALUC for review regardless of where in the county they would be located.

(d) Any project submitted to the ALUC for airport land use compatibility review for which FAA notification is required shall include a copy of the CFR Part 77 notification to the Federal Aviation Administration and the FAA findings if available.

In addition, FAA notification is required for owners or operators proposing to site new, or expand existing, Municipal Solid Waste Landfills MSWLFs) within a five-mile radius of any airport runway (CFR 40, Subchapter 1, Part 258, Subpart B, Section 258.10). FAA Form 7460-1, Notice of Proposed Construction or Alteration, or other suitable document similar to FAA Form 7460-1 may be used to notify the appropriate FAA Regional Airports Division Office of a planned siting or expansion of a MSWLF, as well as other potential wildlife attractants.

3.3.4 Overflight

Noise from individual operations, especially by comparatively loud aircraft, can be intrusive and annoying in locations beyond the limits of the mapped noise contours. Sensitivity to aircraft overflights varies from one person to another. The purpose of overflight compatibility policies is to help notify people about the presence of overflights near airports so that they can make more informed decisions regarding acquisition or lease of property in the affected areas. Overflight compatibility is particularly important with regard to residential land uses.

3.3.4.1 *State Law Requirements Regarding Real Estate Transfer Disclosure:*

Effective January 1, 2004, California State statutes (Business and Professional Code Section 11010 and Civil Code Sections 1102.6, 1103.4, and 1353) require as part of residential real estate transactions that information be disclosed regarding whether the property is situated within an airport influence area.

(a) With certain exceptions, these state requirements apply both to the sale or lease of newly subdivided lands and to the sale of existing residential property.

(b) The statutes define an airport influence area as "the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission." The airport influence area for SCK on Exhibit 1C.

(c) Where disclosure is required, the following statement shall be provided:

> NOTICE OF AIRPORT IN VICINITY: This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

(d) For the purposes of this ALUCP, the above real estate disclosure provisions of state law shall continue in effect as ALUC policy with respect to new development even if the law is rescinded. Furthermore, each land use jurisdiction affected by this ALUCP should adopt a policy designating the airport influence area as the area wherein disclosure of airport influences is required in conjunction with the transfer of residential real estate. Such local jurisdiction policies should also be applied to lease or rental agreements for existing residential property.

Appendix A

Safety Supporting Information

Appendix A
SAFETY SUPPORTING INFORMATION

The *California Airport Land Use Planning Handbook* (Handbook) provides guidance for establishing safety zones for airports. The example zones, as described in the Handbook and shown on **Exhibit A1**, are based on mathematical analyses of NTSB aircraft accident data and aircraft flight characteristics. The purpose of the zones is to delineate areas with relatively uniform risk levels. **Table A1** provides the Handbook's analysis of the safety zones, including the distribution of accident data points within each zone.

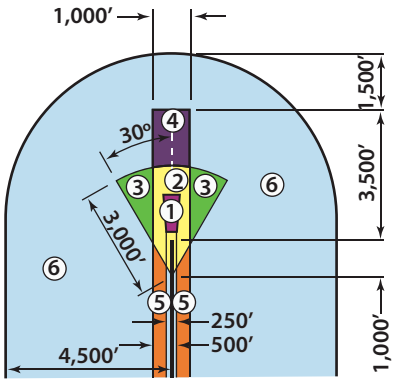
TABLE A1
Analysis of Safety Zone Examples

	% of Points	Acres	% / Acres
Primary Surface	15%	-	-
Zone 1: Runway Protection Zone	21%	49	0.40
Zone 2: Inner Approach/Departure Zone	10%	101	0.10
Zone 3: Inner Turning Zone	7%	151	0.05
Zone 4: Outer Approach/Departure Zone	5%	69	0.07
Zone 5: Sideline Zone	5%	-	-
Zone 6: Traffic Pattern Zone	23%	-	-
Total Zones 1-6 + Primary Surface	85%	-	-

Source: *California Airport Land Use Planning Handbook* (2011), Table 3B, Example 2

Figure 3A of the Handbook provides three example zones for general aviation airports, which are differentiated by runway length. For airports with multiple runways, such as SCK, zones are selected based on the characteristics of each runway and then merge to create a composite zone. At Stockton Metro Airport, the runway lengths are 10,650 feet for Runway 11L-29R and

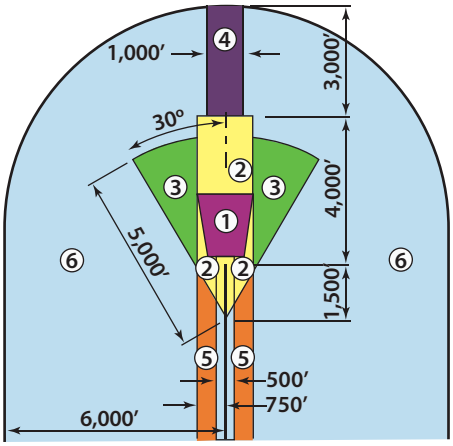
4,448 feet for Runway 11R-29L. The large general aviation runway (Example 3) was selected for Runway 11L-29R and the medium general aviation runway was selected for Runway 11R-29L. The Handbook zone examples are provided as a starting point for developing safety zones specific to an airport. Using the compatibility factors shown on **Exhibit A2**, safety zones based on the Handbook guidance were developed. As discussed in Chapter Two, due to the parallel runways at the airport, each runway has a single-sided traffic pattern (to the west for Runway 11R-29L and to the east for Runway 11L-29R). Therefore, based on Handbook guidance, it is reasonable to include the Inner Turning Zone over the areas where these turns occur. The Inner Turning Zone is also depicted for Runway 11L-29R to account for the path of departing aircraft that may potentially exit the traffic pattern to the west. These zones were not drawn to the east for Runway 11R-29L, as aircraft attempting to exit the traffic pattern in this manner would potentially cross the path of aircraft operating on Runway 11L-29R, which is generally considered an unsafe practice.



SHORT GENERAL AVIATION RUNWAY

Assumptions:

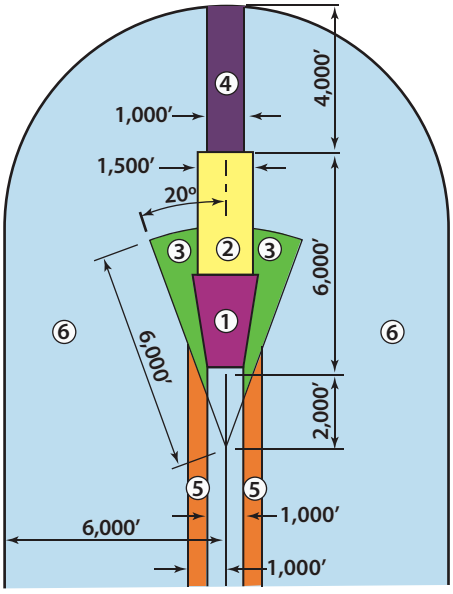
- Length less than 4,000 feet
- Approach visibility minimums ≥ 1 mile or visual approach only
- Zone 1 = 250′ x 450′ x 1,000′



MEDIUM GENERAL AVIATION RUNWAY

Assumptions:

- Length 4,000 to 5,999 feet
- Approach visibility minimums ≥ ¾ mile and < 1 mile
- Zone 1 = 1,000′ x 1,510′ x 1,700



LONG GENERAL AVIATION RUNWAY

Assumptions:

- Length 6,000 or more
- Approach visibility minimums < ¾ mile
- Zone 1 = 1,000′ x 1,750′ x 2,500

LEGEND

① Runway Protection Zone	④ Outer Approach/Departure Zone
② Inner Approach/Departure Zone	⑤ Sideline Safety Zone
③ Inner Turning Zone	⑥ Traffic Pattern Zone

Source: California Airport Land Use Planning Handbook, 2011.

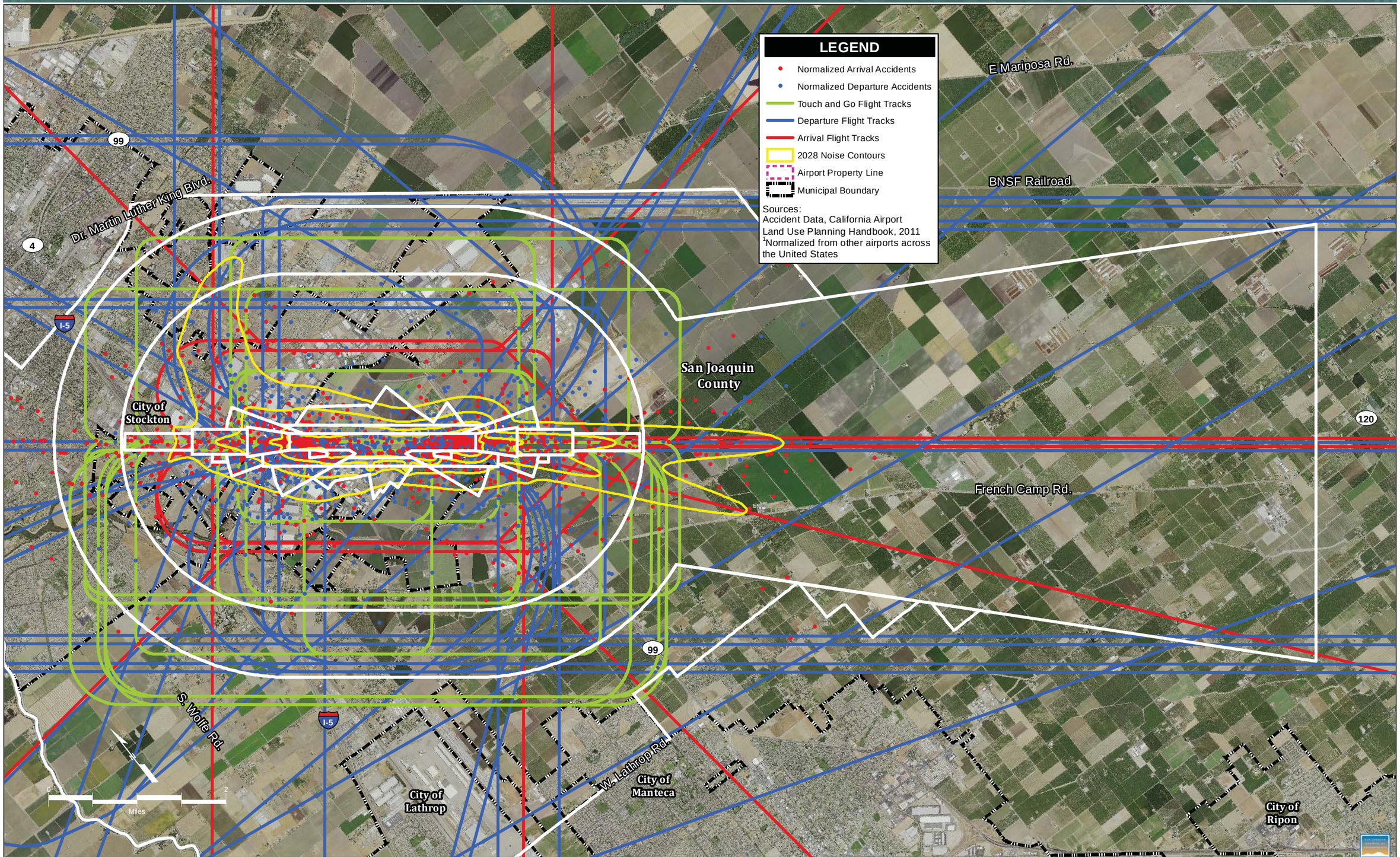


Exhibit A2
COMPATIBILITY FACTORS MAP

Appendix B

Noise Modeling Assumptions

Appendix B
NOISE MODELING ASSUMPTIONS

This appendix includes documentation of the noise modeling assumptions for the CNEL noise contours prepared as part of the 2010 *Stockton Metropolitan Airport Master Plan*:

- Airport Activity Data Summary (operational fleet mix, runway use distribution, time of day distribution, and flight track usage)
- Aircraft Flight Tracks (jet and turbo prop, military fixed wing, general aviation propeller and helicopter)

In addition to the CNEL noise contours, a single exposure level noise (SEL) contour was modeled to determine the potential impact of single events on sleep disturbance in residential areas. The Federal Interagency Committee on Aviation Noise (FICAN) recommends using a 10 percent awakening value associated with indoor sound exposure levels (SEL) of 80 decibels (dB). The typical home with the windows closed attenuates exterior noise approximately 15 dB. Therefore, the 95 dB SEL will be used as a gauge for sleep disturbance. An SEL contour based on one (1) Lear 25 aircraft departure operation per runway was modeled for this analysis. The Lear 25 aircraft was selected as it is the loudest aircraft of those used in the CNEL contours prepared for the Master Plan.

BASED AIRCRAFT

	Current [a] *(2008)*	*Future* [b] *(2028)*
Aircraft Type		
Single-Engine, Piston	127	150
Single-Engine, Turboprop	8	32
Twin-Engine, Piston	12	5
Twin-Engine, Turboprop	6	18
General Aviation Jet	15	51
Commercial Jet	0	0
Helicopter	2	4
Military	16	16
Total	*186*	*276*

AIRCRAFT OPERATIONS

	Current [c] *(2008)*	*Future* [b] *(2028-High)*
Total		
Annual	70,892	99,918
Average Annual Day	194	274
Distribution by Aircraft Type		
Single-Engine, Piston	72%	51%
Single-Engine, Turboprop	4%	6%
Twin-Engine, Piston	6%	2%
Twin-Engine, Turboprop	7%	12%
General Aviation Jet	7%	15%
Commercial Jet	<1%	10%
Helicopter	1%	2%
Military	3%	2%
Distribution by Type of Operation [b, c]		
Local	25%	No
Itinerant	75%	Change
Local (incl. touch-&-goes)		
Single-Engine, Piston	25%	34%
Single-Engine, Turboprop	10%	
Twin-Engine, Piston	50%	No
Twin-Engine, Turboprop	10%	Change
General Aviation Jet	10%	
Commercial Jet	2%	
Helicopter	2%	
Military	70%	
Itinerant		
Single-Engine, Piston	75%	66%
Single-Engine, Turboprop	90%	
Twin-Engine, Piston	50%	No
Twin-Engine, Turboprop	90%	Change
General Aviation Jet	90%	
Commercial Jet	98%	
Helicopter	98%	
Military	30%	

TIME OF DAY DISTRIBUTION

	Current (2008)	*Future* (2028)
Single-Engine, Piston and Turboprop [f]		
Day (7am to 7pm)	93%	94%
Evening (7pm to 10pm)	5%	5%
Night (10pm to 7am)	2%	2%
Twin-Engine, Turboprop and General Aviation Jet [f]		
Day (7am to 7pm)	90%	88%
Evening (7pm to 10pm)	6%	7%
Night (10pm to 7am)	5%	6%
Commercial Jet [f,b]		
Day (7am to 7pm)	92%	34%
Evening (7pm to 10pm)	7%	9%
Night (10pm to 7am)	1%	57%
Helicopter [f]		
Day (7am to 7pm)	72%	72%
Evening (7pm to 10pm)	14%	14%
Night (10pm to 7am)	14%	14%
Military [e]		
Day (7am to 7pm)	61%	61%
Evening (7pm to 10pm)	32%	32%
Night (10pm to 7am)	8%	8%

RUNWAY USE DISTRIBUTION [b, d]

	Current (2008)	*Future* (2028)
All Aircraft (Excluding Helicopter and Military)		
Takeoffs/Landings		
Runway 11L	3%	4%
Runway 29R	20%	17%
Runway 11R	12%	12%
Runway 29L	65%	67%
Single-Engine, Piston and Turboprop		
Takeoffs/Landings		
Runway 11L	1%	
Runway 29R	4%	No
Runway 11R	15%	Change
Runway 29L	80%	
Multi-Engine, Turboprop and General Aviation Jet		
Takeoffs/Landings		
Runway 11L	10%	5%
Runway 29R	80%	20%
Runway 11R	2%	10%
Runway 29L	8%	65%
Commercial Jet		
Takeoffs/Landings		
Runway 11L	15%	14%
Runway 29R	85%	84%
Runway 11R	0%	<1%
Runway 29L	0%	<1%

Table 6-2

Airport Activity Data Summary

Stockton Metropolitan Airport

FLIGHT TRACK USAGE [c, e]
Current (2008) and Future (2028)

Propeller Aircraft
- Departures:
  - 20% North-northeast
  - 10% Southeast (right)
  - 15% Southeast (left)
  - 45% West-southwest
  - 10% Northwest
- Arrivals:
  - 30% Straight-in
  - 65% Enter on downwind
  - 5% Enter on base
- Closed Pattern: 25%

Jet Aircraft
- Departures:
  - 7.5% North-northeast
  - 75% Southeast (right)
  - 2.5% Southeast (left)
  - 5% Southwest
  - 10% Northwest
- Arrivals:
  - 100% Straight-in 29 (circle for 11)
- Closed Pattern: 9%

Helicopters
Helipad:
- Departures:
  - 100% West (then North or South)
- Arrivals:
  - 100% From south-southeast

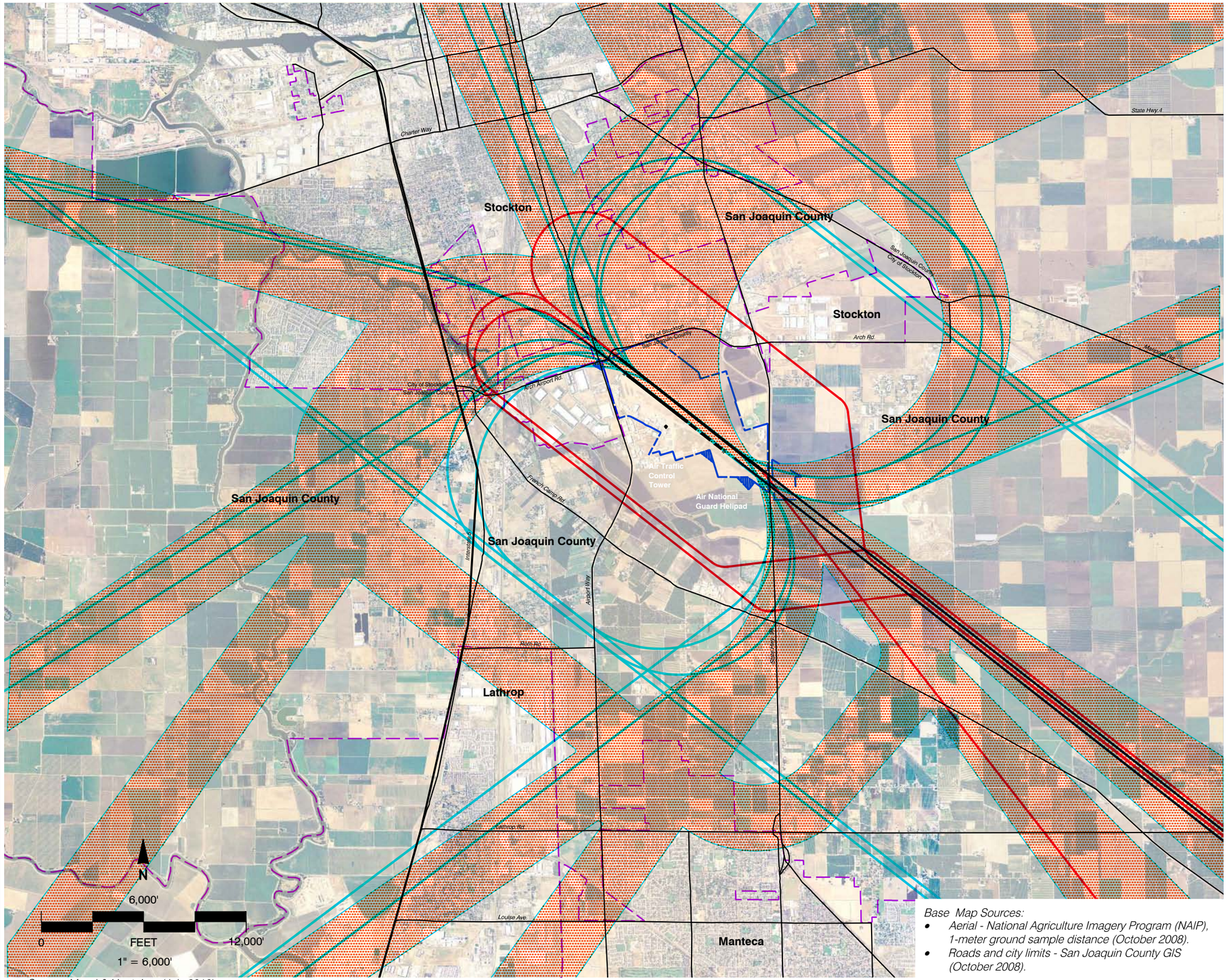
Tower area:
- Departures:
  - 100% South
- Arrivals:
  - 80% From southwest
  - 20% From south

Military Aircraft[e]
- Departures:
  - 100% Left
- Arrivals:
  - 100% straight-in
- Closed Pattern: 70%

Military Helicopters[e]
- Departures:
  - 40% Northeast
  - 40% Southwest
  - 10% West
  - 10% North-northwest
- Arrivals:
  - 10% From north
  - 40% From northeast
  - 40% From southeast
  - 10% From west
- Closed Pattern: 70%

Notes
[a] Source: Stockton Metropolitan Airport Management (June 2008)
[b] Source: Reflects the high long-range forecast which assumes increased airline and air cargo activity due to incentives to operate at the Airport. Data prepared for this Stockton Metropolitan Airport Master Plan Update (pending adoption).
[c] Source: Stockton Metropolitan Airport Air Traffic Control Tower (June 2008)
[d] Source: Stockton Metropolitan Airport FAR Part 150 Study (October 1990)
[e] Source: Stockton Metropolitan Airport Air National Guard (October 2008)
[f] Source: FAA Enhanced Traffic Management System Counts (9/07-8/08)

Table 6-2, continued



Source: Mead & Hunt, Inc. (July 2010)

Legend

Boundary Lines

- Airport Property Line
- City Limits
- Existing Runway
- Future Runway

Overflight Factors

- Arrival
- Departure
- Aircraft Traffic Pattern [4]

Notes

1. Flight track source: HMMH, Inc. and Mead & Hunt, Inc. based on information provided by FAA Air Traffic Control Tower and Air National Guard personnel (October 2008).
2. Flight tracks used by airline, air cargo, and general aviation jets and turboprops.
3. Flight tracks shown reflect future runway alignment. Existing flight tracks nearly identical to future flight tracks.
4. As shown in Stockton Metropolitan Airport FAR Part 150 Study (October 1990).

Base Map Sources:

- *Aerial - National Agriculture Imagery Program (NAIP), 1-meter ground sample distance (October 2008).*
- *Roads and city limits - San Joaquin County GIS (October 2008).*

Figure 6F

Aircraft Flight Tracks Jet and Turboprop

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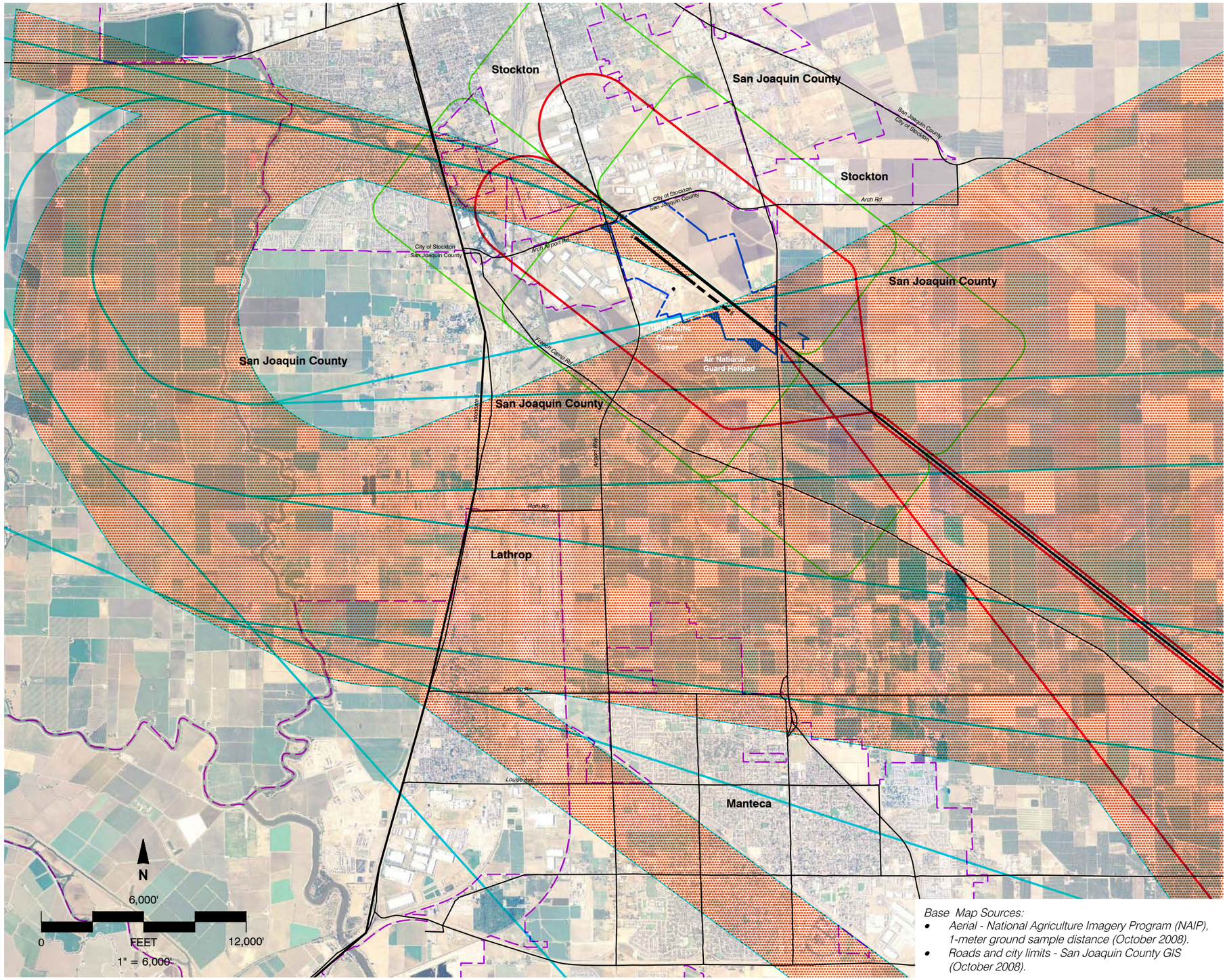

Source: Mead & Hunt, Inc. (July 2010)

Legend

Boundary Lines

- Airport Property Line
- City Limits
- Existing Runway
- Future Runway Extension

Overflight Factors

Military Fixed Wing

- Arrival
- Departure
- Touch and Go
- Aircraft Traffic Pattern[3]

Notes

1. Flight track source: HMMH, Inc. and Mead & Hunt, Inc. based on information provided by FAA Air Traffic Control Tower and Air National Guard personnel (October 2008).
2. Flight tracks shown reflect future runway alignment. Existing flight tracks nearly identical to future flight tracks.
3. As shown in Stockton Metropolitan Airport FAR Part 150 Study (October 1990).

Base Map Sources:

- *Aerial - National Agriculture Imagery Program (NAIP), 1-meter ground sample distance (October 2008).*
- *Roads and city limits - San Joaquin County GIS (October 2008).*

Figure 6G

Aircraft Flight Tracks Military Fixed Wing

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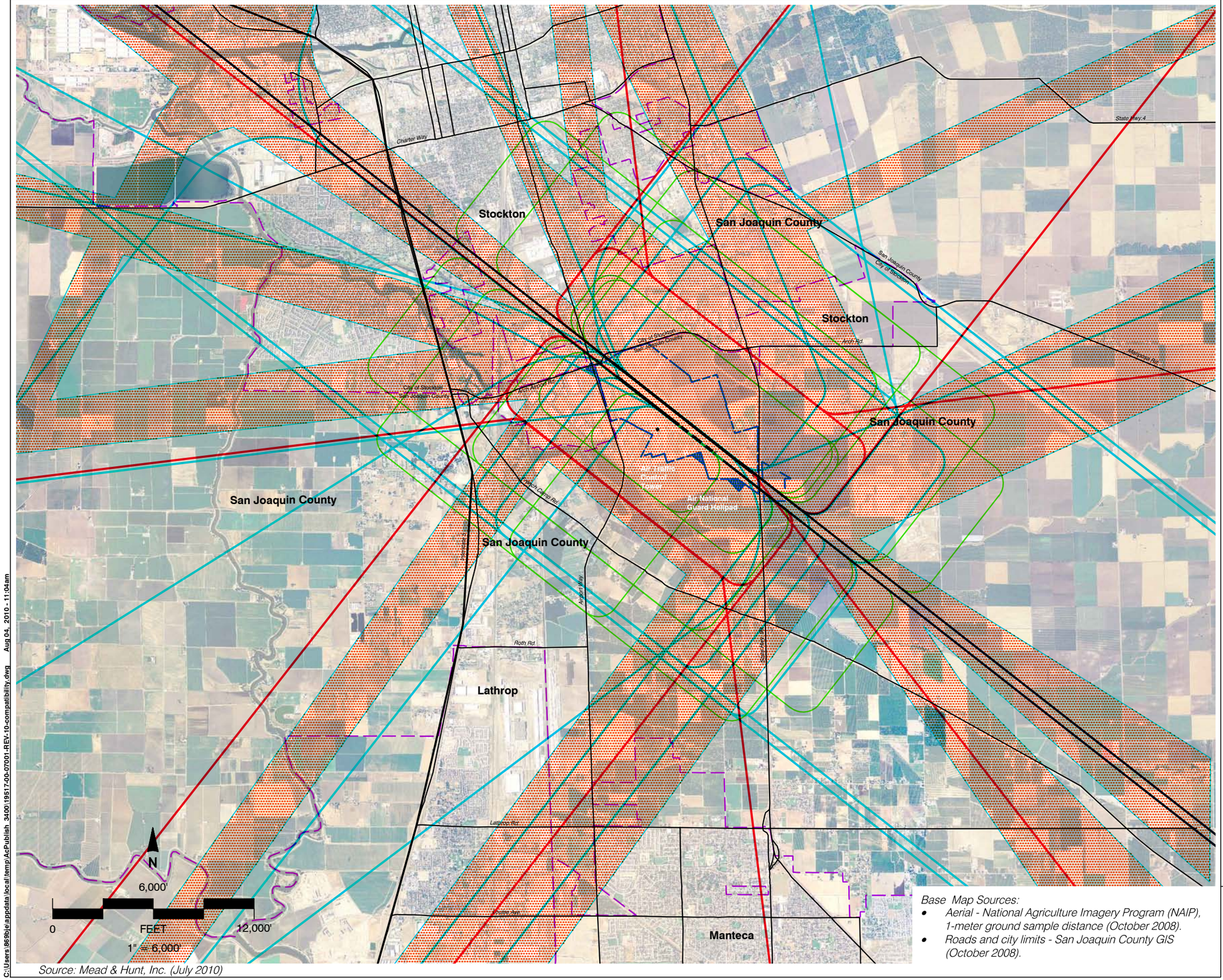

Source: Mead & Hunt, Inc. (July 2010)

Legend

Boundary Lines

- Airport Property Line
- City Limits
- Existing Runway
- Future Runway

Overflight Factors

- Arrival
- Departure
- Touch and Go
- Aircraft Traffic Pattern [3]

Notes

1. Flight track source: HMMH, Inc. and Mead & Hunt, Inc. based on information provided by FAA Air Traffic Control Tower and Air National Guard personnel (October 2008).
2. Flight tracks shown reflect future runway alignment. Existing flight tracks nearly identical to future flight tracks.
3. As shown in Stockton Metropolitan Airport FAR Part 150 Study (October 1990).

Base Map Sources:

- *Aerial - National Agriculture Imagery Program (NAIP), 1-meter ground sample distance (October 2008).*
- *Roads and city limits - San Joaquin County GIS (October 2008).*

Figure 6H

Aircraft Flight Tracks
General Aviation Propeller

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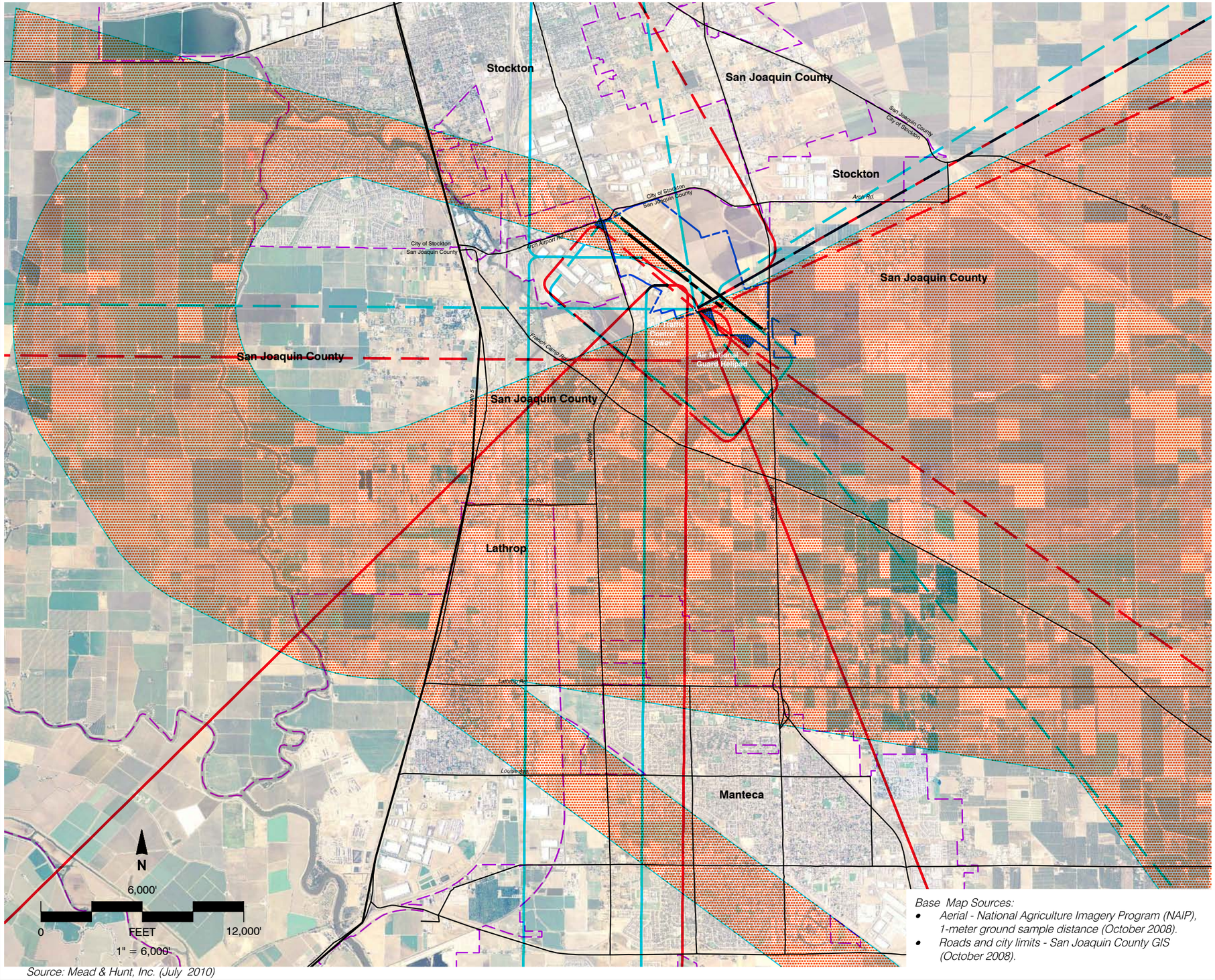

Source: Mead & Hunt, Inc. (July 2010)

Legend

Boundary Lines

- Airport Property Line
- City Limits
- Existing Runway
- Future Runway Extension

Overflight Factors

Military Helicopters
- Arrival
- Departure

Civilian Helicopters
- Arrival
- Departure
- Aircraft Traffic Pattern [3]

Notes

1. Flight track source: HMMH, Inc. and Mead & Hunt, Inc. based on information provided by FAA Air Traffic Control Tower and Air National Guard personnel (October 2008).
2. Flight tracks shown reflect future runway alignment. Existing flight tracks nearly identical to future flight tracks.
3. As shown in Stockton Metropolitan Airport FAR Part 150 Study (October 1990).
4. Helicopters occasionally land directly at FBO.

Base Map Sources:
- *Aerial - National Agriculture Imagery Program (NAIP), 1-meter ground sample distance (October 2008).*
- *Roads and city limits - San Joaquin County GIS (October 2008).*

Figure 6I

Aircraft Flight Tracks Helicopters

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Appendix C

Implementation Materials

Appendix C
IMPLEMENTATION MATERIALS

This appendix includes the following materials to aid implementation of the *Airport Land Use Compatibility Plan*:

- Application for Major Land Use action Review
- Sample avigation easement
- Sample Deed Notice
- Guidance for Calculating Land Use Intensity
- General Plan Consistency Checklist

Additional information regarding this topic can be found on the Caltrans Division of Aeronautics website: http://www.dot.ca.gov/hq/planning/aeronaut/index.html

APPLICATION FOR MAJOR LAND USE ACTION REVIEW
SAN JOAQUIN LAND USE COMMISSION

ALUC Identification No.

PROJECT PROPONENT (To be completed by applicant)

Date of Application _____
Property Owner _____ Phone Number _____
Mailing Address _____
_____
_____

Agent (if any) _____
Mailing Address _____
_____
_____

PROJECT LOCATION (To be completed by applicant)
Attach an accurately scaled map showing the relationship of the project site to the airport boundary and runways.

Street Address _____
_____
Assessor's Parcel No. _____ Parcel Size _____
Subdivision Name _____
Lot Number _____ Zoning Classification _____

PROJECT DESCRIPTION (To be completed by applicant)
If applicable, attach a detailed site plan showing ground elevations, the location of structures, open spaces and water bodies, and the heights of structures and trees: include additional project description data as needed.

Existing Land Use (describe) _____
_____
_____

Proposed Land Use (described) _____
_____
_____

For Residential Uses — Number of Parcels or Units on Site (exclude secondary units) _____
For Other Land Uses (See Appendix E of ALUCP)
Hours of Use _____
Number of People on Site ___ Maximum Number _____
Method of Calculation _____
_____

Height Data
Height above Ground or Tallest Object (including antennas and trees)
_____ ft.
Highest Elevation (above sea level) of Any Object or Terrain on Site
_____ ft.

Flight Hazards
Does the project involve any characteristics which could create electrical interference, confusing lights, glare, smoke, or other electrical or visual hazards to aircraft flight? _____ Yes _____ No
If yes, describe _____
_____
_____

REFERRING AGENCY (To be completed by Agency Staff)

Date Received _____
Agency Name _____
_____
Staff Contact _____
Phone Number _____
Agency's Project No. _____
Type of Project _____

ALUC REVIEW (To be completed by ALUC Staff)

Application Receipt Date Received _____ By _____
Is Application Complete? ___ Yes ___ No
If No, cite reasons _____

Airport(s) Nearby _____
Primary Criteria Review
Compatibility Zone(s) ___ 1 ___ 2 ___ 3 ___ 4 ___ 5 ___ 6 ___ 7 ___ AIA
Allowable (not prohibited) Use? ___ Yes ___ No _____
Density/Intensity Acceptable? ___ Yes ___ No _____
Height Acceptable? ___ Yes ___ No _____
Easement/Deed Notice Provided? ___ Yes ___ No _____

Special Conditions Describe: _____
_____

Supplemental Review Criteria
Noise _____
_____
Safety _____
_____
Airspace Protection _____
_____
Overflight _____
_____

ACTIONS TAKEN (To be completed by ALUC Staff)

ALUC Staff Recommendation ____ Approve ____ Disapprove Date _____

ALUC Action
___ Consistent Date _____
___ Consistent with Conditions (list conditions/attach additional pages if needed)
_____
_____
_____
___ Inconsistent (list reasons/attach additional pages if needed)
_____
_____
_____

Sample Avigation Easement

This indenture made this _____day of _____, 20___, between_____ hereinafter referred to as Grantor, and the [Insert County or City name], a political subdivision in the State of California, hereinafter referred to as Grantee.

The Grantor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant to the Grantee, its successors and assigns, a perpetual and assignable easement over the following described parcel of land in which the Grantor holds a fee simple estate. The property which is subject to this easement is depicted as _____ on "Exhibit A" attached and is more particularly described as follows:

[**Insert legal description of real property**]

The easement applies to the Airspace above an imaginary plane over the real property. The plane is described as follows:

The imaginary plane above the hereinbefore described real property, as such plane is defined by Part 77 of the Federal Aviation Regulations, and consists of a plane [describe approach, transition, or horizontal surface]; the elevation of said plane being based upon the _____ Airport official runway end elevation of _____ feet Above Mean Sea Level (AMSL), as determined by [Insert name and Date of Survey or Airport Layout Plan that determines the elevation] the approximate dimensions of which said plane are described and shown on Exhibit A attached hereto and incorporated herein by reference.

The aforesaid easement and right-of-way includes, but is not limited to:

(1) For the use and benefit of the public, the easement and continuing right to fly, or cause or permit the flight by any and all persons, or any aircraft, of any and all kinds now or hereinafter known, in, through, across, or about any portion of the Airspace hereinabove described; and

(2) The easement and right to cause or create, or permit or allow to be caused or created within all space above the existing surface of the hereinabove described real property and any and all Airspace laterally adjacent to said real property, such noise, vibration, currents and other effects of air, illumination, and fuel consumption as may be inherent in, or may arise or occur from or during the operation of aircraft of any and all kinds, now or hereafter known or used, for navigation of or flight in air; and

(3) A continuing right to clear and keep clear from the Airspace any portions of buildings, structures, or improvements of any kinds, and of trees or other objects, including the right to remove or demolish those portions of such buildings, structures, improvements, trees, or other things which extend into or above said Airspace, and the right to cut to the ground level and remove any trees which extend into or above the Airspace; and

(4) The right to mark and light, or cause or require to be marked or lighted, as obstructions to air navigation, any and all buildings, structures, or other improvements, and trees or other objects, which extend into or above the Airspace; and

(5) The right of ingress to, passage within, and egress from the hereinabove described real property, for the purposes described in subparagraphs (3) and (4) above at reasonable times and after reasonable notice.

For and on behalf of itself, its successors and assigns, the Grantor hereby covenants with the [Insert County or City name], for the direct benefit of the real property constituting the _____ Airport hereinafter described, that neither the Grantor, nor its successors in interest or assigns will construct, install, erect, place or grow in or upon the hereinabove described real property, nor will they permit to allow, any building structure,

improvement, tree or other object which extends into or above the Airspace, or which constitutes an obstruction to air navigation, or which obstructs or interferes with the use of the easement and rights-of-way herein granted.

The easements and rights-of-way herein granted shall be deemed both appurtenant to and for the direct benefit of that real property which constitutes the _____ Airport, in the [Insert County or City name], State of California; and shall further be deemed in gross, being conveyed to the Grantee for the benefit of the Grantee and any and all members of the general public who may use said easement or right-of-way, in landing at, taking off from or operating such aircraft in or about the _____ Airport, or in otherwise flying through said Airspace.

Grantor, together with its successors in interest and assigns, hereby waives its right to legal action against Grantee, its successors, or assigns for monetary damages or other redress due to impacts, as described in Paragraph (2) of the granted rights of easement, associated with aircraft operations in the air or on the ground at the airport, including future increases in the volume or changes in location of said operations.

Furthermore, Grantor, its successors, and assigns shall have no duty to avoid or mitigate such damages through physical modification of airport facilities or establishment or modification of aircraft operational procedures or restrictions. However, this waiver shall not apply if the airport role or character of its usage (as identified in an adopted airport master plan, for example) changes in a fundamental manner which could not reasonably have been anticipated at the time of the granting of this easement and which results in a substantial increase in the impacts associated with aircraft operations. Also, this grant of easement shall not operate to deprive the Grantor, its successors or assigns, of any rights which may from time to time have against any air carrier or private operator for negligent or unlawful operation of aircraft.

These covenants and agreements run with the land and are binding upon the heirs, administrators, executors, successors and assigns of the Grantor, and, for the purpose of this instrument, the real property firstly hereinabove described is the servient tenement and said _____ Airport is the dominant tenement.

DATED: _____

STATE OF }
ss
COUNTY OF }

On _____, before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, and _____ known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

_____
Notary Public

Source: *California Airport Land Use Planning Handbook* (October 2011)

Sample Deed Notice

A statement similar to the following should be included on the deed for any real property subject to the deed notice requirements set forth in the [**San Joaquin County Airport Land Use Commission**] *Airport Land Use Compatibility Plan*. Such notice should be recorded by the county of [**Insert County name**]. Also, this deed notice should be included on any parcel map, tentative map, or final map for subdivision approval.

The [**San Joaquin County Airport Land Use Commission**] *Airport Land Use Compatibility Plan* and [**Insert County/City name**] Ordinance (Ordinance No. _____) identify a [**Insert Airport name**] Airport Influence Area. Properties within this area are routinely subject to overflights by aircraft using this public-use airport and, as a result, residents may experience inconvenience, annoyance, or discomfort arising from the noise of such operations. State law (Public Utilities Code Section 21670 et seq.) establishes the importance of public-use airports to protection of the public interest of the people of the state of California. Residents of property near such airports should therefore be prepared to accept the inconvenience, annoyance, or discomfort from normal aircraft operations. Residents also should be aware that the current volume of aircraft activity may increase in the future in response to [Insert County name] County population and economic growth. Any subsequent deed conveying this parcel or subdivisions thereof shall contain a statement in substantially this form.

Source: *California Airport Land Use Planning Handbook* (October 2011)

Guidance for Calculating Land Use Intensity

Following is guidance on how to calculate the intensity of land uses (the number of people-per-acre). The most difficult part about determining the intensity of a land use is estimating the number of people likely to use a particular facility. There are several methods which can be utilized, depending upon the nature of the proposed use:

- **Maximum Occupancy**- The California Building Code (CBC) can be used as a standard for determining the maximum occupancy of certain uses. The chart provided as **Table 1** indicates the required number of square feet per occupant. The number of people on the site can be calculated by dividing the total floor area of a proposed use by the minimum square feet per occupant requirement listed in the table. The maximum occupancy can then be divided by the size of the parcel in acres to determine the number of people-per-acre. Surveys of actual occupancy levels conducted by various agencies have indicated that many retail and office uses are generally occupied at no more than 50 percent of their maximum occupancy levels, even at the busiest times of day. Therefore, the number of people calculated for office and retail uses should usually be adjusted (50%) to reflect the actual occupancy levels before making the final people-per-acre determination. Even with this adjustment, the CBC-based methodology typically produces intensities at the high end of the likely range.

- **Parking Ordinance**- The number of people present in a given area can be calculated based upon the number of parking spaces provided. Traffic studies can be used to develop an assumption regarding the number of people per vehicle. The number of people-per-acre can then be calculated by dividing the number of people on-site by the size of the parcel in acres. This approach is appropriate where the use is expected to be dependent upon access by vehicles. Depending upon the specific assumptions utilized, this methodology typically results in a number in the low end of the likely intensity for a given land use.

- **Survey of Similar Uses**- Certain uses may require an estimate based upon a survey of similar uses. This approach is more difficult, but is appropriate for uses which, because of the nature of the use, cannot be reasonably estimated based upon parking or square footage.

TABLE 1
Maximum Floor Area Allowances Per Occupant

Function of Space	Floor Area In Sq. Ft. Per Occupant
Accessory storage areas, mechanical equipment room	300 gross
Agricultural building	300 gross
Aircraft hangars	500 gross
Airport terminal	
Baggage claim	20 gross
Baggage handling	300 gross
Concourse	100 gross
Waiting areas	15 gross
Assembly	
Gaming floors (keno, slots, etc.)	11 gross
Assembly with fixed seats	See Section 1004.7
Assembly without fixed seats	
Concentrated (chairs only – not fixed)	7 net
Standing space	5 net
Unconcentrated (tables and chairs)	15 net
Bowling centers, allow 5 persons for each lane including 15 feet of runway, and for additional areas	7 net
Business areas	100 gross
Courtrooms – other than fixed seating areas	40 net
Daycare	35 net
Dormitories	50 gross
Educational	
Classroom area	20 net
Shops and other vocational room areas	50 net
Exercise rooms	50 gross
H-5 Fabrication and manufacturing areas	200 gross
Industrial areas	100 gross
Institutional areas	
Inpatient treatment areas	240 gross
Outpatient areas	100 gross
Sleeping areas	120 gross
Kitchens, commercial	200 gross
Library	
Reading rooms	50 net
Stack area	100 gross
Locker rooms	50 gross
Mercantile	
Areas on other floors	60 gross
Basement and grade floor areas	30 gross
Storage, stock, shipping areas	300 gross
Parking garages	200 gross
Residential	200 gross
Skating rinks, swimming pools	
Rink and pool	50 gross
Decks	15 gross
Stages and platforms	15 net
Warehouses	500 gross

For SI: 1 square foot = 0.0929 m^2.

Example:

Proposed Development: Single-floor furniture store containing 20,000 sq. ft.

A. Calculation Based on Parking Space Requirements

Assume that local codes require 1 parking space per 1,500 square feet of use area for a furniture store. Next, assume 1.5 people per automobile for this type of use.

The usage intensity would be:

1) 20,000 sq. ft. bldg. / 1,500 sq. ft. (1.0 parking space per 1,500 sq. ft.) = 13 required parking spaces.
2) 13 parking spaces x 1.5 people per space = 20 people maximum on-site.
3) 20,000 sq. ft. bldg. footprint /43,560 sq. ft. per acre = 0.46 acre bldg. footprint.
4) Assuming a relatively balanced occupancy throughout the building and that outdoor uses are minimal, the usage intensity for a single acre would be estimated to be: Building footprint < 1.0 acre; therefore, maximum people in 1 acre = bldg. occupancy = 20 people per single acre.

B. Calculation Based on California Building Code

For the purposes of the CBC-based methodology, the furniture store is assumed to consist of 50 percent retail sales floor (at 30 square feet per occupant) and 50 percent warehouse (at 500 square feet per occupant). Usage intensities would, therefore, be estimated as follows:

1) 10,000 sq. ft. retail floor area / 30 sq. ft. per occupant = 333 people maximum occupancy in retail area
2) 10,000 sq. ft. warehouse floor area / 500 sq. ft. per occupant = 20 people maximum occupancy in warehouse area
3) Maximum occupancy under CBC assumptions = 333 + 20 = 353 people
4) Assuming typical peak occupancy is 50 percent of CBC numbers = 177 people maximum expected at any one time

The two methods produce very different results. The occupancy area estimate of 30 square feet per person is undoubtedly high for a furniture store even after the 50 percent adjustment. On the other hand, the 20 people-per-acre estimate using the parking requirement methodology appears low, but it is probably closer to being realistic.

GENERAL PLAN CONSISTENCY CHECKLIST

This checklist is intended to assist local agencies with modifications necessary to make their local plans and other local policies consistent with the ALUCP. It is also designed to facilitate ALUC reviews of these local plans and policies.

General Plan Document

The following items typically appear directly in a general plan document. Amendment of the general plan will be required if there are any conflicts with the ALUCP

General Plan Item	Reference
Land Use Map—No direct conflicts should exist between proposed new land uses indicated on a general plan land use map and the ALUC land use compatibility criteria.	See Table 3A and Exhibit 3A.
Residential densities (dwelling units per acre) should not exceed the set limits.	See Table 3A and Exhibit 3A.
Proposed nonresidential development needs to be assessed with respect to applicable intensity limits.	See Table 3A and Exhibit 3A.
No new land uses of a type listed as specifically prohibited should be shown within affected areas.	See Table 3A and Exhibit 3A.
Noise Element—General plan noise elements typically include criteria indicating the maximum noise exposure for which residential development is normally acceptable. This limit must be made consistent with the equivalent ALUCP criteria. Note, however, that a general plan may establish a different limit with respect to aviation-related noise than for noise from other sources (this may be appropriate in that aviation-related noise is sometimes judged to be more objectionable than other types of equally loud noises).	See Table 3B, Exhibit 3B, and Exhibit 3C.

Zoning or Other Policy Documents

The following items need to be reflected either in the general plan or in a separate policy document such as a combining zone ordinance. If a separate policy document is adopted, modification of the general plan to achieve consistency with the ALUCP may not be required. Modifications would normally be needed only to eliminate any conflicting language which may be present and to make reference to the separate policy document.

Policy Item	Reference
Intensity Limitations on Nonresidential Uses—ALUCPs may establish limits on the usage intensities of commercial, industrial, and other nonresidential land uses. This can be done by duplication of the performance-oriented criteria—specifically, the number of people per acre—indicated in the ALUCP. Alternatively, ALUCs may create a detailed list of land uses which are allowable and/or not allowable within each compatibility zone. For certain land uses, such a list may need to include limits on building sizes, floor area ratios, habitable floors, and/or other design parameters which are equivalent to the usage intensity criteria.	See Table 3A.
Identification of Prohibited Uses—ALUCPs may prohibit schools, day care centers, assisted living centers, hospitals, and other uses within a majority of an airport's influence area. The facilities often are permitted or conditionally permitted uses within many commercial or industrial land use designations.	See Table 3A.
Open Land Requirements—ALUCP requirements, if any, for assuring that a minimum amount of open land is preserved in the airport vicinity must be reflected in local policies. Normally, the locations which are intended to be maintained as open land would be identified on a map with the total acreage within each compatibility zone indicated. If some of the area included as open land is private property, then policies must be established which assure that the open land will continue to exist as the property develops. Policies specifying the required characteristics of eligible open land should also be established.	See Table 3A.
Infill Development—If an ALUCP contains infill policies and a jurisdiction wishes to take advantage of them, the lands that meet the qualifications must be shown on a map.	See §3.1.5.3.

Policy Item *(Continued)*	Reference
Height Limitations and Other Hazards to Flight—To protect the airport airspace, limitations must be set on the height of structures and other objects near airports. These limitations are to be based upon FAR Part 77. Restrictions also must be established on other land use characteristics which can cause hazards to flight (specifically, visual or electronic interference with navigation and uses which attract birds). Note that many jurisdictions have already adopted an airport-related hazard and height limit zoning ordinance which, if up to date, will satisfy this consistency requirement.	See §3.3.3 and §3.3.3.5, and Table 3A.
Buyer Awareness Measures—Besides disclosure rules already required by state law, as a condition for approval of development within certain compatibility zones, some ALUCPs require either dedication of an avigation easement to the airport proprietor or placement on deeds of a notice regarding airport impacts. If so, local agency policies must contain similar requirements.	See §3.3.4.1.
Nonconforming Uses and Reconstruction—Local agency policies regarding nonconforming uses and reconstruction must be equivalent to or more restrictive than those in the ALUCP, if any.	See §3.1.5.1 and §3.1.5.2.

REVIEW PROCEDURES

In addition to incorporation of ALUC compatibility criteria, local agency implementing documents must specify the manner in which development proposals will be reviewed for consistency with the compatibility criteria as outlined below.

Actions Always Required to be Submitted for ALUC Review—PUC Section 21676 identifies the types of actions that must be submitted for airport land use commission review. Local policies should either list these actions or, at a minimum, note the local agency's intent to comply with the state statute.

Other Land Use Actions Potentially Subject to ALUC Review—In addition to the above actions, ALUCPs may identify certain major land use actions for which referral to the ALUC is dependent upon agreement between the local agency and ALUC. If the local agency fully complies with all of the items in this general plan consistency check list or has taken the necessary steps to overrule the ALUC, then referral of the additional actions is voluntary. On

the other hand, a local agency may elect not to incorporate all of the necessary compatibility criteria and review procedures into its own policies. In this case, referral of major land use actions to the ALUC is mandatory. Local policies should indicate the local agency's intentions in this regard.

Process for Compatibility Reviews by Local Agencies—If a local agency chooses to submit only the mandatory actions for ALUC review, then it must establish a policy indicating the procedures which will be used to assure that airport compatibility criteria are addressed during review of other projects. Possibilities include: a standard review procedure checklist which includes reference to compatibility criteria; use of a geographic information system to identify all parcels within the airport influence area; etc.

Variance Procedures—Local procedures for granting of variances to the zoning ordinance must make certain that any such variances do not result in a conflict with the compatibility criteria. Any variance that involves issues of noise, safety, airspace protection, or overflight compatibility as addressed in the ALUCP must be referred to the ALUC for review.

Enforcement—Policies must be established to assure compliance with compatibility criteria during the lifetime of the development. Enforcement procedures are especially necessary with regard to limitations on usage intensities and the heights of trees. An airport combining district zoning ordinance is one means of implementing enforcement requirements.

Source: Table 5A – General Plan Consistency Checklist, *California Airport Land Use Planning Handbook* (2011).

Appendix D

Supporting Materials

Appendix D
SUPPORTING MATERIALS

This appendix includes the following supporting information related to airport land use compatibility planning:

- *California State Aeronautics Act* (PUC Sections 21670-21679.5) – which was most recently amended in August 2012.
- Code of Federal Regulations Title 14, Part 77 – Safe, Efficient Use, and Preservation of the Navigable Airspace
- San Joaquin County Airport Land Use Commission Formation Document
- FAA Advisory Circular 150/5200-33B, Hazardous Wildlife Attractants on or Near Airports
- FAA Advisory Circular 150/5200-34A, Construction or Establishment of Landfills Near Public Airports

Additional information regarding this topic can be found on the Caltrans Division of Aeronautics website: http://www.dot.ca.gov/hq/planning/aeronaut/index.html

California Public Utilities Code
Section 21001 et seq.
relating to the

State Aeronautics Act

Prepared by
California Department of Transportation
Division of Aeronautics
Sacramento, CA

February 2013

Gary Cathey
Division Chief

About this booklet

The law contained herein was copied from www.leginfo.ca.gov, a website maintained by the Legislative Counsel of California. We periodically update this booklet as changes are made to the State Aeronautics Act and at the Counsel's website. You can view the text of the State Aeronautics Act online by opening the www.leginfo.ca.gov homepage, selecting "California Law" and searching within the Public Utilities Code.

This booklet contains one new section since its last update in February 2011:

- Section 21417 added by Stats.2012, c. 182 (A.B.511), § 1.

California Department of Transportation
Division of Aeronautics
1120 N Street, MS 40
Sacramento, CA 95814
http://www.dot.ca.gov/hq/planning/aeronaut/index.html

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CALIFORNIA PUBLIC UTILITIES CODE

Section 21001 et seq.
relating to the
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AERONAUTICS LAW
STATE AERONAUTICS ACT
PUBLIC UTILITIES CODE

Chapter 1. General Provisions and Definitions

Title of Part
21001. This part may be cited as the "State Aeronautics Act."

Purpose
21002. The purpose of this part is to further and protect the public interest in aeronautics and aeronautical progress by the following means:

(a) Encouraging the development of private flying and the general use of air transportation.

(b) Fostering and promoting safety in aeronautics.

(c) Effecting uniformity of the laws and regulations relating to aeronautics consistent with federal aeronautics laws and regulations.

(d) Granting to a state agency powers, and imposing upon it duties, so that the state may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property, assist in the development of a statewide system of airports, encourage the flow of private capital into aviation facilities, and cooperate with and assist political subdivisions and others engaged in aeronautics in the development and encouragement of aeronautics.

(e) Establishing only those regulations which are essential and clearly within the scope of the authority granted by the Legislature, in order that persons may engage in every phase of aeronautics with the least possible restriction consistent with the safety and the rights of others.

(f) Providing for cooperation with the federal authorities in the development of a national system of civil aviation and for coordination of the aeronautical activities of those authorities and the authorities of this state.

(g) Assuring that persons residing in the vicinity of airports are protected to the greatest possible extent against intrusions by unreasonable levels of aircraft noise.

(h) Fostering and promoting the development of a stable and efficient regional air carrier system to provide access for small and rural communities to the national air transportation system consistent with federal policies favoring deregulation.

(i) Developing, in cooperation with the private sector, airport management, local jurisdictions, federal authorities, and the general public, informational programs to increase the understanding of current air transportation issues including, but not limited to, aviation safety, planning, airport noise, airport development and management, and the role of aviation in the economic development of the state, as an integral part of the state's transportation system.

(j) Sponsoring or cosponsoring, with representatives of the aerospace and aviation industry, aviation educational and informational seminars which meet the needs of pilots and other members of the industry for current information on aviation safety, planning, and airport development and management.

Definitions; Effect
21003. Unless the context otherwise requires, the definitions and general provisions set forth in this chapter govern the construction of this part.

Public and Government Functions; Public Necessity
21004. The acquisition of any land or interest therein pursuant to this part, the planning, acquisition, establishment, construction, improvement, maintenance, equipment, and operation of airports and air navigation facilities, whether by the state separately or jointly with any political subdivision, and the exercise of any other powers granted to the department by this part are public and governmental functions, exercised for a public purpose, and are matters of public necessity. All land and other property and privileges acquired and used by or on behalf of the state pursuant to this part are acquired and used for public and governmental purposes as a matter of public necessity.

Effect of Part on Zoning Regulations
21005. This part shall not be construed as limiting any power of the state or a political subdivision to regulate airport hazards by zoning.

Effect of Chapter on Use of Helicopters

21006. This chapter or any other law shall not be construed as prohibiting, restricting, or permitting the prohibition of the operation or landing in populated areas of helicopters and similar aircraft capable of approximately vertical ascent and descent, subject to such reasonable rules affecting the public safety as the department may promulgate. The department shall adopt rules and regulations, effective January 1, 1989, for the conditions under which helicopters may make temporary use of a landing site.

Department

21006.5. "Department" means the Department of Transportation.

Aeronautics Commission; Division; Department

21007. Whenever the term "California Aeronautics Commission," "Division of Aeronautics," or "Department of Aeronautics" is used in any other law, it means the Department of Transportation.

Director

21008. "Director" means the Director of Transportation. Any reference in any law or regulation to the Director of Aeronautics shall be deemed to refer to the Director of Transportation.

Division

21008.3. "Division" means the Division of Aeronautics in the department.

Commission

21008.5. "Commission" means the California Transportation Commission.

Person

21009. "Person" means any individual, firm, partnership, corporation, limited liability company, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative.

Political Subdivision

21010. "Political subdivision" means any county, city, city and county, public corporation, district or other political entity or public corporation of this State.

Aeronautics

21011. "Aeronautics" means:

(a) The science and art of flight, including transportation by aircraft.

(b) The operation, construction, repair, or maintenance of aircraft and aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes.

(c) The design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or other air navigation facilities.

Aircraft

21012. "Aircraft" means any manned contrivance used or designed for navigation of, or flight in, the air requiring certification and registration as prescribed by federal statute or regulation. Notwithstanding the foregoing provisions of this section, manned lighter-than-air balloons and ultralight vehicles as defined in the regulations of the Federal Aviation Administration (14 C.F.R. Part 103), whether or not certificated by the Federal Aviation Administration, shall not be considered to be aircraft for purposes of this part.

Airport

21013. "Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights of way, and all airport buildings and facilities located thereon.

Air Navigation Facility
21014. "Air navigation facility" means any facility, other than facilities owned or operated by the United States, used, or available or designed for use, in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other facilities used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport.

Operation of Aircraft; Operate Aircraft
21015. "Operation of aircraft" or "operate aircraft" means the use, navigation, or piloting of aircraft in the air space over this State or upon any airport within this State.

Airman
21016. "Airman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers, or appliances, and any individual who serves in the capacity of aircraft dispatcher, or air traffic control-tower operator. "Airman" does not include any individual employed outside the United States, or any individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector or mechanic in connection therewith, or any individual performing inspection or mechanical duties in connection with aircraft owned or operated by him.

Airport Hazard
21017. "Airport hazard" means any structure, object of natural growth, or use of land, which obstructs the air space required for flight of aircraft in landing or taking off at an airport or which is otherwise hazardous to the landing or taking off.

Airway
21018. "Airway" means a route in the navigable air space over the land or waters of this State, designated by proper authority as a route suitable for air navigation.

Violations; Punishment
21019. Any person violating any of the provisions of this part, other than Section 21407.1, or any of the rules or orders issued under this part, is punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment of not more than six months, or both.

Land
21020. "Land" includes tide and submerged lands or other lands subject to the public trust for commerce, navigation, or fisheries.

Chapter 2. Department of Transportation and State Aeronautics Board

Article 1. Department of Transportation

Rules and Regulations
21204. The department may adopt, administer, and enforce rules and regulations for the administration of this part.

Statement of Estimated Revenues; Budget
21206. The department shall prepare a statement of all estimated revenues of the Aeronautics Account in the State Transportation Fund and revenues available for local subventions from any other sources for the next succeeding fiscal year, together with a statement of proposed expenditures to be made to local agencies and the University of California during the next succeeding fiscal year, or obligations to be incurred in connection therewith.

The statement shall be included in the printed fiscal year budget submitted to the Legislature. Insofar as the matters to which it pertains, it shall constitute as submitted the budget submitted to the Department of Finance pursuant to Section 13320 of the Government Code, and, as to such matters, shall be administered by the Department of Finance as the fiscal year budget of the Department of Transportation under the provisions of this

section and of Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code.

Any changes or modifications in the budget described in this section shall be approved by the Director of Finance.

In the event, during an annual period, the budgetary amount approved and allocated for any purpose exceeds the amount actually necessary therefor, with a resultant available surplus, such surplus may be allocated to any other purpose or supplemental project upon the written approval of the Director of Finance.

In administering the budget, the Director of Finance shall not limit expenditures or incurrence of obligations thereunder to quarterly, semiannual, or other periods of the fiscal year.

Noise Mitigation Projects

21207. Whenever a political subdivision owning and operating an airport constructs or implements a noise mitigation project at the airport, including, but not limited to, the installation of noise monitoring equipment at any time after the project has been included within the aeronautics program in the state transportation improvement program and prior to funding of the project, the department shall, when funding for the project becomes available, reimburse the political subdivision for the eligible costs of the project, without interest, not to exceed the amount of the funds made available to the department or the political subdivision's actual eligible costs, whichever is lower. Reimbursement under this section shall be made only if the political subdivision completes the project to the standards approved by the department including, but not limited to, bidding and contracting procedures and the project is approved by the commission. This section does not apply to any project for which state funding is not specifically made available.

Article 1.5. State Aeronautics Board

State Aeronautics Board Abolished

21215. (a) The State Aeronautics Board is hereby abolished, and the California Transportation Commission succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction vested in the State Aeronautics Board.

(b) Any reference in any law or regulation to the State Aeronautics Board shall be deemed to refer to the California Transportation Commission.

(c) The California Transportation Commission shall have the possession and control of all licenses, permits, leases, agreements, contracts, orders, claims, judgments, records, papers, equipment, supplies, bonds, moneys, funds, appropriations, buildings, land and other property, real or personal, held for the benefit, use, or obligation of the State Aeronautics Board.

Appeals

21216. Any person or entity injured or aggrieved by any procedure or action of the department with respect to aeronautics may appeal to the California Transportation Commission for relief, and the decision of the commission as to such matter shall, after hearing thereon, be conclusive, subject to such review as may be otherwise provided by law. This section shall not apply to any procedure or action for which a hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code is specified in this part as the means for reviewing or finalizing the procedure or action.

Article 2: Powers and Duties

Recognition of Federal Authority; Intrastate Rates

21240. This state recognizes the authority of the federal government to regulate the operation of aircraft and to control the use of the airways, and nothing in this act shall be construed to give the department the power to so regulate and control safety factors in the operation of aircraft or to control use of the airways. This section does not affect the state's power to regulate the intrastate rates of common carriers by air, and such power is hereby reserved to the state.

Encouragement of Aeronautics, Airports, and Air Navigation Facilities

21241. The department shall encourage, foster, and assist in the development of aeronautics in this state and encourage the establishment of airports and air navigation facilities. It shall cooperate with and assist the federal government, political subdivisions of this state, and others in the development of aeronautics, and shall seek to coordinate their aeronautical activities.

Political subdivisions may cooperate with the department in the development of aeronautics and aeronautics facilities in this state.

Legislation; Representation of State

21242. The department may:

(a) Draft and recommend necessary legislation to advance the interest of the state in aeronautics.

(b) Represent the state in aeronautical matters before federal and other agencies.

(c) Participate as plaintiff or defendant or as intervenor on behalf of the state or any political subdivision or citizen in any controversy which involves the interest of the state in aeronautics.

(d) Assist political subdivisions and their law enforcement agencies in becoming acquainted with and enforcing the civil air regulations.

Rules, Regulations, Procedures, and Standards; Classification of Airports

21243. The department may make and amend general or special rules, regulations, and procedures and establish minimum standards, consistent with and clearly within the scope of federal legislation governing aeronautics and the rules, regulations, and standards issued thereunder. The department may, by regulation, classify airports into several reasonable classes or groups according to their facilities and the types and number of aircraft which they are capable of handling and may make and amend rules, regulations, and procedures and establish minimum standards for each separate class or group.

Temporary Rules, Regulations, Procedures, and Standards

21244. For the purpose of protecting and insuring the general public interest and safety and the safety of persons operating, using, or traveling in aircraft and developing aeronautics in this state, and after appropriate public hearings, the department may make and amend temporary general or special rules and procedures and establish temporary minimum standards consistent with this part as it deems necessary to administer this part. The department shall draft these temporary rules, procedures, and standards in the form of proposed aviation law and shall submit them to the next general session of the Legislature. These temporary rules, procedures, and standards shall not remain in effect beyond 90 days after the final adjournment of that session of the Legislature.

Rules; Copies for Public Inspection

21245. The department shall keep on file with the Secretary of State, and at its principal office, a copy of all its rules for public inspection.

Publication and Distribution of Orders, Rules, and Procedures

21246. The department shall provide for the publication and general distribution of all its orders, rules, and procedures having general effect.

Contracts

21247. The department may enter into any contracts necessary to the execution of its powers under this part. All contracts made by the department, either as the agent of the state or as the agent of any political subdivision, shall be made pursuant to the laws of the state governing the making of like contracts. Where the planning, acquisition, construction, improvement, maintenance, or operation of any airport or air navigation facility is financed wholly or partially with federal money the department, as agent of the state or of any political subdivision, may let contracts in the manner prescribed by the federal authorities acting under the laws of the United States and any rules made thereunder.

Joint Exercise of Powers

21248. The department may exercise any of its powers under this part jointly with any political subdivision, state agency, other states or their political subdivisions, or the United States.

Conferences and Joint Hearings with Federal Agencies

21249. The department may confer or hold joint hearings with any federal agency in connection with any matter arising under this part or relating to the sound development of aeronautics.

Cooperation with Federal Agencies

21250. The department may avail itself of the cooperation, services, records, and facilities of the federal agencies in the administration and enforcement of this part. It shall cooperate with and make available to the federal agencies, its services, records, and facilities, insofar as practicable.

Administration

21251. In administering this part the department may use the facilities and services of other state agencies and political subdivisions to the utmost extent possible. These agencies and political subdivisions shall make available to the department their facilities and services.

Enforcement

21252. (a) The department, its members, the director, officers and employees of the department, and every state and peace officer charged with the enforcement of state and subordinate laws or ordinances, may enforce and assist in the enforcement of this part, the rules and orders issued under this part, and all other laws of this state relating to aeronautics. In the enforcement of such rules, orders, and laws, the director, and such officers and employees as the director may designate, shall have the authority, as public officers, to arrest without a warrant, any person who, in his presence, has violated or as to whom there is probable cause to believe has violated any of such rules, orders, or laws.

In any case in which an arrest authorized by this subdivision is made for an offense declared to be a misdemeanor, and the person arrested does not demand to be taken before a magistrate, the arresting officer may, instead of taking such person before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with Section 853.6) of Title 3 of Part 2 of the Penal Code. The provisions of such chapter shall thereafter apply with reference to any proceeding based upon the issuance of a citation pursuant to this authority.

(b) There shall be no civil liability on the part of and no cause of action shall arise against any person, acting pursuant to subdivision (a) and within the scope of his authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the arresting officer, at the time of such arrest, had reasonable cause to believe was lawful. No such officer shall be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

(c) The director, and such officers and employees as the director may designate, may serve all processes and notices throughout the state.

Enforcement of Part; Injunction and Other Legal Process

21253. In the name of the state, the department may enforce this part and rules and orders issued under this part by injunction or other legal process in the courts of this state.

Reports of Violations to Federal and Other State Agencies

21254. The department may report to the appropriate federal agencies and agencies of other states all proceedings instituted charging violations of Section 21407, and Sections 21409 to 21412, inclusive, and all penalties of which it has knowledge imposed upon airmen or the owners or operators of aircraft for violations of the law of this state relating to aeronautics or for violations of the rules or orders of the department.

Reports from Federal and Other State Agencies

21255. The department may receive reports of penalties and other data from agencies of the federal government and other states, and may enter into agreements with these agencies governing the delivery, receipt, exchange, and use of reports and data. The department may make the reports and data of these agencies and of the courts of this state available to any court of this state and to any officer of the state or of any political subdivision authorized to enforce the aeronautics laws by Section 21252.

Receipt and Disbursement of Funds

21256. The department may accept, receive, receipt for, disburse, and expend federal and other money, public or private, made available to accomplish in whole or in part any of the purposes of this part. All federal money accepted under this part shall be accepted and expended by the department upon the terms and conditions prescribed by the United States. In accepting federal money under this part, the department shall have the same authority to enter into contracts on behalf of the state as is granted to the department under Section 21603. The department shall deposit all money received under this section in the Special Deposit Fund in the State Treasury, to be disbursed or expended in accordance with the terms and conditions upon which it was made available.

Ownership and Operation of Aircraft
21257. The department may own and operate aircraft for use in the furtherance of its duties, employ airmen and mechanics for proper operation and maintenance of the aircraft, and insure its employees against injury or death arising from aircraft accidents incurred in the performance of their assigned duties, within the limits of appropriations for these purposes.

Department Responsibility
21258. The department shall represent the state and local agencies before the Civil Aeronautics Board and other federal agencies in all matters related to the Airline Deregulation Act of 1978 (P.L. 95-504, as amended) and the essential air service program created by that act. The department shall assist and cooperate with federal, state, and local agencies and private entities in the development of a stable and efficient regional air carrier system.

Chapter 3. Regulation of Aeronautics

Sovereignty
21401. Sovereignty in the space above the land and waters of this state rests in the state, except where granted to and assumed by the United States pursuant to a constitutional grant from the people of the state.

The operation of aircraft in such space is a privilege subject to the laws of this state.

Ownership; Prohibited Use of Airspace
21402. The ownership of the space above the land and waters of this State is vested in the several owners of the surface beneath, subject to the right of flight described in Section 21403. No use shall be made of such airspace which would interfere with such right of flight; provided, that any use of property in conformity with an original zone of approach of an airport shall not be rendered unlawful by reason of a change in such zone of approach.

Lawful Flight; Flight Within Airport Approach Zone
21403. (a) Flight in aircraft over the land and waters of this state is lawful, unless at altitudes below those prescribed by federal authority, or unless conducted so as to be imminently dangerous to persons or property lawfully on the land or water beneath. The landing of an aircraft on the land or waters of another, without his or her consent, is unlawful except in the case of a forced landing or pursuant to Section 21662.1. The owner, lessee, or operator of the aircraft is liable, as provided by law, for damages caused by a forced landing.

(b) The landing, takeoff, or taxiing of an aircraft on a public freeway, highway, road, or street is unlawful except in the following cases:

(1) A forced landing.

(2) A landing during a natural disaster or other public emergency if the landing has received prior approval from the public agency having primary jurisdiction over traffic upon the freeway, highway, road, or street.

(3) When the landing, takeoff, or taxiing has received prior approval from the public agency having primary jurisdiction over traffic upon the freeway, highway, road or street.

The prosecution bears the burden of proving that none of the exceptions apply to the act which is alleged to be unlawful.

(c) The right of flight in aircraft includes the right of safe access to public airports, which includes the right of flight within the zone of approach of any public airport without restriction or hazard. The zone of approach of an airport shall conform to the specifications of Part 77 of the Federal Aviation Regulations of the Federal Aviation Administration, Department of Transportation.

Tort Liability; Injury or Death of Passengers
21404. Liability of the owner or pilot of an aircraft carrying passengers for injury or death to the passengers is determined by the rules of law applicable to torts on the land or waters of this state, arising out of similar relationships. Every owner of an aircraft is liable and responsible for death or injury to person or property resulting from a negligent or wrongful act or omission in the operation of the aircraft, in the business of the owner or otherwise, by any person using or operating the same with the permission, express or implied, of the owner.

Limitation on Liability
21404.1. (a) The liability of an owner, bailee of an owner, or personal representative of a decedent imposed by Section 21404 and not arising through the relationship of principal and agent or master and servant is limited to the

amount of fifteen thousand dollars ($15,000) for the death of or injury to one person in any one accident and, subject to the limit as to one person, is limited to the amount of thirty thousand dollars ($30,000) for the death of or injury to more than one person in any one accident and is limited to the amount of five thousand dollars ($5,000) for damage to property of others in any one accident.

(b) An owner, bailee of an owner, or personal representative of a decedent is not liable under this section for damages imposed for the sake of example and by way of punishing the operator of the aircraft. Nothing in this subdivision makes an owner, bailee of an owner, or personal representative immune from liability for damages imposed for the sake of example and by way of punishing him for his own wrongful conduct.

Tort Liability; Collision Damage

21405. The liability of the owner of one aircraft to the owner of another aircraft, or to operators or passengers on either aircraft, for damage caused by collision on land or in the air, is determined by the rules of law applicable to torts on land.

Careless or Reckless Operation

21407. It is unlawful for any person to operate an aircraft in the air, or on the ground or water in a careless or reckless manner so as to endanger the life or property of another. In any proceeding charging operation of aircraft in violation of this section, the court in determining whether the operation was careless or reckless shall consider the standards for safe operation of aircraft prescribed by federal statutes or regulations governing aeronautics.

Operation While Under the Influence

21407.1. (a) It is unlawful for any person, who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, to operate an aircraft in the air, or on the ground or water, or to engage in parachuting for sport.

(b) No person shall operate an aircraft in the air or on the ground or water who has 0.04 percent or more, by weight, of alcohol in his or her blood.

Consent to Chemical Testing

21407.2. (a) (1) (A) Any person who operates an aircraft in the air or on the ground or water is deemed to have given his or her consent to chemical testing of his or her blood or breath for the purpose of determining the alcoholic content of his or her blood, if lawfully arrested for any offense allegedly committed in violation of Section 21407.1 or if the officer requests chemical testing as part of any investigation of a suspected violation of state or local law. If a blood or breath test, or both, are unavailable, then paragraph (2) of subdivision (d) applies.

(B) Any person who operates an aircraft in the air or on the ground or water is deemed to have given his or her consent to chemical testing of his or her blood or urine for the purpose of determining the drug content of his or her blood, if lawfully arrested for any offense allegedly committed in violation of Section 21407.1 or if the officer requests chemical testing as part of an investigation of a suspected violation of state or local law.

(C) The testing shall be administered at the direction of a peace officer having reasonable cause to believe the person was operating an aircraft in violation of Section 21407.1 under either of the following conditions:

(i) The person is lawfully arrested.

(ii) The officer requests the person to submit to chemical testing as part of an investigation of a suspected violation of state or local law.

(D) The person shall be told that his or her failure to submit to, or the failure to complete, the required chemical testing may result in prohibition from operating an aircraft for not more than one year and, if the person is convicted of a violation of Section 21407.1, a fine, imprisonment, prohibition from operating an aircraft for not more than one year, or any combination thereof.

(2) (A) If the person is lawfully arrested for operating an aircraft under the influence of an alcoholic beverage, the person has the choice of whether the test shall be of his or her blood or breath, and the officer shall advise the person that he or she has that choice. If the person arrested either is incapable, or states that he or she is incapable, of completing the chosen test, the person shall submit to the remaining test. If a blood or breath test, or both, are unavailable, then paragraph (2) of subdivision (d) applies.

(B) If the person is lawfully arrested for operating an aircraft under the influence of any drug or the combined influence of an alcoholic beverage and any drug, the person has the choice of whether the test shall be of his or her blood, breath, or urine, and the officer shall advise the person that he or she has that choice.

(C) A person who chooses to submit to a breath test may also be requested to submit to a blood or urine test if the officer has reasonable cause to believe that the person was operating an aircraft under the influence of any drug or the combined influence of an alcoholic beverage and any drug and if the officer has a clear indication that a blood or

urine test will reveal evidence of the person being under the influence. The officer shall state in his or her report the facts upon which that belief and that clear indication are based. If the person who is arrested is either incapable or states that he or she is incapable of completing a blood test, that person shall submit to and complete a urine test. If the person arrested either is incapable, or states that he or she is incapable, of completing either chosen test, the person shall submit to and complete the other remaining test.

(3) If the person is lawfully arrested for an offense allegedly committed in violation of Section 21407.1 and, because of the need for medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person has the choice of those tests which are available at the facility to which that person has been transported. In that event, the officer shall advise the person of those tests which are available at the medical facility and that the person's choice is limited to those tests which are available.

(4) The officer shall also advise the person that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test or tests, before deciding which test or tests to take, or during administration of the test or tests chosen, and that, in the event of refusal to submit to a test or tests, the refusal may be used against him or her in a court of law.

(5) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn his or her consent and a test or tests may be administered whether or not the person is told that his or her failure to submit to, or the noncompletion of, the test or tests may result in a fine, imprisonment, and prohibition from operating an aircraft for not more than one year. Any person who is dead is deemed not to have withdrawn his or her consent and a test or tests may be administered at the direction of a peace officer.

(b) Any person who is afflicted with hemophilia is exempt from the blood test required by this section.

(c) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon is exempt from the blood test required by this section.

(d) (1) A person lawfully arrested for any offense allegedly committed while the person was operating an aircraft in violation of Section 21407.1 may request the arresting officer to have a chemical test made of the arrested person's blood or breath for the purpose of determining the alcoholic content of that person's blood, and, if so requested, the arresting officer shall have the test performed.

(2) If a blood or breath test is not available under subparagraph (A) of paragraph (1) of subdivision (a), or under subparagraph (A) of paragraph (2) of subdivision (a), or under paragraph (1) of this subdivision, the person shall submit to the remaining test in order to determine the percent, by weight, of alcohol in the person's blood. If both the blood and breath tests are unavailable, the person shall be deemed to have given his or her consent to chemical testing of his or her urine and shall submit to a urine test.

Punishment

21407.6. (a) Any person convicted under Section 21407.1 shall be punished upon a first conviction by imprisonment in the county jail for not less than 30 days nor more than six months or by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000) or by both such fine and imprisonment.

Any person convicted under Section 21407.1 shall be punished upon a second or any subsequent conviction by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000), without being granted probation by the court and without having the court suspend the execution of the sentence.

(b) Any person convicted under Section 21407.1 and who, when so operating an aircraft, has done any act forbidden by law or neglects any duty imposed by law in the operation of the aircraft, which act or neglect proximately causes bodily injury to any person other than the operator shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year and by fine of not less than two hundred fifty dollars ($250) nor more than ten thousand dollars ($10,000).

Authority to Prohibit Violator from Operation Aircraft

21408. For any violation of Section 21407 or 21407.1, in addition to the penalties provided by Section 21019 or 21407.6, the court may prohibit the violator from operating an aircraft within the state for a period not exceeding one year. Violation of the prohibition of the court may be treated as a separate offense under this section or as a contempt of court. Upon a plea of guilty or conviction under Section 21407 or 21407.1, the department shall cause a record of the plea or conviction and of the sentence imposed to be maintained. This section does not authorize the court or any other agency or person to take away, impound, hold, or mark any federal certificate, permit, rating, or license. The peace officer requesting that a person submit to a chemical test of the blood, breath, or urine pursuant to Section 21407.2 shall report anyone refusing to submit to the chemical test to the Federal Aviation Administration for appropriate administrative action.

Unlicensed Operation

21409. It is unlawful for any person to engage in aeronautics as an airman in the State unless he has an appropriate effective airman certificate, permit, rating, or license issued by the United States authorizing him to engage in the particular class of aeronautics in which he is engaged, if the certificate, permit, rating, or license is required by the United States.

Possession and Inspection of Certificate, License, Etc.

21410. Every airman shall keep any certificate, permit, rating, or license required for him by the United States in his personal possession when he is operating within the state. He shall present it for inspection upon the demand of any peace officer, any other officer of the state or of a political subdivision, or member, official, or employee of the department, authorized by Section 21252 to enforce the aeronautics laws, or any official, manager, or person in charge of any airport upon which the airman lands, or upon the reasonable request of any other person.

Unlicensed Aircraft

21411. It is unlawful for any person to operate, or cause or authorize to be operated, any civil aircraft within this State unless the aircraft has an appropriate effective certificate, permit, or license issued by the United States if required by the United States.

Posting Aircraft License; Inspection

21412. Any certificate, permit, or license required by the United States for an aircraft shall be carried in the aircraft at all times while the aircraft is operating in the state, shall be conspicuously posted in the aircraft where it may be readily seen by passengers or inspectors, and shall be presented for inspection upon the demand of any peace officer, any other officer of the state or of a political subdivision, or member, official, or employee of the department, authorized by Section 21252 to enforce the aeronautics laws, or any official, manager, or person in charge of any airport upon which the aircraft lands, or upon the reasonable request of any person.

Accidents; Reports; Preservation of Parts Pending Investigation

21413. The department shall report to the appropriate federal agency all accidents in aeronautics in this state of which it is informed, and shall, insofar as is practicable, preserve, protect, and prevent the removal of the component parts of any aircraft involved in an accident being investigated by it until the federal agency institutes an investigation.

Intoxicated Persons In or About Aircraft

21415. No person shall be in, or perform any act in connection with the maintenance or operation of, any aircraft when under the influence of intoxicating liquor.

This section does not apply to a person who is in an aircraft merely as a passenger, but this section shall not be construed to relieve any such person of criminal liability imposed by any other law for being intoxicated while in an aircraft.

Locking Door Separating Pilot Compartment from Passenger Compartment

21416. On all commercial aircraft which transport passengers for compensation or hire the door which separates the pilot compartment from the passenger compartment shall be kept locked at all times the aircraft is in a flight over this state during which passengers are being transported except:

(a) During takeoff and landing of the airplane when such door is the means of access to a required passenger emergency exit.

(b) At such times as it may be necessary to provide access to the flight crew or passenger compartments for the crew members in the performance of their duties, or to provide access for other persons authorized admission to the flight crew compartment.

The pilot of the aircraft shall be guilty of a misdemeanor if the door is not so locked.

It shall be unlawful for any person, except a member of the crew, to have in his possession in the passenger compartment at any time the aircraft is in a flight over this state during which passengers are being transported a key or other device for opening such door from the passenger side of the door.

Meteorological Towers

21417. (a) As used in this section, the following terms have the following meanings:

(1) "Meteorological instrument" means an instrument for measuring and recording the speed of the wind.

(2) "Meteorological tower" means a structure, including all guy wires and accessory facilities, on which a meteorological instrument is mounted for the purposes of documenting whether a site has wind resources sufficient for the operation of a wind turbine generator.

(3) "Prime agricultural land" means land that satisfies the requirements of paragraph (1), (2), or (4) of subdivision (c) of Section 51201 of the Government Code.

(b) A meteorological tower below 200 feet in height and above 50 feet in height that is located on prime agricultural land, or within one mile of prime agricultural land, and erected after January 1, 2013, shall be marked as follows:

(1) The full length of the meteorological tower shall be painted in equal, alternating bands of aviation orange and white, beginning with orange at the top of the tower and ending with orange at the bottom of the marked portion of the tower. The bands shall be between 20 and 30 feet in width.

(2) Two or more high visibility spherical marker balls, also called cable balls, that are aviation orange shall be attached to each outside guy wire that is connected to a meteorological tower.

(3) One or more seven-foot high visibility safety sleeves shall be placed at each anchor point and shall extend from the anchor point along each guy wire attached to the anchor point.

(c) A light may be affixed to the highest point on a meteorological tower as an additional option for the marking of the meteorological tower.

(d) (1) A local agency may incorporate any requirements of this section into any applicable land use permit that the agency administers.

(2) This section shall not be construed to authorize a local agency to require a new permit that applies to a meteorological tower.

(3) To the extent that the requirements of this section conflict with local permitting requirements, the requirements of this section shall supersede those permitting requirements.

(e) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

Chapter 3.7 Wire Strike Education and Prevention

Legislative Intent

21504. The Legislature finds and declares as follows:

(a) Representatives from the aviation community, electric utility industry, and government agencies voluntarily convened a working group in July 1992 to develop a comprehensive program to improve low-level flight safety throughout California.

(b) The working group found that the prevention of aircraft wire strikes and losses through (1) pilot education and awareness and (2) selective marking of those wires and supporting structures that present a hazard to low-level flight safety are equally important to improving low-level flight safety throughout the state.

(c) The working group developed criteria for marking selected wires and supporting structures based upon visibility and likelihood of aircraft activity, which now must be evaluated in the field.

(d) It is, therefore, the intent of the Legislature in enacting this chapter to implement recommendations of the working group to undertake a pilot education and awareness program and to evaluate the criteria for marking selected wires and supporting structures in the field.

Pilot Awareness Program

21505. (a) The Division of Aeronautics, in cooperation with the aviation industry and the electric utility industry and in consultation with the Federal Aviation Administration, shall coordinate and disseminate information provided by the working group to pilots to increase awareness of wire hazards and to communicate techniques for identifying and avoiding wires.

(b) For purposes of coordinating and disseminating the information provided to the division by the working group pursuant to subdivision (a), every electrical corporation and publicly owned electrical utility in this state which serves 250,000 or more customers shall pay a one-time fee in a sufficient amount so that the total of all fees collected does not exceed one hundred thousand dollars ($100,000). The fee shall be in the proportion that each utility's total miles of transmission line greater than 110 kilovolts bears to the total miles of transmission line greater than 110 kilovolts statewide.

(c) All fees collected pursuant to subdivision (b) shall be deposited in the Aeronautics Account in the State Transportation Fund to be continuously appropriated to the Department of Transportation for the purposes set forth in subdivision (a).

Cost Recovery
21507. All costs incurred by an electrical corporation pursuant to this chapter shall be deemed reasonable by the commission and shall be fully recoverable through rates.

Chapter 4. Airports and Air Navigation Facilities

Article 1. Assistance to Political Subdivisions

Engineering and Technical Services
21601. The department may make available its engineering and other technical services, with or without charge, to any political subdivision or person desiring them in connection with the planning, acquisition, construction, improvement, maintenance, or operation of airports or air navigation facilities, subject to rules promulgated by the department.

Financing
21602. (a) Subject to the terms and within the limits of special appropriations made by the Legislature, the department may render financial assistance by grant or loan, or both, to political subdivisions jointly, in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled, by a political subdivision or subdivisions, if the financial assistance has been shown by public hearing to be appropriate to the proper development or maintenance of a statewide system of airports. Financial assistance may be furnished in connection with federal or other financial aid for the same purpose.

(b) Notwithstanding subdivision (a) of Section 21681, a city or county designated by the Airport Land Use Commission is eligible to compete for funds held in the Aeronautics Account in the State Transportation Fund on behalf of any privately owned, public use airport that is included in an airport land use compatibility plan. However, the city or county shall be eligible to compete for the funds only when zoning on the parcel is tantamount to a taking of all reasonable uses that might otherwise be permitted on the parcel. The eligible airport and aviation purposes are limited to those specified in paragraphs (4), (5), (6), (9), and (14) of subdivision (f) of Section 21681, and, further, any capital improvements or acquisitions shall become the property of the designated city or county. Matching funds pursuant to subdivision (a) of Section 21684 may include the in-kind contribution of real property, with the approval of the department.

(c) Any grant of funds held in the Aeronautics Account in the State Transportation Fund on behalf of any privately owned airports shall contain a covenant that the airport remain open for public use for 20 years. Any grant made to a city or county on behalf of a privately owned airport shall contain a payback provision based upon existing market value at the time the private airport ceases to be open for public use.

(d) Upon request, California Aid to Airports Program (CAAP) projects included within the adopted Aeronautics Program, may be funded in advance of the year programmed, with the concurrence of the department, in order to better utilize funds in the account.

(e) There is, in the Aeronautics Account in the State Transportation Fund, a subaccount for the management of funds for loans to local entities pursuant to this chapter. All funds for airport loans in the Special Deposit Fund are hereby transferred to the subaccount. With the approval of the Department of Finance, the department shall deposit in the subaccount all money received by the department from repayments of and interest on existing and future airport loans, including, but not limited to, the sums of five hundred forty thousand dollars ($540,000) in repayments from the General Fund due in July 1987, and July 1988, and may, upon appropriation, transfer additional funds from the Aeronautics Account in the State Transportation Fund to the subaccount as the department deems appropriate. Interest on money in the subaccount shall be credited to the subaccount as it accrues.

(f) Notwithstanding Section 13340 of the Government Code, the money in the subaccount created by subdivision (e) is hereby continuously appropriated to the department without regard to fiscal years for purposes of loans to political subdivisions for airport purposes.

Agent for Political Subdivisions; Contracts; Handling of Funds
21603. Upon the request of any political subdivision or political subdivisions acting jointly, the department may act as agent in accepting, receiving, receipting for, and disbursing federal money, and other money public or private, made available to finance, in whole or in part, the planning, acquisition, construction, improvement, maintenance, or operation of a public airport or air navigation facility. The department may act as agent in contracting for and

supervising the planning, acquisition, construction, improvement, maintenance, or operation. Any political subdivision may designate the department as its agent for these purposes.

The department as principal on behalf of the state, and any political subdivision on its own behalf, may enter into any contracts with each other, the United States, or any person, which may be required in connection with a grant or loan of federal money for public airport or air navigation facility purposes.

All federal money accepted under this section shall be accepted and transferred or expended by the department upon such terms and conditions as are prescribed by the United States. All money received by the department pursuant to this section shall be deposited in the Special Deposit Fund in the State Treasury, to be disbursed or expended in accordance with the terms and conditions upon which it was made available.

Airport Closing Procedures

21605. No proprietor of any permitted airport which is open to the public and has received public funds shall close or suspend operation of the airport, or close an existing runway or taxiway except on a temporary basis for inspection, maintenance, construction, or emergency purposes, without notifying the department in writing 60 days prior to the intended closure or suspension of operations. On its own motion or upon the request of an affected or interested person, the department may conduct a public hearing to determine the impact of the intended closure or suspension of operations, both economically and on the entire state air transportation system. The department may take appropriate action to assist the proprietor in keeping the airport operational and open for public use.

Article 2. State Airports and Air Navigation Facilities

Establishment; Planning; Construction

21631. From appropriations or other money made available for the purpose, the department, on behalf of and in the name of the state, may plan, establish, construct, enlarge, improve, maintain, equip, operate, regulate, and protect airports and air navigation facilities, either within or without the state, including the construction, installation, equipment, maintenance, and operation at the airports of buildings and other facilities for the servicing of aircraft or for the comfort and accommodation of air travelers.

Acquisition of Existing Facilities

21632. (a) The department may also acquire existing airports and air navigation facilities, but it shall not acquire any airport or air navigation facility owned or controlled by a political subdivision of this or any other state without the consent of the political subdivision.

(b) Whenever an airport owned or operated by the United States in this state ceases to be so owned or operated, the department, in consultation with local and regional transportation planning agencies, may evaluate the present and future need for the airport in the state's public-use airport system, including the need for both the transportation of people and goods. The purpose of the evaluation is to determine aviation needs and does not eliminate any requirement of the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

(c) Prior to finalizing the evaluation, the department shall submit a copy of its report to the commission for review and comment.

The commission shall complete its review and forward any comments to the department not later than 45 days after receiving the evaluation.

(d) Upon completion of its evaluation, the department may make a recommendation to the Legislature, the commission, the affected local agencies, and the appropriate federal agency for the airport's ownership and type of operation as a public-use airport, if the department determines that the airport would be of significant benefit to the state's airport system. It is the intent of the Legislature that the department, in making its recommendation, give priority for ownership and operation of these public-use airports to a local political subdivision or subdivisions acting jointly.

(e) Notwithstanding Section 21606, if a political subdivision or subdivisions acting jointly notify the department of their intentions to prepare a reuse plan for the airport, and simultaneously apply to the Federal Aviation Administration for a federal grant to develop an airport master plan for the airport, the department shall not make its recommendation pursuant to subdivision (d). If the department's evaluation determines that the airport would be of significant benefit to the state's airport system, and the political subdivision or subdivisions acting jointly fail to convert the federal airport to a civil public-use airport in accordance with the department's evaluation within five years of notification to the department, or fail to evidence substantial progress toward that purpose as determined by the department, then the department may take action in accordance with subdivision (f).

(f) If the department determines the airport is of present or future benefit to the state's public-use airport system, and no political subdivision applies to the appropriate federal agency to acquire or operate the airport, or has notified the department of its intention to prepare a reuse plan for the airport and thereafter fails to act upon its application pursuant to subdivision (e), the department may, subject to subdivision (g), assist in the formation of a public entity to own and operate the airport which shall be representative of political subdivisions in the area which surrounds and is served by the airport, as determined by the department. If established, the owning and operating entity may, subject to subdivision (g), prepare and submit an application to the appropriate federal agency to acquire or operate, or acquire and operate, the airport as a public airport.

(g) Notwithstanding subdivision (f), if any political subdivision has previously applied to the appropriate federal agency to acquire and operate the airport as a public airport, has completed all required environmental and fiscal evaluations, and subsequently withdrew its application prior to December 31, 1988, the department shall not file any application to acquire or operate the airport or assist in the formation of a public entity to own and operate the airport.

Acquisition of Real or Personal Property

21633. For the purposes of this article, the department, by purchase, gift, devise, lease, condemnation, or otherwise, may acquire real or personal property, or any interest therein, including any property described in Section 21652.

Disposal of Property

21636. The department may dispose of any property, airport, air navigation facility, or portion or interest, acquired pursuant to this article, by sale, lease, or otherwise. The disposal shall be in accordance with the laws of this state governing the disposition of other state property, except that in the case of disposals to any political subdivision or government or the United States for aeronautical purposes, the disposal may be effected in the manner and upon the terms the department deems in the best interests of the state.

Contracts and Leases for Operation

21637. In operating an airport or air navigation facility owned or controlled by the state, the department may enter into contracts, leases, and other arrangements for a term not exceeding 20 years with any person, granting the privilege of using or improving the airport or air navigation facility or space therein for commercial purposes, conferring the privilege of supplying goods, commodities, things, services, or facilities at the airport or air navigation facility, or making available services to be furnished by the department or its agents at the airport or air navigation facility. In each case the department may establish the terms and conditions and fix the charges, rentals, or fees for the privileges or services, which shall be reasonable and uniform for the same class of privilege or service and shall be established with regard to the property and improvement used and the expenses of operation to the state. In no case shall the public be deprived of its rightful, equal, and uniform use of the airport, air navigation facility, or portion of either. The department shall grant no exclusive privilege for the sale or delivery of gasoline or other petroleum products.

Lease of Airports

21638. The department shall call for bids for the operation of any state-owned airport and shall lease the airport for a term not to exceed five years to the highest qualified bidder or bidders. No person shall be granted any authority to operate the airport other than as a public airport or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the department might not have undertaken under Section 21637. The state may operate an airport only if no acceptable bid is received.

Exclusive Right for Use Prohibited

21639. The department shall grant no exclusive right for the use of any airport or air navigation facility under its jurisdiction. This section shall not be construed to prevent the making of contracts, leases, and other arrangements pursuant to this article.

Lien for Charges; Enforcement

21640. To enforce the payment of any charges for repairs, improvements, storage, or care of any personal property by the department or its agents in connection with the operation of an airport or air navigation facility owned or operated by the state, the state has a lien on the property, which is enforceable by the department as provided by law.

Flying or Releasing Balloon, Kite or Rocket Near Airport as Misdemeanor

21646. It shall be a misdemeanor for any person to release or fly or cause to be released or flown, within five miles of any airport, any moored balloon, kite, unmanned rocket, or unmanned free balloon which might be ingested by an aircraft engine or might cause a pilot's view of the airport and zone approach to be obstructed, or which could be used to suspend an object capable of endangering airborne aircraft or impairing a pilot's vision.

Article 2.5. Non-Public Use Airports

Airport Defined

21650. "Airport" for the purposes of this article means an airport not open to the general public.

Airport Marks; Federal Aviation Administration Standards

21650.1. An airport shall be marked as required by rule of the department with letters or symbol selected by the department to designate that the airport is not open to the general public. In selecting the letters or symbol, the department shall be guided by letters or symbols currently in use by the Federal Aviation Administration for similar or comparable purposes.

Permit; Application and Receipt Under Article 3

21650.2. Nothing shall prevent an airport from applying for and receiving a permit pursuant to Article 3 (commencing with Section 21661) of this chapter.

Article 2.6 Hazard Elimination; Flight Disturbance

Eminent Domain

21652. (a) Any person authorized to exercise the power of eminent domain for airport purposes may acquire by purchase, gift, devise, lease, condemnation, or otherwise:

(1) Any property necessary to permit the safe and efficient operation of the airport, or to permit the removal, elimination, obstruction-marking, or obstruction-lighting of airport hazards, or to prevent the establishment of airport hazards.

(2) Airspace or an easement in such airspace above the surface of property where necessary to permit imposition upon such property of excessive noise, vibration, discomfort, inconvenience, interference with use and enjoyment, and any consequent reduction in market value, due to the operation of aircraft to and from the airport.

(3) Remainder property underlying property taken pursuant to paragraph (2), where permitted by Section 1240.410 of the Code of Civil Procedure.

(b) As used in this section, "property" includes real and personal property and any right or interest therein, whether within, beyond, adjacent to, or in the vicinity of, the boundaries of an airport or airport site, and, by way of illustration and not by way of limitation, includes air rights, airspace, air easements, and easements in airport hazards.

Removal of Hazards

21653. Any person authorized to exercise the power of eminent domain for airport purposes may provide, by purchase, gift, devise, lease, condemnation, or otherwise, for the removal or relocation of any airport hazard or the removal or relocation of all facilities, structures, and equipment that may interfere with the location, expansion, development, or improvement of the airport and other air navigation facilities or with the safe approach thereto and takeoff therefrom by aircraft. Any person acting under authority of this section shall pay the cost of such removal or relocation.

Article 2.7 Regulation of Obstructions

Proposed Site for Construction of State Building Within Two Miles of Airport Boundary

21655. Notwithstanding any other provision of law, if the proposed site of any state building or other enclosure is within two miles, measured by air line, of that point on an airport runway, or runway proposed by an airport master plan, which is nearest the site, the state agency or office which proposes to construct the building or other enclosure shall, before acquiring title to property for the new state building or other enclosure site or for an addition to a present site, notify the Department of Transportation, in writing, of the proposed acquisition. The department shall investigate the proposed site and, within 30 working days after receipt of the notice, shall submit to the state agency

or office which proposes to construct the building or other enclosure a written report of the investigation and its recommendations concerning acquisition of the site.

If the report of the department does not favor acquisition of the site, no state funds shall be expended for the acquisition of the new state building or other enclosure site, or the expansion of the present site, or for the construction of the state building or other enclosure, provided that the provisions of this section shall not affect title to real property once it is acquired.

Permit for Extension of Structure More Than 500 Feet Above Ground

21656. No person shall erect or add to the height of any structure within the boundaries of this state which will result in a structure that extends more than 500 feet above the ground on which such structure rests until a permit therefor has been issued for such purpose by the department. This section is not applicable to the construction of any structure if the Federal Communications Commission is required to approve the height of the structure or if the height of the structure is required to be approved under the Federal Aviation Act of 1958 (Public Law 85-726; 72 Stat. 731).

Refusal to Issue Permit; Request for Hearing

21657. The department may refuse issuance of a permit under Section 21656 if it determines that the erection of or addition to a structure would obstruct the airspace overlying the state so as to create an unsafe condition for the flight of aircraft.

Any person denied a permit shall, upon request, be granted a hearing by the department to determine whether a permit shall be issued. The hearing shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Construction of Utility Pole or Line in Vicinity of Aircraft Landing Area

21658. No public utility shall construct any pole, pole line, distribution or transmission tower, or tower line, or substation structure in the vicinity of the exterior boundary of an aircraft landing area of any airport open to public use, in a location with respect to the airport and at a height so as to constitute an obstruction to air navigation, as an obstruction is defined in accordance with Part 77 of the Federal Aviation Regulations, Federal Aviation Administration, or any corresponding rules or regulations of the Federal Aviation Administration, unless the Federal Aviation Administration has determined that the pole, line, tower, or structure does not constitute a hazard to air navigation. This section shall not apply to existing poles, lines, towers, or structures or to the repair, replacement, or reconstruction thereof if the original height is not materially exceeded and this section shall not apply unless just compensation shall have first been paid to the public utility by the owner of any airport for any property or property rights which would be taken or damaged hereby.

Hazards Near Airports Prohibited

21659. (a) No person shall construct or alter any structure or permit any natural growth to grow at a height which exceeds the obstruction standards set forth in the regulations of the Federal Aviation Administration relating to objects affecting navigable airspace contained in Title 14 of the Code of Federal Regulations, Part 77, Subpart C, unless a permit allowing the construction, alteration, or growth is issued by the department.

(b) The permit is not required if the Federal Aviation Administration has determined that the construction, alteration, or growth does not constitute a hazard to air navigation or would not create an unsafe condition for air navigation. Subdivision (a) does not apply to a pole, pole line, distribution or transmission tower, or tower line or substation of a public utility.

(c) Section 21658 is applicable to subdivision (b).

Refusal to Issue Permit; Request for Hearing

21660. The department may refuse issuance of a permit under Section 21659 if it determines that the construction or alteration of the structure or growth of the natural growth would constitute a hazard to air navigation or create an unsafe condition for air navigation.

Any person denied a permit shall, upon request, be granted a hearing by the department to determine whether a permit shall be issued. The hearing shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Article 3. Regulation of Airports

Exemptions

21661. This article does not apply to any temporary seaplane landing site, ultralight vehicle flightpark, or to airports owned or operated by the United States. To the extent necessary, the department may exempt any other class of airports, pursuant to a reasonable classification or grouping, from any rule or requirement thereof, adopted pursuant to this article, if it finds that its application would be an undue burden on the class and is not required in the interest of public safety.

This section shall become operative on January 1, 1989.

City Council or Board of Supervisors and ALUC Approvals

21661.5. (a) No political subdivision, any of its officers or employees, or any person may submit any application for the construction of a new airport to any local, regional, state, or federal agency unless the plan for construction is first approved by the board of supervisors of the county, or the city council of the city, in which the airport is to be located and unless the plan is submitted to the appropriate commission exercising powers pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Part 1 of Division 9, and acted upon by that commission in accordance with the provisions of that article.

(b) A county board of supervisors or a city council may, pursuant to Section 65100 of the Government Code, delegate its responsibility under this section for the approval of a plan for construction of new helicopter landing and takeoff areas, to the county or city planning agency.

Submission of Plan for Expansion or Enlargement of Airport

21661.6. (a) Prior to the acquisition of land or any interest therein, including tide and submerged lands or other lands subject to the public trust for commerce, navigation, or fisheries, by any political subdivision for the purpose of expanding or enlarging any existing publicly owned airport, the acquiring entity shall submit a plan of that expansion or enlargement to the board of supervisors of the county, or the city council of the city, in which the property proposed to be acquired is located.

(b) The plan shall show in detail the airport-related uses and other uses proposed for the property to be acquired.

(c) The board of supervisors or the city council, as the case may be, shall, upon notice, conduct a public hearing on the plan, and shall thereafter approve or disapprove the plan.

(d) Upon approval of the plan, the proposed acquisition of property may begin.

(e) The use of property so acquired shall thereafter conform to the approved plan, and any variance from that plan, or changes proposed therein, shall first be approved by the appropriate board of supervisors or city council after a public hearing on the subject of the variance or plan change.

(f) The requirements of this section are in addition to any other requirements of law relating to construction or expansion of airports.

Approval of Sites; Issuance of Permits; Charges

21662. The department shall have the authority to issue airport site approval permits, amended airport site approval permits, airport permits, and amended airport permits. No charge shall be made for the issuance of any permit.

Emergency Service Helicopters

21662.1. (a) At or as near as practical to the site of a medical emergency and at a medical facility, an officer authorized by a public safety agency may designate an area for the landing and taking off of an emergency service helicopter, in accordance with regulations established not later than January 1, 1989, pursuant to Section 21243.

(b) "Public safety agency" means any city, county, state agency, or special purpose district authorized to arrange for emergency medical services.

Emergency Flights for Medical Purposes

21662.4. (a) Emergency aircraft flights for medical purposes by law enforcement, firefighting, military, or other persons who provide emergency flights for medical purposes are exempt from local ordinances adopted by a city, county, or city and county, whether general law or chartered, that restrict flight departures and arrivals to particular hours of the day or night, that restrict the departure or arrival of aircraft based upon the aircraft's noise level, or that restrict the operation of certain types of aircraft.

(b) As used in this section, "emergency aircraft flights for medical purposes" are those flights in which undue delay would threaten a patient's life. "Emergency aircraft flights for medical purposes" include, but are not limited to, flights for the transportation of any of the following:

(1) Patients accompanied by licensed or certificated medical attendants such as paramedics, nurses, physicians, and respiratory therapists.

(2) Surgical transplant teams for the purpose of procuring human organs for reimplantation in recipients.

(3) Organ procurement agency coordinators responding to a potential donor.

(4) Temporarily viable human organs such as a heart, liver, lungs, kidneys, and pancreas, and human tissue, blood, or blood components.

(5) Human tissue and blood samples for clinical testing to determine compatibility between a donor and a recipient.

(6) Mechanical adjuncts or biological replacements for human organs.

(7) Medical equipment and supplies.

(8) Aircraft or equipment used during a medical emergency, or emergency personnel and first responders involved in treating the medical emergency, for the purpose of returning to its base of operation.

"Emergency aircraft flights for medical purposes" do not include the transportation of medical personnel to attend seminars, conferences, or speaking appearances in which undue delay would not jeopardize any patient's medical condition.

(c) (1) Written information concerning the emergency shall be submitted to the airport proprietor for all emergency aircraft flights within 72 hours prior or subsequent to the departure or arrival of the aircraft. For all emergency aircraft flights for medical purposes, the information shall include the patient's name and address, the names of medical attendants or personnel and the discipline in which they are licensed or hold a certificate to practice, a signed statement by the attending physician specifying that a medical emergency was involved, the requesting medical facility or agency, the intended destination, the type and registration number of the aircraft, and the names of all flight crew members, provided that the disclosure is authorized by and made in a manner consistent with the standards with respect to the privacy of individually identifiable health information of Title II (commencing with Section 200) of the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), the regulations issued by the United States Department of Health and Human Services pursuant to that act (45 C.F.R. Pts. 160 and 164), and the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code).

(2) This subdivision does not apply to emergency aircraft flights for medical purposes by law enforcement, firefighting, or military personnel.

(d) Any airport that incurs additional expenses in order to accommodate the arrival or departure of emergency aircraft flights for medical purposes may charge the patient on whose behalf the flight is made, or any organization or entity which has volunteered to reimburse the airport, for those expenses.

(e) For emergency aircraft flights for medical purposes, when two airports are located in the same geographical area, and one of the airports is a "closed" or restricted airport, the Legislature encourages the use of the "open" or unrestricted airport when feasible, rather than using the "closed" or restricted airport.

(f) When leasing aircraft for flights for emergency medical purposes, the Legislature encourages the use, when feasible, of aircraft which comply with local noise ordinances.

Helicopters in Proximity to Certain Schools Prohibited

21662.5. Notwithstanding Section 21006 or Section 21661 or any other provision of law to the contrary, no helicopter may land or depart in any area within 1,000 feet, measured by air line, of the boundary of any public or private school maintaining kindergarten classes or any classes in grades 1 through 12, without approval of the department or by a public safety agency designated by the department, unless the landing or departure takes place at a permitted permanent heliport, or is a designated emergency medical service landing site.

Before approval of the landing or departure of a helicopter pursuant to this section, all schools within the specified area shall be notified by the department or public safety agency of the application and shall have 15 days after the notice in which to demand a public hearing. The public hearing shall be held at a location in the immediate vicinity of the landing or departure site. The department or public safety agency shall not grant approval pursuant to this section unless it has first found that helicopter operations at the proposed site can be conducted in a safe manner, and in accordance with criteria established by the department.

This section shall not prevent the governing body of any city or county from enacting ordinances or regulations imposing restrictions equal to or greater than those imposed by this section.

Operation Without Permit

21663. It is unlawful for any political subdivision, any of its officers or employees, or any person to operate an airport unless an appropriate airport permit required by rule of the department has been issued by the department and has not subsequently been revoked.

Approval of Sites; Application

21664. Any political subdivision or person planning to construct, establish, or expand an airport shall apply for the appropriate permit from the department prior to the construction, establishment or expansion. The application shall set forth the location of all highways, railways, wires, cables, poles, fences, schools, residential areas and places of public gathering, and any other information as may be required by the rules and regulations of the department. Whenever an airport owned or operated by the United States ceases to be so owned or operated, any political subdivision or person desiring or planning to own or operate the airport shall apply to the department in compliance with the provisions of this article. If the airport holds a permit issued by the department, the application shall be confined to consideration of the matters enumerated in subdivision (e) of Section 21666.

Amended Airport Permits; Airport Expansion Defined

21664.5. (a) An amended airport permit shall be required for every expansion of an existing airport. An applicant for an amended airport permit shall comply with each requirement of this article pertaining to permits for new airports. The department may by regulation provide for exemptions from the operation of this section pursuant to Section 21661, except that no exemption shall be made limiting the applicability of subdivision (e) of Section 21666, pertaining to environmental considerations, including the requirement for public hearings in connection therewith.

(b) As used in this section, "airport expansion" includes any of the following:

(1) The acquisition of runway protection zones, as defined in Federal Aviation Administration Advisory Circular 150/1500-13, or of any interest in land for the purpose of any other expansion as set forth in this section.

(2) The construction of a new runway.

(3) The extension or realignment of an existing runway.

(4) Any other expansion of the airport's physical facilities for the purpose of accomplishing or which are related to the purpose of paragraph (1), (2), or (3).

(c) This section does not apply to any expansion of an existing airport if the expansion commenced on or prior to the effective date of this section and the expansion met the approval, on or prior to that effective date, of each governmental agency that required the approval by law.

Issuance of Permits; Requirements; Conditions

21666. The department shall issue a permit if it is satisfied that all of the following requirements have been met:

(a) The site meets or exceeds the minimum airport standards specified by the department in its rules and regulations, provided, however, that the department may modify its minimum airport standards when issuing a permit if it is satisfied that the airport will conform to minimum standards of safety.

(b) Safe air traffic patterns have been established for the proposed airport and for all existing airports and approved airport sites in its vicinity.

(c) The zone of approach of the airport has been engineered in conformity with the provisions of Section 21403, the documents relating thereto are available for public inspection.

(d) The department when issuing a permit may impose reasonable conditions which it deems necessary to effectuate the purposes of this article.

(e) The advantages to the public in selection of the site of a proposed new airport outweigh the disadvantages to the environment or, in the case of an amended permit, the advantages to the public of the proposed airport expansion outweigh the disadvantages to the environment. Environmental considerations include but are not limited to noise, air pollution, and the burden upon the surrounding area caused by the airport or airport expansion, including but not limited to, surface traffic and expense. The standards by which noise considerations are weighed shall be the level of noise acceptable to a reasonable person residing in the vicinity of the airport. The regulations adopted by the department pursuant to Section 21669 may be considered in determining such level of noise.

Each permit issued by the department shall set forth any conditions imposed thereon, and any modification of the general minimum airport standards prescribed by the department relative to such airport or airport site.

The department may refuse to issue a permit under this article if it determines that the requirements of this section have not been met. Any person denied a permit shall, upon request, be granted a hearing by the department to determine whether the permit should be issued.

Revocation of Permit; Grounds

21668. The department may revoke any airport permit if it determines that any of the following conditions are present:

(a) There has been an abandonment of a site or an airport.

(b) There has been a failure within the time prescribed to develop the site as an airport or to comply with the conditions of the approval as set forth in the permit.

(c) The airport or site no longer conforms to the minimum airport standards prescribed by the department, or no longer complies with the conditions imposed in the airport permit or site approval.

(d) The owner or operator of a permitted airport has failed to comply with any rule or regulation of the department.

(e) The site may no longer be safely used by the general public because of a change in physical or legal conditions either on or off the airport site.

The department shall not revoke a permit under this section without prior notice or opportunity for hearing, unless the department determines in writing that public safety considerations require a summary revocation. In this event, any person aggrieved by the action of the department shall, upon request, be granted a hearing by the department to determine whether the revocation shall remain in effect.

Suspension of Operation

21668.2. In lieu of revoking an airport permit pursuant to Section 21668, the department may suspend any airport permit, or may require suspension of operations of a portion of an airport, and such suspension shall remain in effect until the department determines that the conditions requiring the suspension no longer exist.

The department shall not order a suspension under this section without prior notice or opportunity for hearing, unless the department determines in writing that public safety considerations require a summary suspension. In this event, any person aggrieved by the action of the department shall, upon request, be granted a hearing by the department to determine whether the suspension shall remain in effect.

Adoption of Noise Standards

21669. The department shall adopt noise standards governing the operation of aircraft and aircraft engines for airports operating under a valid permit issued by the department to an extent not prohibited by federal law. The standards shall be based upon the level of noise acceptable to a reasonable person residing in the vicinity of the airport.

Existing Residential Conversion

21669.1. (a) Land use conversion involving existing residential communities shall generally be considered the least desirable action for achieving compliance with noise standards regulations adopted by the Department of Transportation pursuant to Section 21669.

(b) Nothing in this section creates a private right of action in any civil litigation.

(c) This section is declaratory of existing regulations of the department.

Guidelines

21669.2. In its deliberations, the department shall be governed by the following guidelines:

(a) Statewide uniformity in standards of acceptable airport noise need not be required, and the maximum amount of local control and enforcement shall be permitted.

(b) Due consideration shall be given to the economic and technological feasibility of complying with the standards promulgated by the department.

Effective Date of Regulations

21669.3. Any regulations designed to establish a noise monitoring program at an airport entering service after November 30, 1971, shall go into effect on the date the airport enters service.

Violation of Standards; Enforcement; Penalties

21669.4. (a) The violation of the noise standards by any aircraft shall be deemed a misdemeanor and the operator thereof shall be punished by a fine of one thousand dollars ($1,000) for each infraction.

(b) It shall be the function of the county wherein an airport is situated to enforce the noise regulations established by the department. To this end, the operator of an airport shall furnish to the enforcement authority designated by the county the information required by the department's regulations to permit the efficient enforcement thereof. The operator of each airport shall reimburse the county for its costs of implementing the airport noise regulations

contained in Article 8 (commencing with Section 5050) of subchapter 6 of Title 4 of the California Administrative Code, which shall, for purposes of subdivision (c), credit the operator for any amounts received from penalties assessed for violations at such airport. Upon request of the operator, the department shall review and shall determine the reasonableness of such costs, and such costs may be considered in fixing any airport user fees.

(c) Penalties assessed for the violation of the noise regulations shall be used first to reimburse the General Fund for the amount of any money appropriated to carry out the purposes for which the noise regulations are established, and second be used in the enforcement of the noise regulations at participating airports.

Noise-sensitive projects; approval conditioned upon grant of avigation easement

21669.5. (a) For purposes of this section, the following terms have the following meanings:

(1) (A) "Avigation easement" means a less-than-fee-title transfer of real property rights from the property owner that may convey to an owner or operator of an airport any or all of the following rights:

(i) A right-of-way for the free and unobstructed passage of aircraft through the airspace over the property at any altitude above a specified surface.

(ii) A right to subject the property to noise, vibration, fumes, dust, and fuel particle emissions associated with normal airport activity.

(iii) A right to prohibit the erection or growth of any structure, tree, or other object that would enter the acquired airspace.

(iv) A right-of-entry onto the property, with proper advance notice, for the purpose of removing, marking, or lighting any structure or other object that enters the acquired airspace.

(v) A right to prohibit electrical interference, glare, misleading lights, visual impairments, and other hazards to aircraft flight from being created on the property.

(B) "Avigation easement" includes an easement obtained pursuant to paragraph (2) of subdivision (a) of Section 21652.

(2) "CNEL" means community noise equivalent level established pursuant to Chapter 6 (commencing with Section 5000) of Division 2.5 of Title 21 of the California Code of Regulations.

(3) "Noise-sensitive land use" means residential uses, including detached single-family dwellings, multifamily dwellings, highrise apartments or condominiums, mobilehomes, public and private educational facilities, hospitals, convalescent homes, churches, synagogues, temples, and other places of worship.

(4) "Noise-sensitive project" means a project involving new construction or reconstruction for a planned noise-sensitive land use within an airport's 65 decibels CNEL or higher noise contour.

(b) If a political subdivision conditions approval of a noise-sensitive project upon the grant of an avigation easement to the owner or operator of an airport, the avigation easement shall be required to be granted to the owner or operator of the airport prior to the issuance of the building permit that allows construction or reconstruction of the noise-sensitive project. The owner or operator of an airport that is granted an avigation easement as a condition for approval of a noise-sensitive project pursuant to this subdivision shall be entitled to immediately record it upon receipt.

(c) An avigation easement granted to the owner or operator of an airport as a condition for approval of a noise-sensitive project shall include a termination clause that operates to terminate the avigation easement if the noise-sensitive project is not built and the permit or any permit extension authorizing construction or reconstruction of the noise-sensitive project has expired or has been revoked.

(d) Within 30 days after expiration or revocation of a permit or permit extension that authorized construction or reconstruction of a noise-sensitive project and was conditioned upon the property owner granting an avigation easement to the owner or operator of an airport, the political subdivision that had issued the permit shall notify the owner or operator of the airport of the expiration or revocation of the permit. Within 90 days after receipt of the notice from the political subdivision, the owner or operator of the airport shall record a notice of termination with the county recorder in which the property is located. Proof of filing of the notice of termination shall be provided to the political subdivision by the owner or operator of the airport within 30 days of recordation.

(e) Notwithstanding Sections 6103 and 27383 of the Government Code, in filing any instrument, paper, or notice pursuant to this section, the owner or operator of an airport shall pay all applicable recording fees prescribed by law.

Hearing Procedures

21669.6. Hearings under this article required by the provisions of Sections 21666, 21668, 21668.2, and 21669, or regulations adopted pursuant to those provisions, shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Article 3.5. Airport Land Use Commission

Creation; Membership; Selection

21670. (a) The Legislature hereby finds and declares that:

(1) It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems.

(2) It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

(b) In order to achieve the purposes of this article, every county in which there is located an airport which is served by a scheduled airline shall establish an airport land use commission. Every county, in which there is located an airport which is not served by a scheduled airline, but is operated for the benefit of the general public, shall establish an airport land use commission, except that the board of supervisors of the county may, after consultation with the appropriate airport operators and affected local entities and after a public hearing, adopt a resolution finding that there are no noise, public safety, or land use issues affecting any airport in the county which require the creation of a commission and declaring the county exempt from that requirement. The board shall, in this event, transmit a copy of the resolution to the Director of Transportation.

For purposes of this section, "commission" means an airport land use commission. Each commission shall consist of seven members to be selected as follows:

(1) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county, except that if there are any cities contiguous or adjacent to the qualifying airport, at least one representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by paragraphs (2) and (3) shall each be increased by one.

(2) Two representing the county, appointed by the board of supervisors.

(3) Two having expertise in aviation, appointed by a selection committee comprised of the managers of all of the public airports within that county.

(4) One representing the general public, appointed by the other six members of the commission.

(c) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

(d) Each member shall promptly appoint a single proxy to represent him or her in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the appointing member. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.

(e) A person having an "expertise in aviation" means a person who, by way of education, training, business, experience, vocation, or avocation has acquired and possesses particular knowledge of, and familiarity with, the function, operation, and role of airports, or is an elected official of a local agency which owns or operates an airport.

(f) It is the intent of the Legislature to clarify that, for the purposes of this article, that special districts, school districts, and community college districts are included among the local agencies that are subject to airport land use laws and other requirements of this article.

Action by Designated Body Instead of Commission

21670.1. (a) Notwithstanding any other provision of this article, if the board of supervisors and the city selection committee of mayors in the county each makes a determination by a majority vote that proper land use planning can be accomplished through the actions of an appropriately designated body, then the body so designated shall assume the planning responsibilities of an airport land use commission as provided for in this article, and a commission need not be formed in that county.

(b) A body designated pursuant to subdivision (a) that does not include among its membership at least two members having expertise in aviation, as defined in subdivision (e) of Section 21670, shall, when acting in the capacity of an airport land use commission, be augmented so that body, as augmented, will have at least two members having that expertise. The commission shall be constituted pursuant to this section on and after March 1, 1988.

(c) (1) Notwithstanding subdivisions (a) and (b), and subdivision (b) of Section 21670, if the board of supervisors of a county and each affected city in that county each makes a determination that proper land use planning pursuant

to this article can be accomplished pursuant to this subdivision, then a commission need not be formed in that county.

(2) If the board of supervisors of a county and each affected city makes a determination that proper land use planning may be accomplished and a commission is not formed pursuant to paragraph (1), that county and the appropriate affected cities having jurisdiction over an airport, subject to the review and approval by the Division of Aeronautics of the department, shall do all of the following:

(A) Adopt processes for the preparation, adoption, and amendment of the airport land use compatibility plan for each airport that is served by a scheduled airline or operated for the benefit of the general public.

(B) Adopt processes for the notification of the general public, landowners, interested groups, and other public agencies regarding the preparation, adoption, and amendment of the airport land use compatibility plans.

(C) Adopt processes for the mediation of disputes arising from the preparation, adoption, and amendment of the airport land use compatibility plans.

(D) Adopt processes for the amendment of general and specific plans to be consistent with the airport land use compatibility plans.

(E) Designate the agency that shall be responsible for the preparation, adoption, and amendment of each airport land use compatibility plan.

(3) The Division of Aeronautics of the department shall review the processes adopted pursuant to paragraph (2), and shall approve the processes if the division determines that the processes are consistent with the procedure required by this article and will do all of the following:

(A) Result in the preparation, adoption, and implementation of plans within a reasonable amount of time.

(B) Rely on the height, use, noise, safety, and density criteria that are compatible with airport operations, as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations.

(C) Provide adequate opportunities for notice to, review of, and comment by the general public, landowners, interested groups, and other public agencies.

(4) If the county does not comply with the requirements of paragraph (2) within 120 days, then the airport land use compatibility plan and amendments shall not be considered adopted pursuant to this article and a commission shall be established within 90 days of the determination of noncompliance by the division and an airport land use compatibility plan shall be adopted pursuant to this article within 90 days of the establishment of the commission.

(d) A commission need not be formed in a county that has contracted for the preparation of airport land use compatibility plans with the Division of Aeronautics under the California Aid to Airports Program (Chapter 4 (commencing with Section 4050) of Title 21 of the California Code of Regulations), Project Ker-VAR 90-1, and that submits all of the following information to the Division of Aeronautics for review and comment that the county and the cities affected by the airports within the county, as defined by the airport land use compatibility plans:

(1) Agree to adopt and implement the airport land use compatibility plans that have been developed under contract.

(2) Incorporated the height, use, noise, safety, and density criteria that are compatible with airport operations as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations, as part of the general and specific plans for the county and for each affected city.

(3) If the county does not comply with this subdivision on or before May 1, 1995, then a commission shall be established in accordance with this article.

(e) (1) A commission need not be formed in a county if all of the following conditions are met:

(A) The county has only one public use airport that is owned by a city.

(B) (i) The county and the affected city adopt the elements in paragraph (2) of subdivision (d), as part of their general and specific plans for the county and the affected city.

(ii) The general and specific plans shall be submitted, upon adoption, to the Division of Aeronautics. If the county and the affected city do not submit the elements specified in paragraph (2) of subdivision (d), on or before May 1, 1996, then a commission shall be established in accordance with this article.

Los Angeles County

21670.2. (a) Sections 21670 and 21670.1 do not apply to the County of Los Angeles. In that county, the county regional planning commission has the responsibility for coordinating the airport planning of public agencies within the county. In instances where impasses result relative to this planning, an appeal may be made to the county regional planning commission by any public agency involved. The action taken by the county regional planning

commission on an appeal may be overruled by a four-fifths vote of the governing body of a public agency whose planning led to the appeal.

(b) By January 1, 1992, the county regional planning commission shall adopt the airport land use compatibility plans required pursuant to Section 21675.

(c) Sections 21675.1, 21675.2, and 21679.5 do not apply to the County of Los Angeles until January 1, 1992. If the airport land use compatibility plans required pursuant to Section 21675 are not adopted by the county regional planning commission by January 1, 1992, Sections 21675.1 and 21675.2 shall apply to the County of Los Angeles until the airport land use compatibility plans are adopted.

San Diego County

21670.3. (a) Sections 21670 and 21670.1 do not apply to the County of San Diego. In that county, the San Diego County Regional Airport Authority, as established pursuant to Section 170002, shall be responsible for the preparation, adoption, and amendment of an airport land use compatibility plan for each airport in San Diego County.

(b) The San Diego County Regional Airport Authority shall engage in a public collaborative planning process when preparing and updating an airport land use compatibility plan.

Intercounty Airports

21670.4. (a) As used in this section, "intercounty airport" means any airport bisected by a county line through its runways, runway protection zones, inner safety zones, inner turning zones, outer safety zones, or sideline safety zones, as defined by the department's Airport Land Use Planning Handbook and referenced in the airport land use compatibility plan formulated under Section 21675.

(b) It is the purpose of this section to provide the opportunity to establish a separate airport land use commission so that an intercounty airport may be served by a single airport land use planning agency, rather than having to look separately to the airport land use commissions of the affected counties.

(c) In addition to the airport land use commissions created under Section 21670 or the alternatives established under Section 21670.1, for their respective counties, the boards of supervisors and city selection committees for the affected counties, by independent majority vote of each county's two delegations, for any intercounty airport, may do either of the following:

(1) Establish a single separate airport land use commission for that airport. That commission shall consist of seven members to be selected as follows:

(A) One representing the cities in each of the counties, appointed by that county's city selection committee.

(B) One representing each of the counties, appointed by the board of supervisors of each county.

(C) One from each county having expertise in aviation, appointed by a selection committee comprised of the managers of all the public airports within that county.

(D) One representing the general public, appointed by the other six members of the commission.

(2) In accordance with subdivision (a) or (b) of Section 21670.1, designate an existing appropriate entity as that airport's land use commission.

Actions subject to mediation

21670.6. Any action brought in the superior court relating to this article may be subject to a mediation proceeding conducted pursuant to Chapter 9.3 (commencing with Section 66030) of Division 1 of Title 7 of the Government Code.

Airport Owned by a City, District, or County

21671. In any county where there is an airport operated for the general public which is owned by a city or district in another county or by another county, one of the representatives provided by paragraph (1) of subdivision (b) of Section 21670 shall be appointed by the city selection committee of mayors of the cities of the county in which the owner of that airport is located, and one of the representatives provided by paragraph (2) of subdivision (b) of Section 21670 shall be appointed by the board of supervisors of the county in which the owner of that airport is located.

Term of Office

21671.5. (a) Except for the terms of office of the members of the first commission, the term of office of each member shall be four years and until the appointment and qualification of his or her successor. The members of the first commission shall classify themselves by lot so that the term of office of one member is one year, of two members is two years, of two members is three years, and of two members is four years. The body that originally

appointed a member whose term has expired shall appoint his or her successor for a full term of four years. Any member may be removed at any time and without cause by the body appointing that member. The expiration date of the term of office of each member shall be the first Monday in May in the year in which that member's term is to expire. Any vacancy in the membership of the commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant. The chairperson of the commission shall be selected by the members thereof.

(b) Compensation, if any, shall be determined by the board of supervisors.

(c) Staff assistance, including the mailing of notices and the keeping of minutes and necessary quarters, equipment, and supplies shall be provided by the county. The usual and necessary operating expenses of the commission shall be a county charge.

(d) Notwithstanding any other provisions of this article, the commission shall not employ any personnel either as employees or independent contractors without the prior approval of the board of supervisors.

(e) The commission shall meet at the call of the commission chairperson or at the request of the majority of the commission members. A majority of the commission members shall constitute a quorum for the transaction of business. No action shall be taken by the commission except by the recorded vote of a majority of the full membership.

(f) The commission may establish a schedule of fees necessary to comply with this article. Those fees shall be charged to the proponents of actions, regulations, or permits, shall not exceed the estimated reasonable cost of providing the service, and shall be imposed pursuant to Section 66016 of the Government Code. Except as provided in subdivision (g), after June 30, 1991, a commission that has not adopted the airport land use compatibility plan required by Section 21675 shall not charge fees pursuant to this subdivision until the commission adopts the plan.

(g) In any county that has undertaken by contract or otherwise completed airport land use compatibility plans for at least one-half of all public use airports in the county, the commission may continue to charge fees necessary to comply with this article until June 30, 1992, and, if the airport land use compatibility plans are complete by that date, may continue charging fees after June 30, 1992. If the airport land use compatibility plans are not complete by June 30, 1992, the commission shall not charge fees pursuant to subdivision (f) until the commission adopts the land use plans.

Rules and Regulations

21672. Each commission shall adopt rules and regulations with respect to the temporary disqualification of its members from participating in the review or adoption of a proposal because of conflict of interest and with respect to appointment of substitute members in such cases.

Initiation of Proceedings for Creation by Owner of Airport

21673. In any county not having a commission or a body designated to carry out the responsibilities of a commission, any owner of a public airport may initiate proceedings for the creation of a commission by presenting a request to the board of supervisors that a commission be created and showing the need therefor to the satisfaction of the board of supervisors.

Powers and Duties

21674. The commission has the following powers and duties, subject to the limitations upon its jurisdiction set forth in Section 21676:

(a) To assist local agencies in ensuring compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses.

(b) To coordinate planning at the state, regional, and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety, and welfare.

(c) To prepare and adopt an airport land use compatibility plan pursuant to Section 21675.

(d) To review the plans, regulations, and other actions of local agencies and airport operators pursuant to Section 21676.

(e) The powers of the commission shall in no way be construed to give the commission jurisdiction over the operation of any airport.

(f) In order to carry out its responsibilities, the commission may adopt rules and regulations consistent with this article.

Training of Airport Land Use Commission's Staff

21674.5. (a) The Department of Transportation shall develop and implement a program or programs to assist in the training and development of the staff of airport land use commissions, after consulting with airport land use commissions, cities, counties, and other appropriate public entities.

(b) The training and development program or programs are intended to assist the staff of airport land use commissions in addressing high priority needs, and may include, but need not be limited to, the following:

(1) The establishment of a process for the development and adoption of airport land use compatibility plans.

(2) The development of criteria for determining the airport influence area.

(3) The identification of essential elements that should be included in the airport land use compatibility plans.

(4) Appropriate criteria and procedures for reviewing proposed developments and determining whether proposed developments are compatible with the airport use.

(5) Any other organizational, operational, procedural, or technical responsibilities and functions that the department determines to be appropriate to provide to commission staff and for which it determines there is a need for staff training or development.

(c) The department may provide training and development programs for airport land use commission staff pursuant to this section by any means it deems appropriate. Those programs may be presented in any of the following ways:

(1) By offering formal courses or training programs.

(2) By sponsoring or assisting in the organization and sponsorship of conferences, seminars, or other similar events.

(3) By producing and making available written information.

(4) Any other feasible method of providing information and assisting in the training and development of airport land use commission staff.

Airport Land Use Planning Handbook

21674.7. (a) An airport land use commission that formulates, adopts, or amends an airport land use compatibility plan shall be guided by information prepared and updated pursuant to Section 21674.5 and referred to as the Airport Land Use Planning Handbook published by the Division of Aeronautics of the Department of Transportation.

(b) It is the intent of the Legislature to discourage incompatible land uses near existing airports. Therefore, prior to granting permits for the renovation or remodeling of an existing building, structure, or facility, and before the construction of a new building, it is the intent of the Legislature that local agencies shall be guided by the height, use, noise, safety, and density criteria that are compatible with airport operations, as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations, to the extent that the criteria has been incorporated into the plan prepared by a commission pursuant to Section 21675. This subdivision does not limit the jurisdiction of a commission as established by this article. This subdivision does not limit the authority of local agencies to overrule commission actions or recommendations pursuant to Sections 21676, 21676.5, or 21677.

Land Use Plan

21675. (a) Each commission shall formulate an airport land use compatibility plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission's airport land use compatibility plan shall include and shall be based on a long-range master plan or an airport layout plan, as determined by the Division of Aeronautics of the Department of Transportation, that reflects the anticipated growth of the airport during at least the next 20 years. In formulating an airport land use compatibility plan, the commission may develop height restrictions on buildings, specify use of land, and determine building standards, including soundproofing adjacent to airports, within the airport influence area. The airport land use compatibility plan shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year.

(b) The commission shall include, within its airport land use compatibility plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any military airport for all of the purposes specified in subdivision (a). The airport land use compatibility plan shall be consistent with the safety and noise standards in the Air Installation Compatible Use Zone prepared for that military airport. This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.

(c) The airport influence area shall be established by the commission after hearing and consultation with the involved agencies.

(d) The commission shall submit to the Division of Aeronautics of the department one copy of the airport land use compatibility plan and each amendment to the plan.

(e) If an airport land use compatibility plan does not include the matters required to be included pursuant to this article, the Division of Aeronautics of the department shall notify the commission responsible for the plan.

Adoption of Land Use Plan

21675.1. (a) By June 30, 1991, each commission shall adopt the airport land use compatibility plan required pursuant to Section 21675, except that any county that has undertaken by contract or otherwise completed airport land use compatibility plans for at least one-half of all public use airports in the county, shall adopt that airport land use compatibility plan on or before June 30, 1992.

(b) Until a commission adopts an airport land use compatibility plan, a city or county shall first submit all actions, regulations, and permits within the vicinity of a public airport to the commission for review and approval. Before the commission approves or disapproves any actions, regulations, or permits, the commission shall give public notice in the same manner as the city or county is required to give for those actions, regulations, or permits. As used in this section, "vicinity" means land that will be included or reasonably could be included within the airport land use compatibility plan. If the commission has not designated an airport influence area for the airport land use compatibility plan, then "vicinity" means land within two miles of the boundary of a public airport.

(c) The commission may approve an action, regulation, or permit if it finds, based on substantial evidence in the record, all of the following:

(1) The commission is making substantial progress toward the completion of the airport land use compatibility plan.

(2) There is a reasonable probability that the action, regulation, or permit will be consistent with the airport land use compatibility plan being prepared by the commission.

(3) There is little or no probability of substantial detriment to or interference with the future adopted airport land use compatibility plan if the action, regulation, or permit is ultimately inconsistent with the airport land use compatibility plan.

(d) If the commission disapproves an action, regulation, or permit, the commission shall notify the city or county. The city or county may overrule the commission, by a two-thirds vote of its governing body, if it makes specific findings that the proposed action, regulation, or permit is consistent with the purposes of this article, as stated in Section 21670.

(e) If a city or county overrules the commission pursuant to subdivision (d), that action shall not relieve the city or county from further compliance with this article after the commission adopts the airport land use compatibility plan.

(f) If a city or county overrules the commission pursuant to subdivision (d) with respect to a publicly owned airport that the city or county does not operate, the operator of the airport is not liable for damages to property or personal injury resulting from the city's or county's decision to proceed with the action, regulation, or permit.

(g) A commission may adopt rules and regulations that exempt any ministerial permit for single-family dwellings from the requirements of subdivision (b) if it makes the findings required pursuant to subdivision (c) for the proposed rules and regulations, except that the rules and regulations may not exempt either of the following:

(1) More than two single-family dwellings by the same applicant within a subdivision prior to June 30, 1991.

(2) Single-family dwellings in a subdivision where 25 percent or more of the parcels are undeveloped.

Approval or Disapproval of Actions, Regulations, or Permits

21675.2. (a) If a commission fails to act to approve or disapprove any actions, regulations, or permits within 60 days of receiving the request pursuant to Section 21675.1, the applicant or his or her representative may file an action pursuant to Section 1094.5 of the Code of Civil Procedure to compel the commission to act, and the court shall give the proceedings preference over all other actions or proceedings, except previously filed pending matters of the same character.

(b) The action, regulation, or permit shall be deemed approved only if the public notice required by this subdivision has occurred. If the applicant has provided seven days advance notice to the commission of the intent to provide public notice pursuant to this subdivision, then, not earlier than the date of the expiration of the time limit established by Section 21675.1, an applicant may provide the required public notice. If the applicant chooses to provide public notice, that notice shall include a description of the proposed action, regulation, or permit substantially similar to the descriptions which are commonly used in public notices by the commission, the location of any proposed development, the application number, the name and address of the commission, and a statement that the action, regulation, or permit shall be deemed approved if the commission has not acted within 60 days. If the applicant has provided the public notice specified in this subdivision, the time limit for action by the commission shall be extended to 60 days after the public notice is provided. If the applicant provides notice pursuant to this

section, the commission shall refund to the applicant any fees which were collected for providing notice and which were not used for that purpose.

(c) Failure of an applicant to submit complete or adequate information pursuant to Sections 65943 to 65946, inclusive, of the Government Code, may constitute grounds for disapproval of actions, regulations, or permits.

(d) Nothing in this section diminishes the commission's legal responsibility to provide, where applicable, public notice and hearing before acting on an action, regulation, or permit.

Review of Local General Plans

21676. (a) Each local agency whose general plan includes areas covered by an airport land use compatibility plan shall, by July 1, 1983, submit a copy of its plan or specific plans to the airport land use commission. The commission shall determine by August 31, 1983, whether the plan or plans are consistent or inconsistent with the airport land use compatibility plan. If the plan or plans are inconsistent with the airport land use compatibility plan, the local agency shall be notified and that local agency shall have another hearing to reconsider its airport land use compatibility plans. The local agency may propose to overrule the commission after the hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670. At least 45 days prior to the decision to overrule the commission, the local agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the local agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the local agency governing body may act without them. The comments by the division or the commission are advisory to the local agency governing body. The local agency governing body shall include comments from the commission and the division in the final record of any final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.

(b) Prior to the amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the airport land use commission pursuant to Section 21675, the local agency shall first refer the proposed action to the commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The local agency may, after a public hearing, propose to overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670. At least 45 days prior to the decision to overrule the commission, the local agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the local agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the local agency governing body may act without them. The comments by the division or the commission are advisory to the local agency governing body. The local agency governing body shall include comments from the commission and the division in the public record of any final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.

(c) Each public agency owning any airport within the boundaries of an airport land use compatibility plan shall, prior to modification of its airport master plan, refer any proposed change to the airport land use commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The public agency may, after a public hearing, propose to overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670. At least 45 days prior to the decision to overrule the commission, the public agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the public agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the public agency governing body may act without them. The comments by the division or the commission are advisory to the public agency governing body. The public agency governing body shall include comments from the commission and the division in the final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.

(d) Each commission determination pursuant to subdivision (b) or (c) shall be made within 60 days from the date of referral of the proposed action. If a commission fails to make the determination within that period, the proposed action shall be deemed consistent with the airport land use compatibility plan.

Review of Local Plans

21676.5. (a) If the commission finds that a local agency has not revised its general plan or specific plan or overruled the commission by a two-thirds vote of its governing body after making specific findings that the proposed action is

consistent with the purposes of this article as stated in Section 21670, the commission may require that the local agency submit all subsequent actions, regulations, and permits to the commission for review until its general plan or specific plan is revised or the specific findings are made. If, in the determination of the commission, an action, regulation, or permit of the local agency is inconsistent with the airport land use compatibility plan, the local agency shall be notified and that local agency shall hold a hearing to reconsider its plan. The local agency may propose to overrule the commission after the hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article as stated in Section 21670. At least 45 days prior to the decision to overrule the commission, the local agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the local agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the local agency governing body may act without them. The comments by the division or the commission are advisory to the local agency governing body. The local agency governing body shall include comments from the commission and the division in the final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.

(b) Whenever the local agency has revised its general plan or specific plan or has overruled the commission pursuant to subdivision (a), the proposed action of the local agency shall not be subject to further commission review, unless the commission and the local agency agree that individual projects shall be reviewed by the commission.

Marin County Overrule Provisions

21677. Notwithstanding the two-thirds vote required by Section 21676, any public agency in the County of Marin may overrule the Marin County Airport Land Use Commission by a majority vote of its governing body. At least 45 days prior to the decision to overrule the commission, the public agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the public agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the public agency governing body may act without them. The comments by the division or the commission are advisory to the public agency governing body. The public agency governing body shall include comments from the commission and the division in the public record of the final decision to overrule the commission, which may be adopted by a majority vote of the governing body.

Airport Owner's Immunity

21678. With respect to a publicly owned airport that a public agency does not operate, if the public agency pursuant to Section 21676, 21676.5, or 21677 overrules a commission's action or recommendation, the operator of the airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to overrule the commission's action or recommendation.

Court Review

21679. (a) In any county in which there is no airport land use commission or other body designated to assume the responsibilities of an airport land use commission, or in which the commission or other designated body has not adopted an airport land use compatibility plan, an interested party may initiate proceedings in a court of competent jurisdiction to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, that directly affects the use of land within one mile of the boundary of a public airport within the county.

(b) The court may issue an injunction that postpones the effective date of the zoning change, zoning variance, permit, or regulation until the governing body of the local agency that took the action does one of the following:

(1) In the case of an action that is a legislative act, adopts a resolution declaring that the proposed action is consistent with the purposes of this article stated in Section 21670.

(2) In the case of an action that is not a legislative act, adopts a resolution making findings based on substantial evidence in the record that the proposed action is consistent with the purposes of this article stated in Section 21670.

(3) Rescinds the action.

(4) Amends its action to make it consistent with the purposes of this article stated in Section 21670, and complies with either paragraph (1) or (2), whichever is applicable.

(c) The court shall not issue an injunction pursuant to subdivision (b) if the local agency that took the action demonstrates that the general plan and any applicable specific plan of the agency accomplishes the purposes of an airport land use compatibility plan as provided in Section 21675.

(d) An action brought pursuant to subdivision (a) shall be commenced within 30 days of the decision or within the appropriate time periods set by Section 21167 of the Public Resources Code, whichever is longer.

(e) If the governing body of the local agency adopts a resolution pursuant to subdivision (b) with respect to a publicly owned airport that the local agency does not operate, the operator of the airport shall be immune from liability for damages to property or personal injury from the local agency's decision to proceed with the zoning change, zoning variance, permit, or regulation.

(f) As used in this section, "interested party" means any owner of land within two miles of the boundary of the airport or any organization with a demonstrated interest in airport safety and efficiency.

Deferral of Court Review

21679.5. (a) Until June 30, 1991, no action pursuant to Section 21679 to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport, shall be commenced in any county in which the commission or other designated body has not adopted an airport land use compatibility plan, but is making substantial progress toward the completion of the airport land use compatibility plan.

(b) If a commission has been prevented from adopting the airport land use compatibility plan by June 30, 1991, or if the adopted airport land use compatibility plan could not become effective, because of a lawsuit involving the adoption of the airport land use compatibility plan, the June 30, 1991, date in subdivision (a) shall be extended by the period of time during which the lawsuit was pending in a court of competent jurisdiction.

(c) Any action pursuant to Section 21679 commenced prior to January 1, 1990, in a county in which the commission or other designated body has not adopted an airport land use compatibility plan, but is making substantial progress toward the completion of the airport land use compatibility plan, which has not proceeded to final judgment, shall be held in abeyance until June 30, 1991. If the commission or other designated body adopts an airport land use compatibility plan on or before June 30, 1991, the action shall be dismissed. If the commission or other designated body does not adopt an airport land use compatibility plan on or before June 30, 1991, the plaintiff or plaintiffs may proceed with the action.

(d) An action to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport for which an airport land use compatibility plan has not been adopted by June 30, 1991, shall be commenced within 30 days of June 30, 1991, or within 30 days of the decision by the local agency, or within the appropriate time periods set by Section 21167 of the Public Resources Code, whichever date is later.

Article 4. Aeronautics Fund

Continuation; Continuous Appropriation

21680. (a) The Aeronautics Fund is hereby continued in existence as the Aeronautics Account in the State Transportation Fund. The moneys deposited to the credit of the account are continuously appropriated for expenditure by the board and the department as provided in this article.

(b) Any reference in any law or regulation to the Airport Assistance Revolving Fund, the Airport Assistance Fund, or the Aeronautics Fund shall be deemed to refer to the Aeronautics Account in the State Transportation Fund. As used in this article, "fund" shall be deemed to refer to the Aeronautics Account in the State Transportation Fund.

Definitions

21681. As used in this article, the following terms have the following meanings:

(a) "Own and operate" means that the public entity shall own the property in fee simple or by a long-term lease of a minimum of 20 years, unless otherwise approved by the department, and shall maintain dominion and control of the property, except that the public entity may provide by contract with a person for the operation and management of an airport otherwise meeting the requirements of this article. Operations of the airport shall be for, and on behalf of, the public entity. All leases to the public entity of property are required to be approved by the department. A lease of the property by the public entity to an agent or agency other than to a public entity does not meet the criteria for participation in airport assistance funds.

(b) "Matching funds" means money that is provided by the public entity and does not consist of funds previously received from state or federal agencies or public entity funds previously used to match federal or state funds. This definition shall be retroactive to July 1, 1967.

(c) "General aviation" means all aviation except air carrier and military aviation.

(d) "Public entity" means any city, county, airport district, airport authority, port district, port authority, public district, public authority, political subdivision, airport land use commission, community services district, or public corporation and the University of California.

(e) "Public agency" means the various agencies of the State of California and the federal government.

(f) "Airport and aviation purposes" means expenditures of a capital improvement nature, including the repair or replacement of a capital improvement, and expenditures for compatible land use planning in the area surrounding an airport, for any of the following purposes:

(1) Land acquisition for development and improvement of general aviation aircraft landing facilities.

(2) Grading and drainage necessary for the construction or reconstruction of runways or taxiways.

(3) Construction or reconstruction of runways or taxiways.

(4) Acquisition of "runway protection zones" as defined in Federal Aviation Administration Advisory Circular 150/1500-13.

(5) Acquisition of easements through, or other interests in, airspace as may be reasonably required for safeguarding aircraft operations in the vicinity of an aircraft landing facility.

(6) Removal of natural obstructions from runway protection zones.

(7) Installation of "segmented circle airport marker systems" as defined in current regulations of the Federal Aviation Administration.

(8) Installation of runway, taxiway, boundary, or obstruction lights, together with directly related electrical equipment.

(9) Installation of minimum security fencing around the perimeter of an aircraft landing facility.

(10) Grading and drainage necessary to provide for parking of transient general aviation aircraft.

(11) Construction or reconstruction of transient general aviation aircraft parking areas.

(12) Servicing of revenue or general obligation bonds issued to finance capital improvements for airport and aviation purposes.

(13) Air navigational facilities.

(14) Engineering and preliminary engineering related directly to a project funded under this article.

(15) Other capital improvements as may be designated in rules and regulations adopted by the department.

(16) Activities of an airport land use commission in connection with the preparation of a new or updated airport land use compatibility plan pursuant to Section 21675. Expenditures that cannot be clearly identified as capital improvements shall be submitted to the department for consideration and approval.

(17) Airport master plans and airport layout plans.

(g) "Operation and maintenance" means expenditures for wages or salaries, utilities, service vehicles, and all other noncapital expenditures that are included in insurance, professional services, supplies, construction equipment, upkeep and landscaping, and other items of expenditure designated as "operation and maintenance" in rules and regulations adopted by the department.

(h) "Enplanement" means the boarding of an aircraft by a revenue passenger, including an original, stopover, or transfer boarding of the aircraft. For purposes of this subdivision, a stopover is a deliberate and intentional interruption of a journey by a passenger scheduled to exceed four hours in the case of an intrastate or interstate passenger or not to exceed 24 hours in the case of an international passenger at a point between the point of departure and the point of destination, and a transfer is an occurrence at an intermediate point in an itinerary whereby a passenger or shipment changes from a flight of one carrier to another flight either of the same or a different carrier with or without a stopover.

Payments from Fund

21682. (a) The department shall establish individual revolving fund subaccounts for eligible airports in the Aeronautics Account in the State Transportation Fund. Money payable under this section shall be credited to individual airport subaccounts annually, and may be accumulated for a maximum period of five years.

(b) The department shall, subject to Section 21684, credit from the Aeronautics Account to each public entity owning and operating an airport or airports under a valid permit issued by the department for every airport which has not been designated by the Federal Aviation Administration as (1) a reliever airport, as defined in Section 503 (a) (19) of the federal Airport and Airway Improvement Act of 1982, as amended, or (2) a commercial service airport, as defined in Section 503 (a) (5) of the federal Airport and Airway Improvement Act of 1982, as amended, the sum of ten thousand dollars ($10,000) annually for each qualifying airport. These funds shall be paid to public entities upon request for expenditure on preapproved eligible projects. Eligible public entities may submit applications for the withdrawal of credited funds for expenditure on proposed projects in letter form to the department for review and approval. Projects identified shall be for airport and aviation purposes and operation and maintenance purposes. No payment made under this section is transferable, but shall be expended only upon the airport for which the payment is made, unless the department authorizes a payment to be transferred for expenditure

on another airport owned or operated by the public entity. The department may establish any accounting systems it deems necessary to provide for the cumulation and expenditure of funds under this subdivision.

(c) If, in any year, there is insufficient money in the Aeronautics Account to make the credits specified in subdivision (b), the department shall, subject to Section 21684, credit to each public entity subaccount an amount which is equal to the total amount of money in the Aeronautics Account multiplied by a percentage equivalent to the proportion which the airport or airports of the public entity for which credit is required to be made pursuant to subdivision (b) bear to the total number of airports for which credit is required to be made pursuant to subdivision (b).

(d) No payment shall be made under this section to any public entity for any airport on which general or commercial aviation activities are substantially restricted if the airport is licensed to conduct these activities by the department. The department shall determine whether or not general or commercial aviation activities are restricted.

(e) The department shall adopt rules and regulations and establish procedures to effect prompt payment to public entities for eligible airport projects from money credited pursuant to this section.

Payment of Aviation Share of Comprehensive Transportation Planning Costs

21682.5. The department shall pay, from the Aeronautics Account to the Transportation Planning and Development Account in the State Transportation Fund, a sum equal to the pro rata share of the comprehensive transportation duties attributable to aviation planning and research, as determined by the Director of Transportation.

Use of Balance

21683. Any public entity may apply to the department each year for the allocation of funds for the acquisition or development of airports. The commission may, pursuant to rules and regulations promulgated by the department, make an allocation to the public entity if it determines that the proposed acquisition or development is feasible and in accordance with the policies and standards established by the department. The department shall make recommendations to the commission on all applications. Such allocations shall be represented as subventions in the department budget in accordance with Section 21206.

No moneys paid under this section shall be expended for operation and maintenance. No payment shall be made under this section to any public entity for any airport on which general or commercial aviation activities are substantially restricted if the airport is licensed to conduct such activities by the department. The department shall determine whether or not general or commercial aviation activities are restricted.

Use of Funds for Local Match for Federal Airport Improvement Program Grants

21683.1. (a) At the discretion of the commission, any balance remaining in the Aeronautics Account, after the payments made under Section 21682, may be used to provide a portion of the local match for federal Airport Improvement Program grants. Matching shall be provided only for grants at general aviation airports, or at airports that have been designated by the Federal Aviation Administration as reliever airports, as defined in Section 503(a)(19) of the federal Airport and Airway Improvement Act of 1982, as amended.

(b) Funds shall not be allocated by the commission until the federal grant offer is accepted by the public entity. Upon allocation by the commission, the department may pay a public entity an amount equal to 5 percent of the amount of a federal Airport Improvement Program grant. These funds are excluded from the requirements of Section 21684.

(c) Funds shall not be allocated by the commission until the federal grant offer is accepted by the public entity. Upon allocation by the commission, the department may, until December 31, 2006, pay a public entity an amount equal to the 10 percent local match required for a federal Airport Improvement Program grant for security projects at small general aviation airports. For purposes of this section, a "security project" means a project to install or maintain fencing, gates, security lighting, access controls systems, and surveillance systems. For purposes of this section a "small general aviation airport" means an airport with fewer than 80,000 annual landings and take-offs of aircraft.

Use of Balance in Aeronautics Account

21683.2. Any balance remaining in the Aeronautics Account, after the payments made under Section 21682 and Section 21683.1, shall be used at the discretion of the commission for airport and aviation purposes subject to the provisions of Section 21684.

Special Aviation Fund

21684. (a) No payment shall be made to a public entity pursuant to this article unless the public entity has established a special aviation fund in which all payments received by a public entity under this article shall be

deposited for expenditure solely for airport and aviation purposes. No payment shall be made to a public entity for a project pursuant to Section 21683.2 unless the public entity deposits in its special aviation fund a sum from other than state or federal sources, established annually by the commission at not less than 10 percent nor more than 50 percent of the nonfederal portion of the project.

Notwithstanding the provisions of this subdivision requiring matching funds, the department shall pay to each public entity owning and operating an airport or airports the annual amount that is in accordance with Section 21682.

(b) No payment shall be made for any airport to the University of California pursuant to this article unless the university has established a special aviation fund in which all payments received by the university under this article shall be deposited for expenditure solely for airport and aviation purposes. No payment shall be made for any airport to the University of California pursuant to Section 21683.2 unless the university deposits in its special aviation fund each year, for expenditure solely for airport and aviation purposes, a sum from nonstate or nonfederal funds based on the rate established annually by the commission pursuant to subdivision (a), or unless a city located within 10 miles of the airport or the county within which the airport is located pays to the university a sum based on the rate established annually by the commission pursuant to subdivision (a). However, any sums so deposited by the university or paid by the city or county may be considered jointly as meeting the requirements of this section. The payments received from a city or county pursuant to these sections are to be expended solely for the airport and for aviation purposes related to such airport. All payments received by the university shall be deposited in its special aviation fund.

Use of Balance of Fund to Purchase Emergency Search and Rescue Equipment

21684.1. Notwithstanding the provisions of Section 21683, any balance remaining in the fund after the payments made under Section 21682 may be used by the department to purchase emergency search and rescue equipment and to make such equipment available for use by recognized search and rescue groups. The equipment shall remain the property of the department. No more than eight thousand dollars ($8,000) shall be expended pursuant to this section for the purchase of emergency search and rescue equipment.

Allocation of Funds for Construction of Airports

21684.5. Notwithstanding the provisions of this article inasmuch as they require matching funds the department may allocate funds to public agencies for the construction of airports.

Allocation of Funds to Counties

21684.6. Notwithstanding the provisions of this article, inasmuch as they require matching funds, the department may allocate funds to a county or a city for the construction of recreational airports or reliever training airstrips in accordance with regulations of the department if the county or city supplies the land and maintains and operates all facilities of such airport or airstrip.

Special Aviation Fund; Payments to State College or University Branch

21685. Any public entity may pay any part of the money in its special aviation fund to a state college or branch of the University of California located within its boundaries to be expended for the same purposes as the public entity may expend such money. Any money paid to a state college or branch of the University of California shall be expended within the public entity paying the money.

Audit of Books and Records of Public Agencies

21686. It shall be the duty of any public entity receiving payments or allocations under this article to periodically audit its books and records as deemed necessary by the department for the purpose of determining that the money received has been expended for the purposes and under the conditions authorized by this article.

Airports No Longer Open to the General Public; Payments to State

21687. (a) (1) If an airport, for which payments have been made from the Aeronautics Account, ceases to be open to the general public for more than one year, the public entity to which those payments were made shall pay to the state funds equal to the amount computed by the department pursuant to paragraph (2), and those funds shall be deposited in the Aeronautics Account.

(2) (A) The department shall compute an amount equal to the total of all payments made for the airport from the Aeronautics Account during the preceding 20 years, less 5 percent of the amount of a particular payment multiplied by the number of years since the payment was made, or the unused balance, whichever is greater.

(B) The computation described in subparagraph (A) shall not include any payment the department made pursuant to Section 21682, if, upon the request of the public entity that owns and operates the airport, the department determines that the airport is not necessary to the system of public airports in this state. When making this determination, the department shall consider all of the following factors:

(i) Whether the airport is approved for night operations.

(ii) Whether the airport has an approved instrument approach procedure.

(iii) How many aircraft are based at the airport.

(iv) Whether the airport is used for airborne fire attacks.

(v) Whether the airport is used for emergency medical transportation.

(vi) What services the airport provides for the community.

(vii) The size of the community that is served by the airport.

(viii) Whether any aviation or transportation planning agency has designated the airport as having a significant role.

(ix) Whether a suitable, public-use airport is situated within a reasonable distance.

(x) Whether closure of the airport will have a negative effect on other airports.

(xi) Whether the airport is used for law enforcement purposes.

(b) This section does not apply to either of the following:

(1) An airport that is replaced by a comparable facility, as determined by the department, within a period of one year.

(2) An airport for which the department, on or after January 1, 1981, has suspended the airport permit and for which payments made pursuant to this article are being expended to correct the deficiency or condition that resulted in the suspension of the airport's permit.

Limitation on Expenditure of Funds

21688. (a) No payments shall be made from the Aeronautics Account for expenditure on any airport or for the acquisition or development of any airport, if the department determines that the height restrictions around the airport are inadequate to provide reasonable assurance that the landing and taking off of aircraft at the airport will be conducted without obstruction or will be otherwise free from hazards.

Height restrictions shall be considered adequate if as a minimum they meet the obstruction standards of subchapter C of Part 77 of the Federal Aviation Regulations of the Federal Aviation Administration, as these standards apply to civil airport imaginary surfaces related to runways.

The airport-owning entity shall have sufficient control over obstructions in the airspace in the vicinity of the airport to assure that height restrictions can be maintained. This control may be in the form of ownership of any land from which obstructions may rise, air navigation easements to guarantee maintenance of restrictions, or height limitation or land use zoning which will prohibit obstructions which would violate the obstruction standards.

(b) This section shall not prevent or prohibit the department from assisting any public agency or public entity in planning airport development or in planning the zoning needs around an airport.

Article 4.5. Airport Facilities and Concessions

Legislative Findings

21690.5. The Legislature finds and declares as follows:

(a) The proper operation of California's publicly owned or operated airports is essential to the welfare of the state and its people.

(b) California's publicly owned or operated airports establish a vital transportation link between the state and the economic systems of the nation and the world, and enable the state to enjoy and provide the benefits of an international tourist and commercial center.

(c) The economic validity and stability of California's publicly owned or operated airports is, consequently, a matter of statewide importance.

(d) The policy of this state is to promote the development of commerce and tourism to the end of securing to the people of this state the benefits of these activities conducted in the state.

(e) Therefore, since the proper operation of the state's publicly owned or operated airports is essential to the welfare of the state and its people, the Legislature recognizes and affirms such operation as a governmental function to be discharged in furtherance of the policy of securing the benefits of commerce and tourism for the state and its people.

Scope of Law

21690.6. The provisions of this article shall apply to any airport owned or operated by a political subdivision, including a charter city.

Promotion of Commerce and Tourism

21690.7. The governing bodies of publicly owned or operated airports shall manage airport facilities and grant airport concessions in furtherance of the development of commerce and tourism in or affecting the state. In managing facilities and granting concessions for services to the public, such airport governing bodies shall promote the development of commerce and tourism by (a) securing a diversity of airport services; (b) avoiding wasteful duplication of such services; (c) securing to the users of airports safe, courteous, and quality service; (d) limiting or prohibiting business competition which is destructive of the ends of promoting commerce and tourism in the state; (e) allocating limited airport resources to promote such ends; and (f) fostering California's image as a commercial and tourist center.

Exclusive Agreements

21690.8. The Legislature recognizes that to further the policies and fulfill the objectives stated in this article, it is often necessary that publicly owned or operated airports enter into exclusive or limited agreements with a single operator or a limited number of operators. The governing bodies of publicly owned or operated airports shall grant exclusive or limited agreements to displace business competition with regulation or monopoly service whenever the governing body determines, in consideration of the factors set forth in Section 21690.9, that such agreements are necessary to further the policies and to fulfill the objectives stated in this article. The Legislature contemplates that publicly owned or operated airports will grant exclusive or limited agreements in furtherance of the policy of this state to displace business competition by exclusive or limited agreements to fulfill these policies and objectives.

Determination of Necessity

21690.9. Before entering any exclusive or limited agreement in connection with the management of any airport facility or the operation of any airport concession, the governing body of a publicly owned or operated airport shall, under authority hereby expressly delegated by the state, determine the necessity for an exclusive or limited agreement. The governing body shall consider the following factors to determine the necessity for an exclusive or limited agreement to further the policies and objectives stated in this article:

(a) Public safety.
(b) Public convenience.
(c) Quality of service.
(d) The need to conserve airport space.
(e) The need to avoid duplication of services.
(f) The impact on the environment or facilities of the airport as an essential commercial and tourist service center.
(g) The need to avoid destructive competition which may impair the quality of airport services to the public, lead to uncertainty, disruption, or instability in the rendering of such services, or detract from the state's attractiveness as a center of tourism and commerce.

In making its determination, the airport operator shall not be required to take evidence or to make findings of fact.

Compliance with Other States

21690.10. Nothing in this article shall excuse any local agency from complying with applicable state or local requirements for competitive bidding or public hearings which may be required prior to the awarding or entering into of any bid, agreement or lease.

Article 5. Los Angeles International Airport Relocation and Development

Legislative Findings

21690.20. The Legislature hereby finds that Los Angeles International Airport is one of the important air terminals of the world, making a significant contribution daily to the economy of California.

Since 1959, jet air traffic at the airport has increased from 80 flights daily to nearly 1,000 daily. This increasing air traffic and necessary expansion of airport facilities has had an adverse affect on the residents of the surrounding areas. Expansion and development has and is expected to require the acquisition of many homes in the vicinity of the airport and has rendered other homes in areas subjected to aircraft noise nearly uninhabitable. Property owners in the vicinity of the airport are either unable to sell their homes or able to sell only at depressed market prices.

Under present laws, the Department of Airports of the City of Los Angeles is required only to pay homeowners "fair market value" for their property. With increasing property costs and current high interest rates, it is impossible for a homeowner to purchase a comparable dwelling in a comparable residential area for amounts now being paid as "fair market value."

The City Council of the City of Los Angeles has initiated this legislation to enable the city to (1) assist displaced homeowners to relocate in comparable residential areas and housing, (2) provide, where available, replacement housing acceptable to affected homeowners, and (3) purchase affected homes to compensate homeowners for the depressed values of their property.

There is precedent for the provision of replacement housing, where available, in Chapter 953 of the Statutes of 1968, by which the Department of Public Works is authorized to provide relocation assistance and replacement housing to certain individuals and families displaced because of construction of certain state highway projects. Further, there is precedent for relocation payments to compensate certain homeowners in Public Law 90-495 and in Chapter 3 of the Statutes of 1968, First Extraordinary Session.

Definitions

21690.21. Unless the context otherwise requires, the following definitions shall govern the construction of this article:

(a) "Airport" means Los Angeles International Airport.

(b) "Department" means the Department of Airports, City of Los Angeles.

(c) "Mayor" means the Mayor of the City of Los Angeles.

(d) "Board" means the Los Angeles International Airport Property Acquisition Board.

Authority of Department

21690.22. Notwithstanding any other provision of law, the department is authorized to:

(a) Assist homeowners displaced by the expansion of the airport to relocate in comparable residential areas and housing.

(b) Provide, where available, replacement housing acceptable to affected homeowners.

(c) Purchase affected property to compensate homeowners for the depressed values of their property as a result of the proximity of the airport to enable such homeowners to purchase comparable housing under more normal market conditions.

Expenditure of Available Funds

21690.23. The department is authorized to expend any available funds, including state and federal funds, for the purpose of purchasing homes from homeowners displaced by the expansion of the airport and relocating or providing suitable replacement housing for such persons, notwithstanding any other provision of law.

Petition for Payment of Additional Compensation

21690.24. Upon establishment of a program for additional payments to homeowners by the department pursuant to this article, the affected property owners may petition as provided in Section 21690.26 for the payment of additional compensation for the depressed value of the affected property resulting from the presence and operation of the airport, provided that such owner has not previously recovered any sums in the nature of an inverse condemnation award by reason of the presence and operation of the airport.

Appointment of Board

21690.25. Upon establishment by the department of a program for such additional compensation, the mayor shall appoint, subject to the approval of the city council, five persons who shall constitute the board.

Tenure of Board; Quorum; Duties

21690.26. The members of the board shall serve at the pleasure of the mayor, and any action taken by a majority thereof shall constitute the action of the board. The board shall hear petitions from homeowners dislocated by reason of airport expansion and operations for amounts to be paid in excess of market value of affected property. The board shall establish procedures for the conduct of its business.

Payment of Awards

21690.27. The Board of Airport Commissioners of the City of Los Angeles is directed to pay any sum awarded by the board pursuant to Section 21690.26.

Persons Eligible; Time for Filing Petition; Time for Payment

21690.28. The provisions of this article are available only to persons who own residential property which has been or is being condemned or sold for airport purposes. Petitions for additional compensation may be filed with the board at the same time that condemnation proceedings or acquisition negotiations are initiated; and the board shall pay any sum awarded pursuant to Section 21690.26 within 60 days after condemnation or other acquisition proceedings are completed.

Partial Invalidity

21690.29. If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Chapter 5. Proceedings

Investigation, Inquiries, and Hearings

21692. The department, any member, the director, or any officer or employee of the department designated by it may hold investigations, inquiries, and hearings concerning matters covered by this part and the rules and orders of the department, and concerning accidents in aeronautics within this state. Hearings shall be open to the public and, except as provided in Section 21691, shall be held upon such call or notice as the department deems advisable. Each member of the department, the director, and every officer or employee of the department designated by it to hold any inquiry, investigation, or hearing may administer oaths and affirmations, certify to all official acts, issue subpoenas, and order the attendance and testimony of witnesses and the production of papers, books, and documents. If any person fails to comply with any subpoenas or order issued under the authority of this section, the department or its authorized representative may invoke the aid of any court of general jurisdiction. The court may order such person to comply with the requirements of the subpoena or order to give evidence touching the matter in question. Failure to obey the order of the court may be punished by the court as contempt.

Reports of Investigations and Hearings

21693. In order to facilitate the making of investigations by the department in the interest of public safety and promotion of aeronautics, the reports of investigations or hearings or any part of the reports, shall not be admitted in evidence or used for any purpose in any suit, action, or proceeding growing out of any matter referred to in the investigation, hearing, or report, except in case of any suit, action, or proceeding, civil or criminal, instituted by or in behalf of the department or in the name of the state under the provisions of this part or other laws of the state relating to aeronautics. Any member of the department, the director, or any officer or employee of the department shall not be required to testify to any facts ascertained in, or information gained by reason of, his official capacity, nor be required to testify as an expert witness in any suit, action, or proceeding involving any aircraft. Subject to these limitations, the department may make available to appropriate federal, state, and political subdivision agencies information and material developed in the course of its investigations and hearings.

Orders of Department; Contents; Service; Review

21694. Every order of the department requiring performance of certain acts or compliance with certain requirements shall set forth the reasons, state the acts to be done or requirements to be met, and be served upon the person affected either by registered mail or in person. Any person aggrieved by an order of the department may have the action of the department reviewed by the courts in the manner provided by law.

Chapter 6. Airport Planning

California Aviation System Plan

21701. The division, in consultation with transportation planning agencies as designated by the director pursuant to Section 29532 of the Government Code, shall prepare a California Aviation System Plan, which shall include, but not be limited to, every California airport designated in the federal National Plan of Integrated Airport Systems and any other existing or proposed public use airports, as designated by the division.

Elements in Plan

21702. The California Aviation System Plan shall include, but not be limited to, all of the following elements:

(a) A background and introduction element, which summarizes aviation activity in California and establishes goals and objectives for aviation improvement.

(b) An air transportation issues element, which addresses issues such as aviation safety, airport noise, airport ground access, transportation systems management, airport financing, airport land use compatibility planning, and institutional relationships.

(c) A regional plan alternative element, which consists of the aviation elements of the regional transportation plans prepared by each transportation planning agency. This element shall include consideration of regional air transportation matters relating to growth, capacity needs, county activity, airport activity, and systemwide activity in order to evaluate adequately the overall impacts of regional activity in relation to the statewide air transportation system. This element shall propose general aviation and air carrier public use airports for consideration by the commission for funding eligibility under this chapter.

(d) A state plan alternative element, which includes consideration of statewide air transportation matters relating to growth, including, but not limited to, county activity, airport activity, and systemwide activity in order to evaluate adequately the state aviation system and to designate an adequate number of general aviation and air carrier public use airports for state funding in order to provide a level of air service and safety acceptable to the public.

(e) A comparative element, which compares and contrasts the regional plan alternative with the state plan alternative, including, but not limited to, airport noise, air quality, toxic waste cleanup, energy, economics, and passengers served.

(f) A 10-year capital improvement plan for each airport, based on each airport's adopted master plan if the airport has a master plan, approved by the applicable transportation planning agency, and submitted to the division for inclusion in the California Aviation System Plan.

(g) Any other element deemed appropriate by the division and the transportation planning agencies.

(h) A summary and conclusion element, which presents the findings and recommended course of action.

Submittal to Commission

21703. The division shall submit the California Aviation System Plan to the commission.

Periodic Revision of Plan

21704. The division, in consultation with the transportation planning agencies, shall biennially revise the capital improvement plan developed pursuant to subdivision (f) of Section 21702, and the division shall submit the revised capital improvement plan to the commission. The division, in consultation with the transportation planning agencies, shall revise all other elements of the California Aviation System Plan every five years, and shall submit the revised system plan to the commission.

Adoption of Revisions by Commission

21705. The commission shall review, hold public hearings on, and, based on these hearings, adopt or revise and adopt as revised, the California Aviation System Plan and its subsequent revisions.

Project Funding Applications

21706. The division shall require that every project submitted for funding from the Aeronautics Account in the State Transportation Fund shall be consistent with the California Aviation System Plan. Applications for funding shall be processed in accordance with the procedures adopted by the commission. In determining the priorities of projects, the division shall, and the transportation planning agencies may, utilize the methodology adopted by the commission for determining the priorities of projects that the commission selects for allocation pursuant to Sections 21683 and 21683.2 and the procedures adopted by the commission.

Federal Grant Funds

21707. Any funds necessary to carry out Sections 21701, 21702, and 21704 shall be obtained from federal grants, except for updates of the capital improvement plan and policy elements of the California Aviation System Plan, which may be funded from nonfederal sources.

areas, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

Subpart C—Prohibited Areas

§ 73.81 Applicability.

This subpart designates prohibited areas and prescribes limitations on the operation of aircraft therein.

§ 73.83 Restrictions.

No person may operate an aircraft within a prohibited area unless authorization has been granted by the using agency.

§ 73.85 Using agency.

For the purpose of this subpart, the using agency is the agency, organization or military command that established the requirements for the prohibited area.

EDITORIAL NOTE: Sections 73.87 through 73.99 are reserved for descriptions of designated prohibited areas. For FEDERAL REGISTER citations affecting these prohibited areas, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

PART 75 [RESERVED]

PART 77—SAFE, EFFICIENT USE, AND PRESERVATION OF THE NAVIGABLE AIRSPACE

Subpart A—General

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Subpart A—General

§ 77.1 Purpose.

This part establishes:

(a) The requirements to provide notice to the FAA of certain proposed construction, or the alteration of existing structures;

(b) The standards used to determine obstructions to air navigation, and navigational and communication facilities;

(c) The process for aeronautical studies of obstructions to air navigation or navigational facilities to determine the effect on the safe and efficient use of navigable airspace, air navigation facilities or equipment; and

(d) The process to petition the FAA for discretionary review of determinations, revisions, and extensions of determinations.

§ 77.3 Definitions.

For the purpose of this part:

Non-precision instrument runway means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service military airport planning document.

Planned or proposed airport is an airport that is the subject of at least one of the following documents received by the FAA:

(1) Airport proposals submitted under 14 CFR part 157.

(2) Airport Improvement Program requests for aid.

(3) Notices of existing airports where prior notice of the airport construction or alteration was not provided as required by 14 CFR part 157.

(4) Airport layout plans.

(5) DOD proposals for airports used only by the U.S. Armed Forces.

(6) DOD proposals on joint-use (civil-military) airports.

(7) Completed airport site selection feasibility study.

Precision instrument runway means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated by an FAA-approved airport layout plan; a military service approved military airport layout plan; any other FAA planning document, or military service military airport planning document.

Public use airport is an airport available for use by the general public without a requirement for prior approval of the airport owner or operator.

Seaplane base is considered to be an airport only if its sea lanes are outlined by visual markers.

Utility runway means a runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

Visual runway means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA-approved airport layout plan, a military service approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

Subpart B—Notice Requirements

§ 77.5 Applicability.

(a) If you propose any construction or alteration described in §77.9, you must provide adequate notice to the FAA of that construction or alteration.

(b) If requested by the FAA, you must also file supplemental notice before the start date and upon completion of certain construction or alterations that are described in §77.9.

(c) Notice received by the FAA under this subpart is used to:

(1) Evaluate the effect of the proposed construction or alteration on safety in air commerce and the efficient use and preservation of the navigable airspace and of airport traffic capacity at public use airports;

(2) Determine whether the effect of proposed construction or alteration is a hazard to air navigation;

(3) Determine appropriate marking and lighting recommendations, using FAA Advisory Circular 70/7460–1, Obstruction Marking and Lighting;

(4) Determine other appropriate measures to be applied for continued safety of air navigation; and

(5) Notify the aviation community of the construction or alteration of objects that affect the navigable airspace, including the revision of charts, when necessary.

§ 77.7 Form and time of notice.

(a) If you are required to file notice under §77.9, you must submit to the FAA a completed FAA Form 7460–1, Notice of Proposed Construction or Alteration. FAA Form 7460–1 is available at FAA regional offices and on the Internet.

(b) You must submit this form at least 45 days before the start date of the proposed construction or alteration or the date an application for a construction permit is filed, whichever is earliest.

(c) If you propose construction or alteration that is also subject to the licensing requirements of the Federal Communications Commission (FCC), you must submit notice to the FAA on or before the date that the application is filed with the FCC.

(d) If you propose construction or alteration to an existing structure that

exceeds 2,000 ft. in height above ground level (AGL), the FAA presumes it to be a hazard to air navigation that results in an inefficient use of airspace. You must include details explaining both why the proposal would not constitute a hazard to air navigation and why it would not cause an inefficient use of airspace.

(e) The 45-day advance notice requirement is waived if immediate construction or alteration is required because of an emergency involving essential public services, public health, or public safety. You may provide notice to the FAA by any available, expeditious means. You must file a completed FAA Form 7460–1 within 5 days of the initial notice to the FAA. Outside normal business hours, the nearest flight service station will accept emergency notices.

§77.9 Construction or alteration requiring notice.

If requested by the FAA, or if you propose any of the following types of construction or alteration, you must file notice with the FAA of:

(a) Any construction or alteration that is more than 200 ft. AGL at its site.

(b) Any construction or alteration that exceeds an imaginary surface extending outward and upward at any of the following slopes:

(1) 100 to 1 for a horizontal distance of 20,000 ft. from the nearest point of the nearest runway of each airport described in paragraph (d) of this section with its longest runway more than 3,200 ft. in actual length, excluding heliports.

(2) 50 to 1 for a horizontal distance of 10,000 ft. from the nearest point of the nearest runway of each airport described in paragraph (d) of this section with its longest runway no more than 3,200 ft. in actual length, excluding heliports.

(3) 25 to 1 for a horizontal distance of 5,000 ft. from the nearest point of the nearest landing and takeoff area of each heliport described in paragraph (d) of this section.

(c) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it, would exceed a standard of paragraph (a) or (b) of this section.

(d) Any construction or alteration on any of the following airports and heliports:

(1) A public use airport listed in the Airport/Facility Directory, Alaska Supplement, or Pacific Chart Supplement of the U.S. Government Flight Information Publications;

(2) A military airport under construction, or an airport under construction that will be available for public use;

(3) An airport operated by a Federal agency or the DOD.

(4) An airport or heliport with at least one FAA-approved instrument approach procedure.

(e) You do not need to file notice for construction or alteration of:

(1) Any object that will be shielded by existing structures of a permanent and substantial nature or by natural terrain or topographic features of equal or greater height, and will be located in the congested area of a city, town, or settlement where the shielded structure will not adversely affect safety in air navigation;

(2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device meeting FAA-approved siting criteria or an appropriate military service siting criteria on military airports, the location and height of which are fixed by its functional purpose;

(3) Any construction or alteration for which notice is required by any other FAA regulation.

(4) Any antenna structure of 20 feet or less in height, except one that would increase the height of another antenna structure.

§ 77.11 Supplemental notice requirements.

(a) You must file supplemental notice with the FAA when:

(1) The construction or alteration is more than 200 feet in height AGL at its site; or

(2) Requested by the FAA.

(b) You must file supplemental notice on a prescribed FAA form to be received within the time limits specified in the FAA determination. If no time limit has been specified, you must submit supplemental notice of construction to the FAA within 5 days after the structure reaches its greatest height.

(c) If you abandon a construction or alteration proposal that requires supplemental notice, you must submit notice to the FAA within 5 days after the project is abandoned.

(d) If the construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

Subpart C—Standards for Determining Obstructions to Air Navigation or Navigational Aids or Facilities

§ 77.13 Applicability.

This subpart describes the standards used for determining obstructions to air navigation, navigational aids, or navigational facilities. These standards apply to the following:

(a) Any object of natural growth, terrain, or permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus.

(b) The alteration of any permanent or temporary existing structure by a change in its height, including appurtenances, or lateral dimensions, including equipment or material used therein.

§ 77.15 Scope.

(a) This subpart describes standards used to determine obstructions to air navigation that may affect the safe and efficient use of navigable airspace and the operation of planned or existing air navigation and communication facilities. Such facilities include air navigation aids, communication equipment, airports, Federal airways, instrument approach or departure procedures, and approved off-airway routes.

(b) Objects that are considered obstructions under the standards described in this subpart are presumed hazards to air navigation unless further aeronautical study concludes that the object is not a hazard. Once further aeronautical study has been initiated, the FAA will use the standards in this subpart, along with FAA policy and guidance material, to determine if the object is a hazard to air navigation.

(c) The FAA will apply these standards with reference to an existing airport facility, and airport proposals received by the FAA, or the appropriate military service, before it issues a final determination.

(d) For airports having defined runways with specially prepared hard surfaces, the primary surface for each runway extends 200 feet beyond each end of the runway. For airports having defined strips or pathways used regularly for aircraft takeoffs and landings, and designated runways, without specially prepared hard surfaces, each end of the primary surface for each such runway shall coincide with the corresponding end of the runway. At airports, excluding seaplane bases, having a defined landing and takeoff area with no defined pathways for aircraft takeoffs and landings, a determination must be made as to which portions of the landing and takeoff area are regularly used as landing and takeoff pathways. Those determined pathways must be considered runways, and an appropriate primary surface as defined in § 77.19 will be considered as longitudinally centered on each such runway. Each end of that primary surface must coincide with the corresponding end of that runway.

(e) The standards in this subpart apply to construction or alteration proposals on an airport (including heliports and seaplane bases with marked lanes) if that airport is one of the following before the issuance of the final determination:

(1) Available for public use and is listed in the Airport/Facility Directory, Supplement Alaska, or Supplement Pacific of the U.S. Government Flight Information Publications; or

(2) A planned or proposed airport or an airport under construction of which the FAA has received actual notice, except DOD airports, where there is a clear indication the airport will be available for public use; or,

(3) An airport operated by a Federal agency or the DOD; or,

(4) An airport that has at least one FAA-approved instrument approach.

§ 77.17 Obstruction standards.

(a) An existing object, including a mobile object, is, and a future object would be an obstruction to air navigation if it is of greater height than any of the following heights or surfaces:

(1) A height of 499 feet AGL at the site of the object.

(2) A height that is 200 feet AGL, or above the established airport elevation, whichever is higher, within 3 nautical miles of the established reference point of an airport, excluding heliports, with its longest runway more than 3,200 feet in actual length, and that height increases in the proportion of 100 feet for each additional nautical mile from the airport up to a maximum of 499 feet.

(3) A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.

(4) A height within an en route obstacle clearance area, including turn and termination areas, of a Federal Airway or approved off-airway route, that would increase the minimum obstacle clearance altitude.

(5) The surface of a takeoff and landing area of an airport or any imaginary surface established under § 77.19, 77.21, or 77.23. However, no part of the takeoff or landing area itself will be considered an obstruction.

(b) Except for traverse ways on or near an airport with an operative ground traffic control service furnished by an airport traffic control tower or by the airport management and coordinated with the air traffic control service, the standards of paragraph (a) of this section apply to traverse ways used or to be used for the passage of mobile objects only after the heights of these traverse ways are increased by:

(1) 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance.

(2) 15 feet for any other public roadway.

(3) 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road.

(4) 23 feet for a railroad.

(5) For a waterway or any other traverse way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

§ 77.19 Civil airport imaginary surfaces.

The following civil airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach procedure existing or planned for that runway end.

(a) *Horizontal surface.* A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by SW.inging arcs of a specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

(1) 5,000 feet for all runways designated as utility or visual;

(2) 10,000 feet for all other runways. The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000-foot arc is encompassed by tangents connecting

two adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.

(b) *Conical surface.* A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

(c) *Primary surface.* A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:

(1) 250 feet for utility runways having only visual approaches.

(2) 500 feet for utility runways having non-precision instrument approaches.

(3) For other than utility runways, the width is:

(i) 500 feet for visual runways having only visual approaches.

(ii) 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statue mile.

(iii) 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths of a statute mile, and for precision instrument runways.

(iv) The width of the primary surface of a runway will be that width prescribed in this section for the most precise approach existing or planned for either end of that runway.

(d) *Approach surface.* A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

(1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

(i) 1,250 feet for that end of a utility runway with only visual approaches;

(ii) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;

(iii) 2,000 feet for that end of a utility runway with a non-precision instrument approach;

(iv) 3,500 feet for that end of a non-precision instrument runway other than utility, having visibility minimums greater that three-fourths of a statute mile;

(v) 4,000 feet for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

(vi) 16,000 feet for precision instrument runways.

(2) The approach surface extends for a horizontal distance of:

(i) 5,000 feet at a slope of 20 to 1 for all utility and visual runways;

(ii) 10,000 feet at a slope of 34 to 1 for all non-precision instrument runways other than utility; and

(iii) 10,000 feet at a slope of 50 to 1 with an additional 40,000 feet at a slope of 40 to 1 for all precision instrument runways.

(3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

(e) *Transitional surface.* These surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

§ 77.21 Department of Defense (DOD) airport imaginary surfaces.

(a) *Related to airport reference points.* These surfaces apply to all military airports. For the purposes of this section, a military airport is any airport operated by the DOD.

(1) *Inner horizontal surface.* A plane that is oval in shape at a height of 150 feet above the established airfield elevation. The plane is constructed by scribing an arc with a radius of 7,500 feet about the centerline at the end of each runway and interconnecting these arcs with tangents.

(2) *Conical surface.* A surface extending from the periphery of the inner horizontal surface outward and upward at a slope of 20 to 1 for a horizontal distance of 7,000 feet to a height of 500 feet above the established airfield elevation.

(3) *Outer horizontal surface.* A plane, located 500 feet above the established airfield elevation, extending outward from the outer periphery of the conical surface for a horizontal distance of 30,000 feet.

(b) *Related to runways.* These surfaces apply to all military airports.

(1) *Primary surface.* A surface located on the ground or water longitudinally centered on each runway with the same length as the runway. The width of the primary surface for runways is 2,000 feet. However, at established bases where substantial construction has taken place in accordance with a previous lateral clearance criteria, the 2,000-foot width may be reduced to the former criteria.

(2) *Clear zone surface.* A surface located on the ground or water at each end of the primary surface, with a length of 1,000 feet and the same width as the primary surface.

(3) *Approach clearance surface.* An inclined plane, symmetrical about the runway centerline extended, beginning 200 feet beyond each end of the primary surface at the centerline elevation of the runway end and extending for 50,000 feet. The slope of the approach clearance surface is 50 to 1 along the runway centerline extended until it reaches an elevation of 500 feet above the established airport elevation. It then continues horizontally at this elevation to a point 50,000 feet from the point of beginning. The width of this surface at the runway end is the same as the primary surface, it flares uniformly, and the width at 50,000 is 16,000 feet.

(4) *Transitional surfaces.* These surfaces connect the primary surfaces, the first 200 feet of the clear zone surfaces, and the approach clearance surfaces to the inner horizontal surface, conical surface, outer horizontal surface or other transitional surfaces. The slope of the transitional surface is 7 to 1 outward and upward at right angles to the runway centerline.

§ 77.23 Heliport imaginary surfaces.

(a) *Primary surface.* The area of the primary surface coincides in size and shape with the designated take-off and landing area. This surface is a horizontal plane at the elevation of the established heliport elevation.

(b) *Approach surface.* The approach surface begins at each end of the heliport primary surface with the same width as the primary surface, and extends outward and upward for a horizontal distance of 4,000 feet where its width is 500 feet. The slope of the approach surface is 8 to 1 for civil heliports and 10 to 1 for military heliports.

(c) *Transitional surfaces.* These surfaces extend outward and upward from the lateral boundaries of the primary surface and from the approach surfaces at a slope of 2 to 1 for a distance of 250 feet measured horizontally from the centerline of the primary and approach surfaces.

Subpart D—Aeronautical Studies and Determinations

§ 77.25 Applicability.

(a) This subpart applies to any aeronautical study of a proposed construction or alteration for which notice to the FAA is required under § 77.9.

(b) The purpose of an aeronautical study is to determine whether the aeronautical effects of the specific proposal and, where appropriate, the cumulative impact resulting from the proposed construction or alteration when combined with the effects of other existing or proposed structures, would constitute a hazard to air navigation.

(c) The obstruction standards in subpart C of this part are supplemented by other manuals and directives used in determining the effect on the navigable airspace of a proposed construction or alteration. When the FAA needs additional information, it may circulate a

study to interested parties for comment.

§ 77.27 Initiation of studies.

The FAA will conduct an aeronautical study when:

(a) Requested by the sponsor of any proposed construction or alteration for which a notice is submitted; or

(b) The FAA determines a study is necessary.

§ 77.29 Evaluating aeronautical effect.

(a) The FAA conducts an aeronautical study to determine the impact of a proposed structure, an existing structure that has not yet been studied by the FAA, or an alteration of an existing structure on aeronautical operations, procedures, and the safety of flight. These studies include evaluating:

(1) The impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules;

(2) The impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules;

(3) The impact on existing and planned public use airports;

(4) Airport traffic capacity of existing public use airports and public use airport development plans received before the issuance of the final determination;

(5) Minimum obstacle clearance altitudes, minimum instrument flight rules altitudes, approved or planned instrument approach procedures, and departure procedures;

(6) The potential effect on ATC radar, direction finders, ATC tower line-of-sight visibility, and physical or electromagnetic effects on air navigation, communication facilities, and other surveillance systems;

(7) The aeronautical effects resulting from the cumulative impact of a proposed construction or alteration of a structure when combined with the effects of other existing or proposed structures.

(b) If you withdraw the proposed construction or alteration or revise it so that it is no longer identified as an obstruction, or if no further aeronautical study is necessary, the FAA may terminate the study.

§ 77.31 Determinations.

(a) The FAA will issue a determination stating whether the proposed construction or alteration would be a hazard to air navigation, and will advise all known interested persons.

(b) The FAA will make determinations based on the aeronautical study findings and will identify the following:

(1) The effects on VFR/IFR aeronautical departure/arrival operations, air traffic procedures, minimum flight altitudes, and existing, planned, or proposed airports listed in §77.15(e) of which the FAA has received actual notice prior to issuance of a final determination.

(2) The extent of the physical and/or electromagnetic effect on the operation of existing or proposed air navigation facilities, communication aids, or surveillance systems.

(c) The FAA will issue a Determination of Hazard to Air Navigation when the aeronautical study concludes that the proposed construction or alteration will exceed an obstruction standard and would have a substantial aeronautical impact.

(d) A Determination of No Hazard to Air Navigation will be issued when the aeronautical study concludes that the proposed construction or alteration will exceed an obstruction standard but would not have a substantial aeronautical impact to air navigation. A Determination of No Hazard to Air Navigation may include the following:

(1) Conditional provisions of a determination.

(2) Limitations necessary to minimize potential problems, such as the use of temporary construction equipment.

(3) Supplemental notice requirements, when required.

(4) Marking and lighting recommendations, as appropriate.

(e) The FAA will issue a Determination of No Hazard to Air Navigation when a proposed structure does not exceed any of the obstruction standards and would not be a hazard to air navigation.

§ 77.33 Effective period of determinations.

(a) The effective date of a determination not subject to discretionary review under 77.37(b) is the date of issuance. The effective date of all other determinations for a proposed or existing structure is 40 days from the date of issuance, provided a valid petition for review has not been received by the FAA. If a valid petition for review is filed, the determination will not become final, pending disposition of the petition.

(b) Unless extended, revised, or terminated, each Determination of No Hazard to Air Navigation issued under this subpart expires 18 months after the effective date of the determination, or on the date the proposed construction or alteration is abandoned, whichever is earlier.

(c) A Determination of Hazard to Air Navigation has no expiration date.

[Doc. No. FAA–2006–25002, 75 FR 42303, July 21, 2010, as amended by Amdt. 77–13–A, 76 FR 2802, Jan. 18, 2011]

§ 77.35 Extensions, terminations, revisions and corrections.

(a) You may petition the FAA official that issued the Determination of No Hazard to Air Navigation to revise or reconsider the determination based on new facts or to extend the effective period of the determination, provided that:

(1) Actual structural work of the proposed construction or alteration, such as the laying of a foundation, but not including excavation, has not been started; and

(2) The petition is submitted at least 15 days before the expiration date of the Determination of No Hazard to Air Navigation.

(b) A Determination of No Hazard to Air Navigation issued for those construction or alteration proposals not requiring an FCC construction permit may be extended by the FAA one time for a period not to exceed 18 months.

(c) A Determination of No Hazard to Air Navigation issued for a proposal requiring an FCC construction permit may be granted extensions for up to 18 months, provided that:

(1) You submit evidence that an application for a construction permit/license was filed with the FCC for the associated site within 6 months of issuance of the determination; and

(2) You submit evidence that additional time is warranted because of FCC requirements; and

(3) Where the FCC issues a construction permit, a final Determination of No Hazard to Air Navigation is effective until the date prescribed by the FCC for completion of the construction. If an extension of the original FCC completion date is needed, an extension of the FAA determination must be requested from the Obstruction Evaluation Service (OES).

(4) If the Commission refuses to issue a construction permit, the final determination expires on the date of its refusal.

Subpart E—Petitions for Discretionary Review

§ 77.37 General.

(a) If you are the sponsor, provided a substantive aeronautical comment on a proposal in an aeronautical study, or have a substantive aeronautical comment on the proposal but were not given an opportunity to state it, you may petition the FAA for a discretionary review of a determination, revision, or extension of a determination issued by the FAA.

(b) You may not file a petition for discretionary review for a Determination of No Hazard that is issued for a temporary structure, marking and lighting recommendation, or when a proposed structure or alteration does not exceed obstruction standards contained in subpart C of this part.

§ 77.39 Contents of a petition.

(a) You must file a petition for discretionary review in writing and it must be received by the FAA within 30 days after the issuance of a determination under § 77.31, or a revision or extension of the determination under § 77.35.

(b) The petition must contain a full statement of the aeronautical basis on which the petition is made, and must include new information or facts not previously considered or presented during the aeronautical study, including

valid aeronautical reasons why the determination, revisions, or extension made by the FAA should be reviewed.

(c) In the event that the last day of the 30-day filing period falls on a weekend or a day the Federal government is closed, the last day of the filing period is the next day that the government is open.

(d) The FAA will inform the petitioner or sponsor (if other than the petitioner) and the FCC (whenever an FCC-related proposal is involved) of the filing of the petition and that the determination is not final pending disposition of the petition.

§ 77.41 Discretionary review results.

(a) If discretionary review is granted, the FAA will inform the petitioner and the sponsor (if other than the petitioner) of the issues to be studied and reviewed. The review may include a request for comments and a review of all records from the initial aeronautical study.

(b) If discretionary review is denied, the FAA will notify the petitioner and the sponsor (if other than the petitioner), and the FCC, whenever a FCC-related proposal is involved, of the basis for the denial along with a statement that the determination is final.

(c) After concluding the discretionary review process, the FAA will revise, affirm, or reverse the determination.

RICHARD W. DICKENSON
COUNTY COUNSEL

OFFICE OF THE
COUNTY COUNSEL
COUNTY OF SAN JOAQUIN
COURTHOUSE
222 EAST WEBER AVENUE
STOCKTON, CALIFORNIA 95202
TELEPHONE 944-2561 (AREA CODE 209)

JOHN F. CHEADLE
ASSISTANT COUNTY COUNSEL
KARAN F. MINICK
DEPUTY COUNTY COUNSEL
MICHAEL N. GARRIGAN
DEPUTY COUNTY COUNSEL
PATRICK H. CURRAN
DEPUTY COUNTY COUNSEL
MATTHEW L. HUDSON
DEPUTY COUNTY COUNSEL
PAULA HOUCHINS
DEPUTY COUNTY COUNSEL
MICHAEL McGREW
DEPUTY COUNTY COUNSEL
ARTHUR J. SAALFIELD
DEPUTY COUNTY COUNSEL

August 7, 1973

FILED
In the office of the Secretary of State
of the State of California
AUG 10 1973
EDMUND G. BROWN Jr., Secretary of State
By [signature]
Deputy Secretary of State

Mr. Edmund G. Brown, Jr.
Secretary of State
119 State Capitol
Sacramento, California 95814

RE: Designation of Airport Land Use Commission

Dear Sir:

Pursuant to the provisions of Section 21670.1 of the Public Utilities Code of the State of California, the Board of Supervisors and the mayor of each city of the County of San Joaquin have designated the San Joaquin County Council of Governments the appropriate body to assume the planning responsibilities of the Airport Land Use Commission for the County of San Joaquin. This notification is forwarded to you pursuant to the requirements of the aforementioned section.

Very truly yours,

GERALD A. SHERWIN
County Counsel

By [signature]
PATRICK H. CURRAN
Deputy County Counsel

PHC:jms

cc: San Joaquin County
Council of Governments
County Administrator

U.S. Department
of Transportation

Federal Aviation Administration

Advisory Circular

Subject: HAZARDOUS WILDLIFE ATTRACTANTS ON OR NEAR AIRPORTS	**Date:** 8/28/2007	**AC No:** 150/5200-33B
	Initiated by: AAS-300	**Change:**

1. PURPOSE. This Advisory Circular (AC) provides guidance on certain land uses that have the potential to attract hazardous wildlife on or near public-use airports. It also discusses airport development projects (including airport construction, expansion, and renovation) affecting aircraft movement near hazardous wildlife attractants. Appendix 1 provides definitions of terms used in this AC.

2. APPLICABILITY. The Federal Aviation Administration (FAA) recommends that public-use airport operators implement the standards and practices contained in this AC. The holders of Airport Operating Certificates issued under Title 14, Code of Federal Regulations (CFR), Part 139, Certification of Airports, Subpart D (Part 139), may use the standards, practices, and recommendations contained in this AC to comply with the wildlife hazard management requirements of Part 139. Airports that have received Federal grant-in-aid assistance must use these standards. The FAA also recommends the guidance in this AC for land-use planners, operators of non-certificated airports, and developers of projects, facilities, and activities on or near airports.

3. CANCELLATION. This AC cancels AC 150/5200-33A, *Hazardous Wildlife Attractants on or near Airports*, dated July 27, 2004.

4. PRINCIPAL CHANGES. This AC contains the following major changes, which are marked with vertical bars in the margin:

a. Technical changes to paragraph references.

b. Wording on storm water detention ponds.

c. Deleted paragraph 4-3.b, *Additional Coordination.*

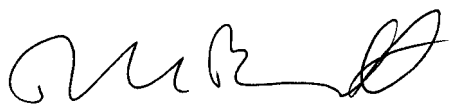
5. BACKGROUND. Information about the risks posed to aircraft by certain wildlife species has increased a great deal in recent years. Improved reporting, studies, documentation, and statistics clearly show that aircraft collisions with birds and other wildlife are a serious economic and public safety problem. While many species of wildlife can pose a threat to aircraft safety, they are not equally hazardous. Table 1

ranks the wildlife groups commonly involved in damaging strikes in the United States according to their relative hazard to aircraft. The ranking is based on the 47,212 records in the FAA National Wildlife Strike Database for the years 1990 through 2003. These hazard rankings, in conjunction with site-specific Wildlife Hazards Assessments (WHA), will help airport operators determine the relative abundance and use patterns of wildlife species and help focus hazardous wildlife management efforts on those species most likely to cause problems at an airport.

Most public-use airports have large tracts of open, undeveloped land that provide added margins of safety and noise mitigation. These areas can also present potential hazards to aviation if they encourage wildlife to enter an airport's approach or departure airspace or air operations area (AOA). Constructed or natural areas—such as poorly drained locations, detention/retention ponds, roosting habitats on buildings, landscaping, odor-causing rotting organic matter (putrescible waste) disposal operations, wastewater treatment plants, agricultural or aquaculture activities, surface mining, or wetlands—can provide wildlife with ideal locations for feeding, loafing, reproduction, and escape. Even small facilities, such as fast food restaurants, taxicab staging areas, rental car facilities, aircraft viewing areas, and public parks, can produce substantial attractions for hazardous wildlife.

During the past century, wildlife-aircraft strikes have resulted in the loss of hundreds of lives worldwide, as well as billions of dollars in aircraft damage. Hazardous wildlife attractants on and near airports can jeopardize future airport expansion, making proper community land-use planning essential. This AC provides airport operators and those parties with whom they cooperate with the guidance they need to assess and address potentially hazardous wildlife attractants when locating new facilities and implementing certain land-use practices on or near public-use airports.

6. MEMORANDUM OF AGREEMENT BETWEEN FEDERAL RESOURCE AGENCIES. The FAA, the U.S. Air Force, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, and the U.S. Department of Agriculture - Wildlife Services signed a Memorandum of Agreement (MOA) in July 2003 to acknowledge their respective missions in protecting aviation from wildlife hazards. Through the MOA, the agencies established procedures necessary to coordinate their missions to address more effectively existing and future environmental conditions contributing to collisions between wildlife and aircraft (wildlife strikes) throughout the United States. These efforts are intended to minimize wildlife risks to aviation and human safety while protecting the Nation’s valuable environmental resources.



DAVID L. BENNETT
Director, Office of Airport Safety
and Standards

Table 1. Ranking of 25 species groups as to relative hazard to aircraft (1=most hazardous) based on three criteria (damage, major damage, and effect-on-flight), a composite ranking based on all three rankings, and a relative hazard score. Data were derived from the FAA National Wildlife Strike Database, January 1990–April 2003.[1]

Species group	Ranking by criteria			Composite ranking[2]	Relative hazard score[3]
	Damage[4]	Major damage[5]	Effect on flight[6]		
Deer	1	1	1	1	100
Vultures	2	2	2	2	64
Geese	3	3	6	3	55
Cormorants/pelicans	4	5	3	4	54
Cranes	7	6	4	5	47
Eagles	6	9	7	6	41
Ducks	5	8	10	7	39
Osprey	8	4	8	8	39
Turkey/pheasants	9	7	11	9	33
Herons	11	14	9	10	27
Hawks (buteos)	10	12	12	11	25
Gulls	12	11	13	12	24
Rock pigeon	13	10	14	13	23
Owls	14	13	20	14	23
H. lark/s. bunting	18	15	15	15	17
Crows/ravens	15	16	16	16	16
Coyote	16	19	5	17	14
Mourning dove	17	17	17	18	14
Shorebirds	19	21	18	19	10
Blackbirds/starling	20	22	19	20	10
American kestrel	21	18	21	21	9
Meadowlarks	22	20	22	22	7
Swallows	24	23	24	23	4
Sparrows	25	24	23	24	4
Nighthawks	23	25	25	25	1

[1] Excerpted from the *Special Report for the FAA, "Ranking the Hazard Level of Wildlife Species to Civil Aviation in the USA: Update #1, July 2, 2003".* Refer to this report for additional explanations of criteria and method of ranking.

[2] Relative rank of each species group was compared with every other group for the three variables, placing the species group with the greatest hazard rank for $\geq$ 2 of the 3 variables above the next highest ranked group, then proceeding down the list.

[3] Percentage values, from Tables 3 and 4 in Footnote 1 of the *Special Report*, for the three criteria were summed and scaled down from 100, with 100 as the score for the species group with the maximum summed values and the greatest potential hazard to aircraft.

[4] Aircraft incurred at least some damage (destroyed, substantial, minor, or unknown) from strike.

[5] Aircraft incurred damage or structural failure, which adversely affected the structure strength, performance, or flight characteristics, and which would normally require major repair or replacement of the affected component, or the damage sustained makes it inadvisable to restore aircraft to airworthy condition.

[6] Aborted takeoff, engine shutdown, precautionary landing, or other.

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SECTION 1.

GENERAL SEPARATION CRITERIA FOR HAZARDOUS WILDLIFE ATTRACTANTS ON OR NEAR AIRPORTS.

1-1. INTRODUCTION. When considering proposed land uses, airport operators, local planners, and developers must take into account whether the proposed land uses, including new development projects, will increase wildlife hazards. Land-use practices that attract or sustain hazardous wildlife populations on or near airports can significantly increase the potential for wildlife strikes.

The FAA recommends the minimum separation criteria outlined below for land-use practices that attract hazardous wildlife to the vicinity of airports. Please note that FAA criteria include land uses that cause movement of hazardous wildlife onto, into, or across the airport's approach or departure airspace or air operations area (AOA). (See the discussion of the synergistic effects of surrounding land uses in Section 2-8 of this AC.)

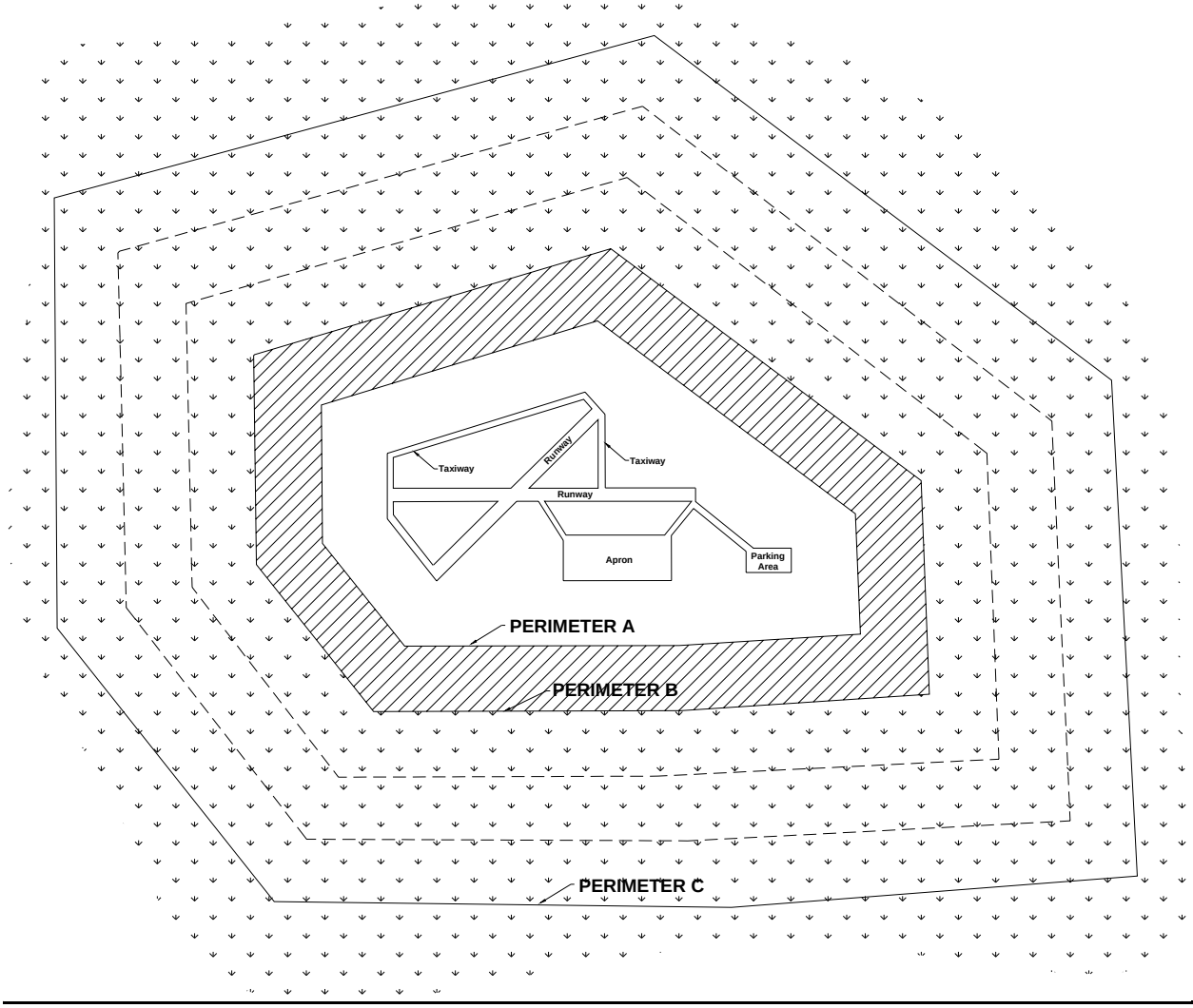
The basis for the separation criteria contained in this section can be found in existing FAA regulations. The separation distances are based on (1) flight patterns of piston-powered aircraft and turbine-powered aircraft, (2) the altitude at which most strikes happen (78 percent occur under 1,000 feet and 90 percent occur under 3,000 feet above ground level), and (3) National Transportation Safety Board (NTSB) recommendations.

1-2. AIRPORTS SERVING PISTON-POWERED AIRCRAFT. Airports that do not sell Jet-A fuel normally serve piston-powered aircraft. Notwithstanding more stringent requirements for specific land uses, the FAA recommends a separation distance of 5,000 feet at these airports for any of the hazardous wildlife attractants mentioned in Section 2 or for new airport development projects meant to accommodate aircraft movement. This distance is to be maintained between an airport's AOA and the hazardous wildlife attractant. Figure 1 depicts this separation distance measured from the nearest aircraft operations areas.

1-3. AIRPORTS SERVING TURBINE-POWERED AIRCRAFT. Airports selling Jet-A fuel normally serve turbine-powered aircraft. Notwithstanding more stringent requirements for specific land uses, the FAA recommends a separation distance of 10,000 feet at these airports for any of the hazardous wildlife attractants mentioned in Section 2 or for new airport development projects meant to accommodate aircraft movement. This distance is to be maintained between an airport's AOA and the hazardous wildlife attractant. Figure 1 depicts this separation distance from the nearest aircraft movement areas.

1-4. PROTECTION OF APPROACH, DEPARTURE, AND CIRCLING AIRSPACE. For all airports, the FAA recommends a distance of 5 statute miles between the farthest edge of the airport's AOA and the hazardous wildlife attractant if the attractant could cause hazardous wildlife movement into or across the approach or departure airspace.

Figure 1. Separation distances within which hazardous wildlife attractants should be avoided, eliminated, or mitigated.



PERIMETER A: For airports serving piston-powered aircraft, hazardous wildlife attractants must be 5,000 feet from the nearest air operations area.

PERIMETER B: For airports serving turbine-powered aircraft, hazardous wildlife attractants must be 10,000 feet from the nearest air operations area.

PERIMETER C: 5-mile range to protect approach, departure and circling airspace.

SECTION 2.

LAND-USE PRACTICES ON OR NEAR AIRPORTS THAT POTENTIALLY ATTRACT HAZARDOUS WILDLIFE.

2-1. GENERAL. The wildlife species and the size of the populations attracted to the airport environment vary considerably, depending on several factors, including land-use practices on or near the airport. This section discusses land-use practices having the potential to attract hazardous wildlife and threaten aviation safety. In addition to the specific considerations outlined below, airport operators should refer to *Wildlife Hazard Management at Airports,* prepared by FAA and U.S. Department of Agriculture (USDA) staff. (This manual is available in English, Spanish, and French. It can be viewed and downloaded free of charge from the FAA's wildlife hazard mitigation web site: http://wildlife-mitigation.tc.FAA.gov.). And, *Prevention and Control of Wildlife Damage,* compiled by the University of Nebraska Cooperative Extension Division. (This manual is available online in a periodically updated version at: ianrwww.unl.edu/wildlife/solutions/handbook/.)

2-2. WASTE DISPOSAL OPERATIONS. Municipal solid waste landfills (MSWLF) are known to attract large numbers of hazardous wildlife, particularly birds. Because of this, these operations, when located within the separations identified in the siting criteria in Sections 1-2 through 1-4, are considered incompatible with safe airport operations.

a. Siting for new municipal solid waste landfills subject to AIR 21. Section 503 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Public Law 106-181) (AIR 21) prohibits the construction or establishment of a new MSWLF within 6 statute miles of certain public-use airports. Before these prohibitions apply, both the airport and the landfill must meet the very specific conditions described below. These restrictions do not apply to airports or landfills located within the state of Alaska.

The airport must (1) have received a Federal grant(s) under 49 U.S.C. § 47101, et. seq.; (2) be under control of a public agency; (3) serve some scheduled air carrier operations conducted in aircraft with less than 60 seats; and (4) have total annual enplanements consisting of at least 51 percent of scheduled air carrier enplanements conducted in aircraft with less than 60 passenger seats.

The proposed MSWLF must (1) be within 6 miles of the airport, as measured from airport property line to MSWLF property line, and (2) have started construction or establishment on or after April 5, 2001. Public Law 106-181 only limits the construction or establishment of some new MSWLF. It does not limit the expansion, either vertical or horizontal, of existing landfills.

NOTE: Consult the most recent version of AC 150/5200-34, *Construction or Establishment of Landfills Near Public Airports,* for a more detailed discussion of these restrictions.

b. Siting for new MSWLF not subject to AIR 21. If an airport and MSWLF do not meet the restrictions of Public Law 106-181, the FAA recommends against locating MSWLF within the separation distances identified in Sections 1-2 through 1-4. The separation distances should be measured from the closest point of the airport's AOA to the closest planned MSWLF cell.

c. Considerations for existing waste disposal facilities within the limits of separation criteria. The FAA recommends against airport development projects that would increase the number of aircraft operations or accommodate larger or faster aircraft near MSWLF operations located within the separations identified in Sections 1-2 through 1-4. In addition, in accordance with 40 CFR 258.10, owners or operators of existing MSWLF units that are located within the separations listed in Sections 1-2 through 1-4 must demonstrate that the unit is designed and operated so it does not pose a bird hazard to aircraft. (See Section 4-2(b) of this AC for a discussion of this demonstration requirement.)

d. Enclosed trash transfer stations. Enclosed waste-handling facilities that receive garbage behind closed doors; process it via compaction, incineration, or similar manner; and remove all residue by enclosed vehicles generally are compatible with safe airport operations, provided they are not located on airport property or within the Runway Protection Zone (RPZ). These facilities should not handle or store putrescible waste outside or in a partially enclosed structure accessible to hazardous wildlife. Trash transfer facilities that are open on one or more sides; that store uncovered quantities of municipal solid waste outside, even if only for a short time; that use semi-trailers that leak or have trash clinging to the outside; or that do not control odors by ventilation and filtration systems (odor masking is not acceptable) do not meet the FAA's definition of fully enclosed trash transfer stations. The FAA considers these facilities incompatible with safe airport operations if they are located closer than the separation distances specified in Sections 1-2 through 1-4.

e. Composting operations on or near airport property. Composting operations that accept only yard waste (e.g., leaves, lawn clippings, or branches) generally do not attract hazardous wildlife. Sewage sludge, woodchips, and similar material are not municipal solid wastes and may be used as compost bulking agents. The compost, however, must never include food or other municipal solid waste. Composting operations should not be located on airport property. Off-airport property composting operations should be located no closer than the greater of the following distances: 1,200 feet from any AOA or the distance called for by airport design requirements (see AC 150/5300-13, *Airport Design*). This spacing should prevent material, personnel, or equipment from penetrating any Object Free Area (OFA), Obstacle Free Zone (OFZ), Threshold Siting Surface (TSS), or Clearway. Airport operators should monitor composting operations located in proximity to the airport to ensure that steam or thermal rise does not adversely affect air traffic. On-airport disposal of compost by-products should not be conducted for the reasons stated in 2-3f.

f. Underwater waste discharges. The FAA recommends against the underwater discharge of any food waste (e.g., fish processing offal) within the separations identified in Sections 1-2 through 1-4 because it could attract scavenging hazardous wildlife.

g. Recycling centers. Recycling centers that accept previously sorted non-food items, such as glass, newspaper, cardboard, or aluminum, are, in most cases, not attractive to hazardous wildlife and are acceptable.

h. Construction and demolition (C&D) debris facilities. C&D landfills do not generally attract hazardous wildlife and are acceptable if maintained in an orderly manner, admit no putrescible waste, and are not co-located with other waste disposal operations. However, C&D landfills have similar visual and operational characteristics to putrescible waste disposal sites. When co-located with putrescible waste disposal operations, C&D landfills are more likely to attract hazardous wildlife because of the similarities between these disposal facilities. Therefore, a C&D landfill co-located with another waste disposal operation should be located outside of the separations identified in Sections 1-2 through 1-4.

i. Fly ash disposal. The incinerated residue from resource recovery power/heat-generating facilities that are fired by municipal solid waste, coal, or wood is generally not a wildlife attractant because it no longer contains putrescible matter. Landfills accepting only fly ash are generally not considered to be wildlife attractants and are acceptable as long as they are maintained in an orderly manner, admit no putrescible waste of any kind, and are not co-located with other disposal operations that attract hazardous wildlife.

Since varying degrees of waste consumption are associated with general incineration (not resource recovery power/heat-generating facilities), the FAA considers the ash from general incinerators a regular waste disposal by-product and, therefore, a hazardous wildlife attractant if disposed of within the separation criteria outlined in Sections 1-2 through 1-4.

2-3. WATER MANAGEMENT FACILITIES. Drinking water intake and treatment facilities, storm water and wastewater treatment facilities, associated retention and settling ponds, ponds built for recreational use, and ponds that result from mining activities often attract large numbers of potentially hazardous wildlife. To prevent wildlife hazards, land-use developers and airport operators may need to develop management plans, in compliance with local and state regulations, to support the operation of storm water management facilities on or near all public-use airports to ensure a safe airport environment.

a. Existing storm water management facilities. On-airport storm water management facilities allow the quick removal of surface water, including discharges related to aircraft deicing, from impervious surfaces, such as pavement and terminal/hangar building roofs. Existing on-airport detention ponds collect storm water, protect water quality, and control runoff. Because they slowly release water

after storms, they create standing bodies of water that can attract hazardous wildlife. Where the airport has developed a Wildlife Hazard Management Plan (WHMP) in accordance with Part 139, the FAA requires immediate correction of any wildlife hazards arising from existing storm water facilities located on or near airports, using appropriate wildlife hazard mitigation techniques. Airport operators should develop measures to minimize hazardous wildlife attraction in consultation with a wildlife damage management biologist.

Where possible, airport operators should modify storm water detention ponds to allow a maximum 48-hour detention period for the design storm. The FAA recommends that airport operators avoid or remove retention ponds and detention ponds featuring dead storage to eliminate standing water. Detention basins should remain totally dry between rainfalls. Where constant flow of water is anticipated through the basin, or where any portion of the basin bottom may remain wet, the detention facility should include a concrete or paved pad and/or ditch/swale in the bottom to prevent vegetation that may provide nesting habitat.

When it is not possible to drain a large detention pond completely, airport operators may use physical barriers, such as bird balls, wires grids, pillows, or netting, to deter birds and other hazardous wildlife. When physical barriers are used, airport operators must evaluate their use and ensure they will not adversely affect water rescue. Before installing any physical barriers over detention ponds on Part 139 airports, airport operators must get approval from the appropriate FAA Regional Airports Division Office.

The FAA recommends that airport operators encourage off-airport storm water treatment facility operators to incorporate appropriate wildlife hazard mitigation techniques into storm water treatment facility operating practices when their facility is located within the separation criteria specified in Sections 1-2 through 1-4.

b. New storm water management facilities. The FAA strongly recommends that off-airport storm water management systems located within the separations identified in Sections 1-2 through 1-4 be designed and operated so as not to create above-ground standing water. Stormwater detention ponds should be designed, engineered, constructed, and maintained for a maximum 48–hour detention period after the design storm and remain completely dry between storms. To facilitate the control of hazardous wildlife, the FAA recommends the use of steep-sided, rip-rap lined, narrow, linearly shaped water detention basins. When it is not possible to place these ponds away from an airport's AOA, airport operators should use physical barriers, such as bird balls, wires grids, pillows, or netting, to prevent access of hazardous wildlife to open water and minimize aircraft-wildlife interactions. When physical barriers are used, airport operators must evaluate their use and ensure they will not adversely affect water rescue. Before installing any physical barriers over detention ponds on Part 139 airports, airport operators must get approval from the appropriate FAA Regional Airports Division Office. All vegetation in or around detention basins that provide food or cover for hazardous wildlife should be eliminated. If soil conditions and other requirements allow, the FAA encourages

the use of underground storm water infiltration systems, such as French drains or buried rock fields, because they are less attractive to wildlife.

c. Existing wastewater treatment facilities. The FAA strongly recommends that airport operators immediately correct any wildlife hazards arising from existing wastewater treatment facilities located on or near the airport. Where required, a WHMP developed in accordance with Part 139 will outline appropriate wildlife hazard mitigation techniques. Accordingly, airport operators should encourage wastewater treatment facility operators to incorporate measures, developed in consultation with a wildlife damage management biologist, to minimize hazardous wildlife attractants. Airport operators should also encourage those wastewater treatment facility operators to incorporate these mitigation techniques into their standard operating practices. In addition, airport operators should consider the existence of wastewater treatment facilities when evaluating proposed sites for new airport development projects and avoid such sites when practicable.

d. New wastewater treatment facilities. The FAA strongly recommends against the construction of new wastewater treatment facilities or associated settling ponds within the separations identified in Sections 1-2 through 1-4. Appendix 1 defines wastewater treatment facility as “any devices and/or systems used to store, treat, recycle, or reclaim municipal sewage or liquid industrial wastes.” The definition includes any pretreatment involving the reduction of the amount of pollutants or the elimination of pollutants prior to introducing such pollutants into a publicly owned treatment works (wastewater treatment facility). During the site-location analysis for wastewater treatment facilities, developers should consider the potential to attract hazardous wildlife if an airport is in the vicinity of the proposed site, and airport operators should voice their opposition to such facilities if they are in proximity to the airport.

e. Artificial marshes. In warmer climates, wastewater treatment facilities sometimes employ artificial marshes and use submergent and emergent aquatic vegetation as natural filters. These artificial marshes may be used by some species of flocking birds, such as blackbirds and waterfowl, for breeding or roosting activities. The FAA strongly recommends against establishing artificial marshes within the separations identified in Sections 1-2 through 1-4.

f. Wastewater discharge and sludge disposal. The FAA recommends against the discharge of wastewater or sludge on airport property because it may improve soil moisture and quality on unpaved areas and lead to improved turf growth that can be an attractive food source for many species of animals. Also, the turf requires more frequent mowing, which in turn may mutilate or flush insects or small animals and produce straw, both of which can attract hazardous wildlife. In addition, the improved turf may attract grazing wildlife, such as deer and geese. Problems may also occur when discharges saturate unpaved airport areas. The resultant soft, muddy conditions can severely restrict or prevent emergency vehicles from reaching accident sites in a timely manner.

2-4. WETLANDS. Wetlands provide a variety of functions and can be regulated by local, state, and Federal laws. Normally, wetlands are attractive to many types of wildlife, including many which rank high on the list of hazardous wildlife species (Table 1).

NOTE: If questions exist as to whether an area qualifies as a wetland, contact the local division of the U.S. Army Corps of Engineers, the Natural Resources Conservation Service, or a wetland consultant qualified to delineate wetlands.

a. Existing wetlands on or near airport property. If wetlands are located on or near airport property, airport operators should be alert to any wildlife use or habitat changes in these areas that could affect safe aircraft operations. At public-use airports, the FAA recommends immediately correcting, in cooperation with local, state, and Federal regulatory agencies, any wildlife hazards arising from existing wetlands located on or near airports. Where required, a WHMP will outline appropriate wildlife hazard mitigation techniques. Accordingly, airport operators should develop measures to minimize hazardous wildlife attraction in consultation with a wildlife damage management biologist.

b. New airport development. Whenever possible, the FAA recommends locating new airports using the separations from wetlands identified in Sections 1-2 through 1-4. Where alternative sites are not practicable, or when airport operators are expanding an existing airport into or near wetlands, a wildlife damage management biologist, in consultation with the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, and the state wildlife management agency should evaluate the wildlife hazards and prepare a WHMP that indicates methods of minimizing the hazards.

c. Mitigation for wetland impacts from airport projects. Wetland mitigation may be necessary when unavoidable wetland disturbances result from new airport development projects or projects required to correct wildlife hazards from wetlands. Wetland mitigation must be designed so it does not create a wildlife hazard. The FAA recommends that wetland mitigation projects that may attract hazardous wildlife be sited outside of the separations identified in Sections 1-2 through 1-4.

(1) Onsite mitigation of wetland functions. The FAA may consider exceptions to locating mitigation activities outside the separations identified in Sections 1-2 through 1-4 if the affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water recharge, which cannot be replicated when moved to a different location. Using existing airport property is sometimes the only feasible way to achieve the mitigation ratios mandated in regulatory orders and/or settlement agreements with the resource agencies. Conservation easements are an additional means of providing mitigation for project impacts. Typically the airport operator continues to own the property, and an easement is created stipulating that the property will be maintained as habitat for state or Federally listed species.

Mitigation must not inhibit the airport operator's ability to effectively control hazardous wildlife on or near the mitigation site or effectively maintain other aspects of safe airport operations. Enhancing such mitigation areas to attract hazardous wildlife must be avoided. The FAA will review any onsite mitigation proposals to determine compatibility with safe airport operations. A wildlife damage management biologist should evaluate any wetland mitigation projects that are needed to protect unique wetland functions and that must be located in the separation criteria in Sections 1-2 through 1-4 before the mitigation is implemented. A WHMP should be developed to reduce the wildlife hazards.

(2) Offsite mitigation of wetland functions. The FAA recommends that wetland mitigation projects that may attract hazardous wildlife be sited outside of the separations identified in Sections 1-2 through 1-4 unless they provide unique functions that must remain onsite (see 2-4c(1)). Agencies that regulate impacts to or around wetlands recognize that it may be necessary to split wetland functions in mitigation schemes. Therefore, regulatory agencies may, under certain circumstances, allow portions of mitigation to take place in different locations.

(3) Mitigation banking. Wetland mitigation banking is the creation or restoration of wetlands in order to provide mitigation credits that can be used to offset permitted wetland losses. Mitigation banking benefits wetland resources by providing advance replacement for permitted wetland losses; consolidating small projects into larger, better-designed and managed units; and encouraging integration of wetland mitigation projects with watershed planning. This last benefit is most helpful for airport projects, as wetland impacts mitigated outside of the separations identified in Sections 1-2 through 1-4 can still be located within the same watershed. Wetland mitigation banks meeting the separation criteria offer an ecologically sound approach to mitigation in these situations. Airport operators should work with local watershed management agencies or organizations to develop mitigation banking for wetland impacts on airport property.

2-5. DREDGE SPOIL CONTAINMENT AREAS. The FAA recommends against locating dredge spoil containment areas (also known as Confined Disposal Facilities) within the separations identified in Sections 1-2 through 1-4 if the containment area or the spoils contain material that would attract hazardous wildlife.

2-6. AGRICULTURAL ACTIVITIES. Because most, if not all, agricultural crops can attract hazardous wildlife during some phase of production, the FAA recommends against the used of airport property for agricultural production, including hay crops, within the separations identified in Sections 1-2 through 1-4. . If the airport has no financial alternative to agricultural crops to produce income necessary to maintain the viability of the airport, then the airport shall follow the crop distance guidelines listed in the table titled "Minimum Distances between Certain Airport Features and Any On-Airport Agricultural Crops" found in AC 150/5300-13, *Airport Design*, Appendix 17. The cost of wildlife control and potential accidents should be weighed against the income produced by the on-airport crops when deciding whether to allow crops on the airport.

a. Livestock production. Confined livestock operations (i.e., feedlots, dairy operations, hog or chicken production facilities, or egg laying operations) often attract flocking birds, such as starlings, that pose a hazard to aviation. Therefore, The FAA recommends against such facilities within the separations identified in Sections 1-2 through 1-4. Any livestock operation within these separations should have a program developed to reduce the attractiveness of the site to species that are hazardous to aviation safety. Free-ranging livestock must not be grazed on airport property because the animals may wander onto the AOA. Furthermore, livestock feed, water, and manure may attract birds.

b. Aquaculture. Aquaculture activities (i.e. catfish or trout production) conducted outside of fully enclosed buildings are inherently attractive to a wide variety of birds. Existing aquaculture facilities/activities within the separations listed in Sections 1-2 through 1-4 must have a program developed to reduce the attractiveness of the sites to species that are hazardous to aviation safety. Airport operators should also oppose the establishment of new aquaculture facilities/activities within the separations listed in Sections 1-2 through 1-4.

c. Alternative uses of agricultural land. Some airports are surrounded by vast areas of farmed land within the distances specified in Sections 1-2 through 1-4. Seasonal uses of agricultural land for activities such as hunting can create a hazardous wildlife situation. In some areas, farmers will rent their land for hunting purposes. Rice farmers, for example, flood their land during waterfowl hunting season and obtain additional revenue by renting out duck blinds. The duck hunters then use decoys and call in hundreds, if not thousands, of birds, creating a tremendous threat to aircraft safety. A wildlife damage management biologist should review, in coordination with local farmers and producers, these types of seasonal land uses and incorporate them into the WHMP.

2-7. GOLF COURSES, LANDSCAPING AND OTHER LAND-USE CONSIDERATIONS.

a. Golf courses. The large grassy areas and open water found on most golf courses are attractive to hazardous wildlife, particularly Canada geese and some species of gulls. These species can pose a threat to aviation safety. The FAA recommends against construction of new golf courses within the separations identified in Sections 1-2 through 1-4. Existing golf courses located within these separations must develop a program to reduce the attractiveness of the sites to species that are hazardous to aviation safety. Airport operators should ensure these golf courses are monitored on a continuing basis for the presence of hazardous wildlife. If hazardous wildlife is detected, corrective actions should be immediately implemented.

b. Landscaping and landscape maintenance. Depending on its geographic location, landscaping can attract hazardous wildlife. The FAA recommends that airport operators approach landscaping with caution and confine it to airport areas not associated with aircraft movements. A wildlife damage management biologist should review all landscaping plans. Airport operators should also monitor all landscaped areas on a continuing basis for the presence of hazardous wildlife. If

hazardous wildlife is detected, corrective actions should be immediately implemented.

Turf grass areas can be highly attractive to a variety of hazardous wildlife species. Research conducted by the USDA Wildlife Services' National Wildlife Research Center has shown that no one grass management regime will deter all species of hazardous wildlife in all situations. In cooperation with wildlife damage management biologist, airport operators should develop airport turf grass management plans on a prescription basis, depending on the airport's geographic locations and the type of hazardous wildlife likely to frequent the airport

Airport operators should ensure that plant varieties attractive to hazardous wildlife are not used on the airport. Disturbed areas or areas in need of re-vegetating should not be planted with seed mixtures containing millet or any other large-seed producing grass. For airport property already planted with seed mixtures containing millet, rye grass, or other large-seed producing grasses, the FAA recommends disking, plowing, or another suitable agricultural practice to prevent plant maturation and seed head production. Plantings should follow the specific recommendations for grass management and seed and plant selection made by the State University Cooperative Extension Service, the local office of Wildlife Services, or a qualified wildlife damage management biologist. Airport operators should also consider developing and implementing a preferred/prohibited plant species list, reviewed by a wildlife damage management biologist, which has been designed for the geographic location to reduce the attractiveness to hazardous wildlife for landscaping airport property.

c. Airports surrounded by wildlife habitat. The FAA recommends that operators of airports surrounded by woodlands, water, or wetlands refer to Section 2.4 of this AC. Operators of such airports should provide for a Wildlife Hazard Assessment (WHA) conducted by a wildlife damage management biologist. This WHA is the first step in preparing a WHMP, where required.

d. Other hazardous wildlife attractants. Other specific land uses or activities (e.g., sport or commercial fishing, shellfish harvesting, etc.), perhaps unique to certain regions of the country, have the potential to attract hazardous wildlife. Regardless of the source of the attraction, when hazardous wildlife is noted on a public-use airport, airport operators must take prompt remedial action(s) to protect aviation safety.

2-8. SYNERGISTIC EFFECTS OF SURROUNDING LAND USES. There may be circumstances where two (or more) different land uses that would not, by themselves, be considered hazardous wildlife attractants or that are located outside of the separations identified in Sections 1-2 through 1-4 that are in such an alignment with the airport as to create a wildlife corridor directly through the airport and/or surrounding airspace. An example of this situation may involve a lake located outside of the separation criteria on the east side of an airport and a large hayfield on the west side of an airport, land uses that together could create a flyway for Canada geese directly across the airspace of the airport. There are numerous examples of such situations;

therefore, airport operators and the wildlife damage management biologist must consider the entire surrounding landscape and community when developing the WHMP.

SECTION 3.

PROCEDURES FOR WILDLIFE HAZARD MANAGEMENT BY OPERATORS OF PUBLIC-USE AIRPORTS.

3.1. INTRODUCTION. In recognition of the increased risk of serious aircraft damage or the loss of human life that can result from a wildlife strike, the FAA may require the development of a Wildlife Hazard Management Plan (WHMP) when specific triggering events occur on or near the airport. Part 139.337 discusses the specific events that trigger a Wildlife Hazard Assessment (WHA) and the specific issues that a WHMP must address for FAA approval and inclusion in an Airport Certification Manual.

3.2. COORDINATION WITH USDA WILDLIFE SERVICES OR OTHER QUALIFIED WILDLIFE DAMAGE MANAGEMENT BIOLOGISTS. The FAA will use the Wildlife Hazard Assessment (WHA) conducted in accordance with Part 139 to determine if the airport needs a WHMP. Therefore, persons having the education, training, and expertise necessary to assess wildlife hazards must conduct the WHA. The airport operator may look to Wildlife Services or to qualified private consultants to conduct the WHA. When the services of a wildlife damage management biologist are required, the FAA recommends that land-use developers or airport operators contact a consultant specializing in wildlife damage management or the appropriate state director of Wildlife Services.

NOTE: Telephone numbers for the respective USDA Wildlife Services state offices can be obtained by contacting USDA Wildlife Services Operational Support Staff, 4700 River Road, Unit 87, Riverdale, MD, 20737-1234, Telephone (301) 734-7921, Fax (301) 734-5157 *(http://www.aphis.usda.gov/ws/)*.

3-3. WILDLIFE HAZARD MANAGEMENT AT AIRPORTS: A MANUAL FOR AIRPORT PERSONNEL. This manual, prepared by FAA and USDA Wildlife Services staff, contains a compilation of information to assist airport personnel in the development, implementation, and evaluation of WHMPs at airports. The manual includes specific information on the nature of wildlife strikes, legal authority, regulations, wildlife management techniques, WHAs, WHMPs, and sources of help and information. The manual is available in three languages: English, Spanish, and French. It can be viewed and downloaded free of charge from the FAA's wildlife hazard mitigation web site: http://wildlife-mitigation.tc.FAA.gov/. This manual only provides a starting point for addressing wildlife hazard issues at airports. Hazardous wildlife management is a complex discipline and conditions vary widely across the United States. Therefore, qualified wildlife damage management biologists must direct the development of a WHMP and the implementation of management actions by airport personnel.

There are many other resources complementary to this manual for use in developing and implementing WHMPs. Several are listed in the manual's bibliography.

3-4. WILDLIFE HAZARD ASSESSMENTS, TITLE 14, CODE OF FEDERAL REGULATIONS, PART 139. Part 139.337(b) requires airport operators to conduct a Wildlife Hazard Assessment (WHA) when certain events occur on or near the airport.

Part 139.337 (c) provides specific guidance as to what facts must be addressed in a WHA.

3-5. WILDLIFE HAZARD MANAGEMENT PLAN (WHMP). The FAA will consider the results of the WHA, along with the aeronautical activity at the airport and the views of the airport operator and airport users, in determining whether a formal WHMP is needed, in accordance with Part 139.337. If the FAA determines that a WHMP is needed, the airport operator must formulate and implement a WHMP, using the WHA as the basis for the plan.

The goal of an airport's Wildlife Hazard Management Plan is to minimize the risk to aviation safety, airport structures or equipment, or human health posed by populations of hazardous wildlife on and around the airport.

The WHMP must identify hazardous wildlife attractants on or near the airport and the appropriate wildlife damage management techniques to minimize the wildlife hazard. It must also prioritize the management measures.

3-6. LOCAL COORDINATION. The establishment of a Wildlife Hazards Working Group (WHWG) will facilitate the communication, cooperation, and coordination of the airport and its surrounding community necessary to ensure the effectiveness of the WHMP. The cooperation of the airport community is also necessary when new projects are considered. Whether on or off the airport, the input from all involved parties must be considered when a potentially hazardous wildlife attractant is being proposed. Airport operators should also incorporate public education activities with the local coordination efforts because some activities in the vicinity of your airport, while harmless under normal leisure conditions, can attract wildlife and present a danger to aircraft. For example, if public trails are planned near wetlands or in parks adjoining airport property, the public should know that feeding birds and other wildlife in the area may pose a risk to aircraft.

Airport operators should work with local and regional planning and zoning boards so as to be aware of proposed land-use changes, or modification of existing land uses, that could create hazardous wildlife attractants within the separations identified in Sections 1-2 through 1-4. Pay particular attention to proposed land uses involving creation or expansion of waste water treatment facilities, development of wetland mitigation sites, or development or expansion of dredge spoil containment areas. At the very least, airport operators must ensure they are on the notification list of the local planning board or equivalent review entity for all communities located within 5 miles of the airport, so they will receive notification of any proposed project and have the opportunity to review it for attractiveness to hazardous wildlife.

3-7 COORDINATION/NOTIFICATION OF AIRMEN OF WILDLIFE HAZARDS. If an existing land-use practice creates a wildlife hazard and the land-use practice or wildlife hazard cannot be immediately eliminated, airport operators must issue a Notice to Airmen (NOTAM) and encourage the land–owner or manager to take steps to control the wildlife hazard and minimize further attraction.

SECTION 4.

FAA NOTIFICATION AND REVIEW OF PROPOSED LAND-USE PRACTICE CHANGES IN THE VICINITY OF PUBLIC-USE AIRPORTS

4-1. FAA REVIEW OF PROPOSED LAND-USE PRACTICE CHANGES IN THE VICINITY OF PUBLIC-USE AIRPORTS.

a. The FAA discourages the development of waste disposal and other facilities, discussed in Section 2, located within the 5,000/10,000-foot criteria specified in Sections 1-2 through 1-4.

b. For projects that are located outside the 5,000/10,000-foot criteria but within 5 statute miles of the airport's AOA, the FAA may review development plans, proposed land-use changes, operational changes, or wetland mitigation plans to determine if such changes present potential wildlife hazards to aircraft operations. The FAA considers sensitive airport areas as those that lie under or next to approach or departure airspace. This brief examination should indicate if further investigation is warranted.

c. Where a wildlife damage management biologist has conducted a further study to evaluate a site's compatibility with airport operations, the FAA may use the study results to make a determination.

4-2. WASTE MANAGEMENT FACILITIES.

a. Notification of new/expanded project proposal. Section 503 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Public Law 106-181) limits the construction or establishment of new MSWLF within 6 statute miles of certain public-use airports, when both the airport and the landfill meet very specific conditions. See Section 2-2 of this AC and AC 150/5200-34 for a more detailed discussion of these restrictions.

The Environmental Protection Agency (EPA) requires any MSWLF operator proposing a new or expanded waste disposal operation within 5 statute miles of a runway end to notify the appropriate FAA Regional Airports Division Office and the airport operator of the proposal (40 CFR 258, *Criteria for Municipal Solid Waste Landfills*, Section 258.10, *Airport Safety*). The EPA also requires owners or operators of new MSWLF units, or lateral expansions of existing MSWLF units, that are located within 10,000 feet of any airport runway end used by turbojet aircraft, or within 5,000 feet of any airport runway end used only by piston-type aircraft, to demonstrate successfully that such units are not hazards to aircraft. (See 4-2.b below.)

When new or expanded MSWLF are being proposed near airports, MSWLF operators must notify the airport operator and the FAA of the proposal as early as possible pursuant to 40 CFR 258.

b. Waste handling facilities within separations identified in Sections 1-2 through 1-4. To claim successfully that a waste-handling facility sited within the separations identified in Sections 1-2 through 1-4 does not attract hazardous wildlife and does not threaten aviation, the developer must establish convincingly that the facility will not handle putrescible material other than that as outlined in 2-2.d. The FAA strongly recommends against any facility other than that as outlined in 2-2.d (enclosed transfer stations). The FAA will use this information to determine if the facility will be a hazard to aviation.

c. Putrescible-Waste Facilities. In their effort to satisfy the EPA requirement, some putrescible-waste facility proponents may offer to undertake experimental measures to demonstrate that their proposed facility will not be a hazard to aircraft. To date, no such facility has been able to demonstrate an ability to reduce and sustain hazardous wildlife to levels that existed before the putrescible-waste landfill began operating. For this reason, demonstrations of experimental wildlife control measures may not be conducted within the separation identified in Sections 1-2 through 1-4.

4-3. OTHER LAND-USE PRACTICE CHANGES. As a matter of policy, the FAA encourages operators of public-use airports who become aware of proposed land use practice changes that may attract hazardous wildlife within 5 statute miles of their airports to promptly notify the FAA. The FAA also encourages proponents of such land use changes to notify the FAA as early in the planning process as possible. Advanced notice affords the FAA an opportunity (1) to evaluate the effect of a particular land-use change on aviation safety and (2) to support efforts by the airport sponsor to restrict the use of land next to or near the airport to uses that are compatible with the airport.

The airport operator, project proponent, or land-use operator may use FAA Form 7460-1, *Notice of Proposed Construction or Alteration*, or other suitable documents similar to FAA Form 7460-1 to notify the appropriate FAA Regional Airports Division Office. Project proponents can contact the appropriate FAA Regional Airports Division Office for assistance with the notification process.

It is helpful if the notification includes a 15-minute quadrangle map of the area identifying the location of the proposed activity. The land-use operator or project proponent should also forward specific details of the proposed land-use change or operational change or expansion. In the case of solid waste landfills, the information should include the type of waste to be handled, how the waste will be processed, and final disposal methods.

a. Airports that have received Federal grant-in-aid assistance. Airports that have received Federal grant-in-aid assistance are required by their grant assurances to take appropriate actions to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations. The FAA recommends that airport operators to the extent practicable oppose off-airport land-use changes or practices within the separations identified in Sections 1-2 through 1-4 that may attract hazardous wildlife. Failure to do so may lead to noncompliance with applicable grant assurances. The FAA will not approve the placement of airport

development projects pertaining to aircraft movement in the vicinity of hazardous wildlife attractants without appropriate mitigating measures. Increasing the intensity of wildlife control efforts is not a substitute for eliminating or reducing a proposed wildlife hazard. Airport operators should identify hazardous wildlife attractants and any associated wildlife hazards during any planning process for new airport development projects.

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APPENDIX 1. DEFINITIONS OF TERMS USED IN THIS ADVISORY CIRCULAR.

1. **GENERAL.** This appendix provides definitions of terms used throughout this AC.

    1. **Air operations area.** Any area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft. An air operations area includes such paved areas or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft in addition to its associated runway, taxiways, or apron.

    2. **Airport operator.** The operator (private or public) or sponsor of a public-use airport.

    3. **Approach or departure airspace.** The airspace, within 5 statute miles of an airport, through which aircraft move during landing or takeoff.

    4. **Bird balls.** High-density plastic floating balls that can be used to cover ponds and prevent birds from using the sites.

    5. **Certificate holder.** The holder of an Airport Operating Certificate issued under Title 14, Code of Federal Regulations, Part 139.

    6. **Construct a new MSWLF.** To begin to excavate, grade land, or raise structures to prepare a municipal solid waste landfill as permitted by the appropriate regulatory or permitting agency.

    7. **Detention ponds.** Storm water management ponds that hold storm water for short periods of time, a few hours to a few days.

    8. **Establish a new MSWLF.** When the first load of putrescible waste is received on-site for placement in a prepared municipal solid waste landfill.

    9. **Fly ash.** The fine, sand-like residue resulting from the complete incineration of an organic fuel source. Fly ash typically results from the combustion of coal or waste used to operate a power generating plant.

    10. **General aviation aircraft.** Any civil aviation aircraft not operating under 14 CFR Part 119, Certification: Air Carriers and Commercial Operators.

    11. **Hazardous wildlife.** Species of wildlife (birds, mammals, reptiles), including feral animals and domesticated animals not under control, that are associated with aircraft strike problems, are capable of causing structural damage to airport facilities, or act as attractants to other wildlife that pose a strike hazard

    12. **Municipal Solid Waste Landfill (MSWLF).** A publicly or privately owned discrete area of land or an excavation that receives household waste and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 CFR § 257.2. An MSWLF may receive

other types wastes, such as commercial solid waste, non-hazardous sludge, small-quantity generator waste, and industrial solid waste, as defined under 40 CFR § 258.2. An MSWLF can consist of either a stand alone unit or several cells that receive household waste.

13. **New MSWLF.** A municipal solid waste landfill that was established or constructed after April 5, 2001.

14. **Piston-powered aircraft.** Fixed-wing aircraft powered by piston engines.

15. **Piston-use airport.** Any airport that does not sell Jet-A fuel for fixed-wing turbine-powered aircraft, and primarily serves fixed-wing, piston-powered aircraft. Incidental use of the airport by turbine-powered, fixed-wing aircraft would not affect this designation. However, such aircraft should not be based at the airport.

16. **Public agency.** A State or political subdivision of a State, a tax-supported organization, or an Indian tribe or pueblo (49 U.S.C. § 47102(19)).

17. **Public airport.** An airport used or intended to be used for public purposes that is under the control of a public agency; and of which the area used or intended to be used for landing, taking off, or surface maneuvering of aircraft is publicly owned (49 U.S.C. § 47102(20)).

18. **Public-use airport.** An airport used or intended to be used for public purposes, and of which the area used or intended to be used for landing, taking off, or surface maneuvering of aircraft may be under the control of a public agency or privately owned and used for public purposes (49 U.S.C. § 47102(21)).

19. **Putrescible waste.** Solid waste that contains organic matter capable of being decomposed by micro-organisms and of such a character and proportion as to be capable of attracting or providing food for birds (40 CFR §257.3-8).

20. **Putrescible-waste disposal operation.** Landfills, garbage dumps, underwater waste discharges, or similar facilities where activities include processing, burying, storing, or otherwise disposing of putrescible material, trash, and refuse.

21. **Retention ponds.** Storm water management ponds that hold water for several months.

22. **Runway protection zone (RPZ).** An area off the runway end to enhance the protection of people and property on the ground (see AC 150/5300-13). The dimensions of this zone vary with the airport design, aircraft, type of operation, and visibility minimum.

23. **Scheduled air carrier operation.** Any common carriage passenger-carrying operation for compensation or hire conducted by an air carrier or commercial

operator for which the air carrier, commercial operator, or their representative offers in advance the departure location, departure time, and arrival location. It does not include any operation that is conducted as a supplemental operation under 14 CFR Part 119 or as a public charter operation under 14 CFR Part 380 (14 CFR § 119.3).

24. **Sewage sludge.** Any solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment process; and a material derived from sewage sludge. Sewage does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works. (40 CFR 257.2)

25. **Sludge.** Any solid, semi-solid, or liquid waste generated form a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effect. (40 CFR 257.2)

26. **Solid waste.** Any garbage, refuse, sludge, from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material, including, solid liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by product material as defined by the Atomic Energy Act of 1954, as amended, (68 Stat. 923). (40 CFR 257.2)

27. **Turbine-powered aircraft.** Aircraft powered by turbine engines including turbojets and turboprops but excluding turbo-shaft rotary-wing aircraft.

28. **Turbine-use airport.** Any airport that sells Jet-A fuel for fixed-wing turbine-powered aircraft.

29. **Wastewater treatment facility.** Any devices and/or systems used to store, treat, recycle, or reclaim municipal sewage or liquid industrial wastes, including Publicly Owned Treatment Works (POTW), as defined by Section 212 of the Federal Water Pollution Control Act (P.L. 92-500) as amended by the Clean Water Act of 1977 (P.L. 95-576) and the Water Quality Act of 1987 (P.L. 100-4). This definition includes any pretreatment involving the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. (See 40 CFR Section 403.3 (q), (r), & (s)).

30. Wildlife. Any wild animal, including without limitation any wild mammal, bird, reptile, fish, amphibian, mollusk, crustacean, arthropod, coelenterate, or other invertebrate, including any part, product, egg, or offspring thereof (50 CFR 10.12, *Taking, Possession, Transportation, Sale, Purchase, Barter, Exportation, and Importation of Wildlife and Plants*). As used in this AC, wildlife includes feral animals and domestic animals out of the control of their owners (14 CFR Part 139, Certification of Airports).

31. Wildlife attractants. Any human-made structure, land-use practice, or human-made or natural geographic feature that can attract or sustain hazardous wildlife within the landing or departure airspace or the airport's AOA. These attractants can include architectural features, landscaping, waste disposal sites, wastewater treatment facilities, agricultural or aquaculture activities, surface mining, or wetlands.

32. Wildlife hazard. A potential for a damaging aircraft collision with wildlife on or near an airport.

33. Wildlife strike. A wildlife strike is deemed to have occurred when:

a. A pilot reports striking 1 or more birds or other wildlife;

b. Aircraft maintenance personnel identify aircraft damage as having been caused by a wildlife strike;

c. Personnel on the ground report seeing an aircraft strike 1 or more birds or other wildlife;

d. Bird or other wildlife remains, whether in whole or in part, are found within 200 feet of a runway centerline, unless another reason for the animal's death is identified;

e. The animal's presence on the airport had a significant negative effect on a flight (i.e., aborted takeoff, aborted landing, high-speed emergency stop, aircraft left pavement area to avoid collision with animal) (Transport Canada, Airports Group, *Wildlife Control Procedures Manual*, Technical Publication 11500E, 1994).

2. RESERVED.

U.S. Department
of Transportation

**Federal Aviation
Administration**

Advisory Circular

Subject: CONSTRUCTION OR ESTABLISHMENT OF LANDFILLS NEAR PUBLIC AIRPORTS

Date: January 26, 2006 **AC No:** 150/5200-34A
Initiated by: AAS-300 **Change:**

1. Purpose.

This advisory circular (AC) contains guidance on complying with Federal statutory requirements regarding the construction or establishment of landfills near public airports.

2. Application.

The guidance contained in the AC is provided by the Federal Aviation Administration (FAA) for use by persons considering the construction or establishment of a new municipal solid waste landfill (MSWLF) near a public airport. Guidance contained herein should be used to comply with MSWLF site limitations contained in 49 U.S.C. § 44718(d), as amended by section 503 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Pub. L. No. 106-181 (April 5, 2000), "Structures interfering with air commerce." In accordance with § 44718(d), as amended, these site limitations are not applicable in the State of Alaska.

In addition, this AC provides guidance for a state aviation agency desiring to petition the FAA for an exemption from the requirements of § 44718(d), as amended.

3. Cancellation

This AC cancels AC 150/52300-34, *Construction or Establishment of Landfills Near Public Airports*, dated August 8, 2000.

This revision contains no substantive changes to the original. Changes include revised and new website addresses, revised strike statistics, and regulation titles.

4. Related Reading Materials.

AC - 150/5200-33, *Hazardous Wildlife Attractions On or Near Airports*.

Wildlife Strikes to Civil Aircraft in the United States. FAA Wildlife Aircraft Strike Database Serial Reports.

Report to Congress: *Potential Hazards to Aircraft by Locating Waste Disposal Sites in the Vicinity of Airports,* April 1996, DOT/FAA/AS/96-1.

Title 14, Code of Federal Regulation, Part 139, Certification of Airports.

Title 40, Code of Federal Regulation, Part 258, Municipal Solid Waste Landfill Criteria.

Some of these documents and additional information on wildlife management, including guidance on landfills, are available on the FAA's Airports web site at http://www.faa.gov/airports_airtraffic/airports/ or http://wildlife-mitigation.tc.faa.gov

5. Definitions.

Definitions for the specific purpose of this AC are found in Appendix 1.

6. Background.

The FAA has the broad authority to regulate and develop civil aviation under the Federal Aviation Act of 1958, 49 U.S.C. § 40101, et. seq., and other Federal law. In section 1220 of the Federal Aviation Reauthorization Act of 1996, Pub. L. No. 104-264 (October 9, 1996), the Congress added a new provision, section (d), to 49 U.S.C. § 44718 to be enforced by the FAA and placing limitations on the construction or establishment of landfills near public airports for the purposes of enhancing aviation safety. Section 503 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21), Pub. L. No. 106-181 (April 5, 2000) replaced section 1220 of the 1996 Reauthorization Act, 49 U.S.C. § 44718 (d), with new language. Specifically, the new provision, § 44718(d), as amended, was enacted to further limit the construction or establishment of a municipal solid waste landfill (MSWLF) near certain smaller public airports.

In enacting this legislation, Congress expressed concern that a MSWLF sited near an airport poses a potential hazard to aircraft operations because such a waste facility attracts birds. Statistics support the fact that bird strikes pose a real danger to aircraft. An estimated 87 percent of the collisions between wildlife and civil aircraft occurred on or near airports when aircraft are below 2,000 feet above ground level (AGL). Collisions with wildlife at these altitudes are especially dangerous as aircraft pilots have minimal time to recover from such emergencies.

The FAA National Wildlife Aircraft Strike Database shows that more than 59,000 civil aircraft sustained reported strikes with wildlife from 1990 to 2004. Between 1990-2004, aircraft-wildlife strikes involving U. S. civil aircraft resulted in over $495 million/year worth of aircraft damage and associated losses and over 631,000 hours/year of aircraft down time.

From 1990 to 2004, waterfowl, gulls and raptors were involved in 77% of the 3,493 reported damaging aircraft-wildlife strikes where the bird was identified. Populations of Canada geese and many species of gulls and raptors have increased markedly over the last several years. Further, gulls and Canada geese have adapted to urban and suburban environments and, along with raptors and turkey vultures, are commonly found feeding or loafing on or near landfills.

In light of increasing bird populations and aircraft operations, the FAA believes locating landfills in proximity to airports increases the risk of collisions between birds and aircraft. To address this concern, the FAA issued AC 150/5200-33, *Hazardous Wildlife Attractions On or Near Airport*s, to provide airport operators and aviation planners with guidance on minimizing wildlife attractants. AC 150/5200-33 recommends against locating municipal solid waste landfills within five statute miles of an airport if the landfill may cause hazardous wildlife to move into or through the airport's approach or departure airspace.

7. General.

Using guidance provided in the following sections, persons considering construction or establishment of a landfill should first determine if the proposed facility meets the definition of a new MSWLF (see Appendix 1). Section 44718(d), as amended, applies only to a new MSWLF. It does not apply to the expansion or modification of an existing MSWLF, and does not apply in the State of Alaska. If the proposed landfill meets the definition of a new MSWLF, its proximity to certain public airports (meeting the criteria specified in Paragraph 8 below) should be determined. If it is determined that a new MSWLF would be located within six miles of such a public airport, then either the MSWLF should be planned for an alternate location more than 6 miles from the airport, or the MSWLF proponent should request the appropriate State aviation agency to file a petition for an exemption from the statutory restriction.

In addition to the requirements of § 44718(d), existing landfill restrictions contained in AC 150/5200-33, *Hazardous Wildlife Attractions On or Near Airports* (see Paragraph 5, Background) also may be applicable. Airport operators that have accepted Federal funds have obligations under Federal grant assurances to operate their facilities in safe manner and must comply with standards prescribed in advisory circulars, including landfill site limitations contained in AC 150/5200-33.

8. Landfills Covered by the Statute.

The limitations of § 44718(d), as amended, only apply to a new MSWLF (constructed or established after April 5, 2000). The statutory limitations are not applicable where construction or establishment of a MSWLF began on or before April 5, 2000, or to an existing MSWLF (received putrescible waste on or before April 5, 2000). Further, an existing MSWLF that is expanded or modified after April 5, 2000, would not be held to the limitations of § 44718(d), as amended.

9. Airports Covered by the Statute.

The statutory limitations restricting the location of a new MSWLF near an airport apply to only those airports that are recipients of Federal grants (under the Airport and Airway Improvement Act of 1982, as amended, 49 U.S.C. § 47101, *et se*q.) and primarily serve general aviation aircraft and scheduled air carrier operations using aircraft with less than 60 passenger seats.

While the FAA does not classify airports precisely in this manner, the FAA does categorize airports by the type of aircraft operations served and number of annual passenger enplanements. In particular, the FAA categorizes public airports that serve air carrier operations. These airports are known as commercial service airports, and receive scheduled passenger service and have 2,500 or more enplaned passengers per year.

One sub-category of commercial service airports, nonhub primary airports, closely matches the statute requirement. Nonhub primary airports are defined as commercial service airports that enplane less than 0.05 percent of all commercial passenger enplanements (0.05 percent equated to 352,748 enplanements in 2004) but more than 10,000 annual enplanements. While these enplanements consist of both large and small air carrier operations, most are conducted in aircraft with less than 60 seats. These airports also are heavily used by general aviation aircraft, with an average of 81 based aircraft per nonhub primary airport.

In addition, the FAA categorizes airports that enplane 2,500 to 10,000 passengers annually as non-primary commercial service airports, and those airports that enplane 2,500 or less passengers annually as general aviation airports. Both types of airports are mainly used by general aviation but in some instances, they have annual enplanements that consist of scheduled air carrier operations conducted in aircraft with less than 60 seats. Of the non-primary commercial service airports and general aviation airports, only those that have scheduled air carrier operations conducted in aircraft with less than 60 seats would be covered by the statute. The statute does not apply to those airports that serve only general aviation aircraft operations.

To comply with the intent of the statute, the FAA has identified those airports classified as nonhub primary, non-primary commercial service and general aviation airports that:

1. Are recipients of Federal grant under 49 U.S.C. § 47101, et. seq.;

2. Are under control of a public agency;

3. Serve scheduled air carrier operations conducted in aircraft with less than 60 seats; and

4. Have total annual enplanements consisting of at least 51% of scheduled air carrier enplanements conducted in aircraft with less than 60 passenger seats.

Persons considering construction or establishment of a new MSWLF should contact the FAA to determine if an airport within six statute miles of the new MSWLF meets these criteria (see paragraph 11 below for information on contacting the FAA). If the FAA determines the airport does meet these criteria, then § 44718(d), as amended, is applicable.

An in-depth explanation of how the FAA collects and categorizes airport data is available in the FAA's National Plan of Integrated Airport Systems (NPIAS). This report and a list of airports classified as nonhub primary, non-primary commercial service and general aviation airports (and associated enplanement data) are available on the FAA's Airports web site at http://www.faa.gov/airports_airtraffic/airports/planning_capacity/.

10. Separation distance measurements.

Section 44718(d), as amended, requires a minimum separation distance of six statute miles between a new MSWLF and a public airport. In determining this distance separation, measurements should be made from the closest point of the airport property boundary to the closest point of the MSWLF property boundary. Measurements can be made from a perimeter fence if the fence is co-located, or within close proximity to, property boundaries. It is the responsibility of the new MSWLF proponent to determine the separation distance.

11. Exemption Process.

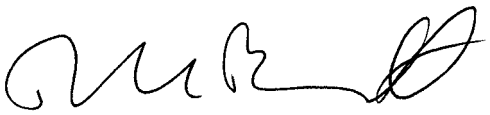
Under § 44718(d), as amended, the FAA Administrator may approve an exemption from the statute's landfill location limitations. Section 44718(d), as amended, permits the aviation agency of the state in which the airport is located to request such an exemption from the FAA Administrator. Any person desiring such an exemption should contact the aviation agency in the state in which the affected airport is located. A list of state aviation agencies and contact information is available at the National Association of State Aviation Officials (NASAO) web site at www.nasao.org or by calling NASAO at (301) 588-1286.

A state aviation agency that desires to petition the FAA for an exemption should notify the Regional Airports Division Manager, in writing, at least 60 days prior to the construction of a MSWLF. The petition should explain the nature and extent of relief sought, and contain information, documentation, views, or arguments that demonstrate that an exemption from the statute would not have an adverse impact on aviation safety. Information on contacting FAA Regional Airports Division Managers can be found on the FAA's web site at www.faa.gov.

After considering all relevant material presented, the Regional Airports Division Manager will notify the state agency within 30 days whether the request for exemption has been approved or denied. The FAA may approve a request for an exemption if it is determined that such an exemption would have no adverse impact on aviation safety.

12. Information.

For further information, please contact the FAA's Office of Airport Safety and Standards, Airport Safety and Operations Division, at (800) 842-8736, Ext. 7-3085 or via email at WebmasterARP@faa.gov. Any information, documents and reports that are available on the FAA web site also can be obtained by calling the toll-free telephone number listed above.



DAVID L. BENNETT
Director, Office of Airport Safety and Standards

APPENDIX 1. DEFINITIONS.

The following are definitions for the specific purpose of this advisory circular.

Construct a municipal solid waste landfill (MSWLF) means excavate or grade land, or raise structures, to prepare a municipal solid waste landfill as permitted by the appropriate regulatory or permitting authority.

Establish a municipal solid waste landfill (MSWLF) means receive the first load of putrescible waste on site for placement in a prepared municipal solid waste landfill.

Existing municipal solid waste landfill (MSWLF) means a municipal solid waste landfill that received putrescible waste on or before April 5, 2000.

General aviation aircraft means any civil aviation aircraft not operating under 14 CFR Part 119, Certification: Air carriers and commercial operators.

Municipal solid waste landfill (MSWLF) means publicly or privately owned discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 CFR § 257.2. A MSWLF may receive other types of RCRA subtitle D wastes, such as commercial solid waste, nonhazardous sludge, small quantity generator waste and industrial solid waste, as defined under 40 CFR § 258.2. A MSWLF may consist of either a standalone unit or several cells that receive household waste.

New municipal solid waste landfill (MSWLF) means a municipal solid waste landfill that was established or constructed after April 5, 2000.

Person(s) means an individual, firm, partnership, corporation, company, association, joint-stock association, or governmental entity. It includes a trustee, receiver, assignee, or similar representative of any of them (14 CFR Part 1).

Public agency means a State or political subdivision of a State; a tax-supported organization; or an Indian tribe or pueblo (49 U.S.C. § 47102(15)).

Public airport means an airport used or intended to be used for public purposes that is under the control of a public agency; and of which the area used or intended to be used for landing, taking off, or surface maneuvering of aircraft is publicly owned (49 U.S.C. § 47102(16)).

Putrescible waste means solid waste which contains organic matter capable of being decomposed by micro-organisms and of such a character and proportion as to be capable of attracting or providing food for birds (40 CFR § 257.3-8).

Scheduled air carrier operation means any common carriage passenger-carrying operation for compensation or hire conducted by an air carrier or commercial operator for which the air carrier, commercial operator, or their representatives offers in advance the departure location, departure time, and arrival location. It does not include any operation that is conducted as a supplemental operation under 14 CFR Part 119, or is conducted as a public charter operation under 14 CFR Part 380 (14 CFR § 119.3).

Solid waste means any garbage, or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. § 1342, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923) (40 CFR § 258.2).

Appendix E

Glossary of Noise Compatibility Terms

Appendix E
GLOSSARY OF NOISE COMPATIBILITY TERMS

A-WEIGHTED SOUND LEVEL - A sound pressure level, often noted as dBA, which has been frequency filtered or weighted to quantitatively reduce the effect of the low frequency noise. It was designed to approximate the response of the human ear to sound.

AMBIENT NOISE - The totality of noise in a given place and time — usually a composite of sounds from varying sources at varying distance; no particular sound is dominant.

APPROACH LIGHT SYSTEM (ALS) - An airport lighting facility which provides visual guidance to landing aircraft by radiating light beams in a directional pattern by which the pilot aligns the aircraft with the extended centerline of the runway on the final approach for landing.

ATTENUATION - Acoustical phenomenon whereby a reduction in sound energy is experienced between the noise source and receiver. This energy loss can be attributed to atmospheric conditions, terrain, vegetation, and man-made and natural features.

BASE LEG - A flight path at right angles to the landing runway off its approach end. The base leg normally extends from the downwind leg to the intersection of the extended runway centerline. See "traffic pattern."

CFR - Code of Federal Regulation (i.e.14 CFR Part 150)

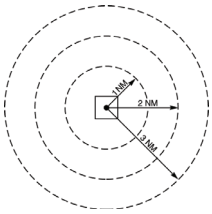
CROSSWIND LEG - A flight path at right angles to the landing runway off its upwind end. See "traffic pattern."

DAY-NIGHT AVERAGE SOUND LEVEL - See DNL.

DECIBEL (dB) - The physical unit commonly used to describe noise levels. The decibel represents a relative measure or ratio to a reference power. This reference value is a sound pressure of 20 micropascals which can be referred to as 1 decibel or the weakest sound that can be heard by a person with very good hearing in an extremely quiet room.

DISPLACED THRESHOLD - A threshold that is located at a point on the runway other than the designated beginning of the runway.

DISTANCE MEASURING EQUIPMENT (DME) - Equipment (airborne and ground) used to measure, in nautical miles, the slant range distance of an aircraft from the DME navigational aid.



DNL - The 24-hour average sound level, in A-weighted decibels, obtained after the addition of ten decibels to sound levels for the periods between 10 p.m. and 7 a.m. as averaged over a span of one year. It is the FAA standard metric for determining the cumulative exposure of individuals to noise. Also see "L_{eq}."

DOWNWIND LEG - A flight path parallel to the landing runway in the direction opposite to landing. The downwind leg normally extends between the crosswind leg and the base leg. Also see "traffic pattern."

DURATION - Length of time, in seconds, a noise event such as an aircraft flyover is experienced. (May refer to the length of time a noise event exceeds a specified dB threshold level.)

EQUIVALENT SOUND LEVEL - See $L_{eq.}$

FINAL APPROACH - A flight path in the direction of landing along the extended runway centerline. The final approach normally extends from the base leg to the runway. See "traffic pattern."

FIXED BASE OPERATOR (FBO) - A provider of services to users of an airport. Such services include, but are not limited to, hangaring, fueling, flight training, repair and maintenance.

GLIDE SLOPE (GS) - Provides vertical guidance for aircraft during approach and landing. The glide slope consists of the following:

1. Electronic components emitting signals which provide vertical guidance by reference to airborne instruments during instrument approaches such as ILS, or
2. Visual ground aids, such as VASI, which provide vertical guidance for VFR approach or for the visual portion of an instrument approach and landing.

GLOBAL POSITIONING SYSTEM - See "GPS."

GPS - GLOBAL POSITIONING SYSTEM - A system of 24 satellites used as reference points to enable navigators equipped with GPS receivers to determine their latitude, longitude, and altitude. The accuracy of the system can be further refined by using a ground receiver at a known location to calculate the error in the satellite range data. This is known as Differential GPS (DGPS).

GROUND EFFECT - The attenuation attributed to absorption or reflection of noise by man-made or natural features on the ground surface.

HOURLY NOISE LEVEL (HNL) - A noise summation metric which considers primarily those single events which exceed a specified threshold or duration during one hour.

INSTRUMENT APPROACH - A series of predetermined maneuvers for the orderly transfer of an aircraft under instrument flight conditions from the beginning of the initial approach to a landing, or to a point from which a landing may be made visually.

INSTRUMENT FLIGHT RULES (IFR) -Rules governing the procedures for conducting instrument flight. Also a term used by pilots and controllers to indicate type of flight plan.

INSTRUMENT LANDING SYSTEM (ILS) - A precision instrument approach system which normally consists of the following electronic components and visual aids:

1. Localizer.
2. Glide Slope.
3. Outer Marker.
4. Middle Marker.
5. Approach Lights.

LAAS - Local Area Augmentation System, ground-based antennas whose precisely known locations are used to correct the satellite signals and provide greater positional accuracy as well as integrity of service to aircraft in the air. Represents the next generation of airspace management and aircraft guidance through the National Airspace System using GPS technologies.

L_{dn} - (See DNL). L_{dn} used in place of DNL in mathematical equations only.

L_{eq} - Equivalent Sound Level. The steady A-weighted sound level over any specified period (not necessarily 24 hours) that has the same acoustic energy as the fluctuating noise during that period (with no consideration of a nighttime weighting.) It is a measure of cumulative acoustical energy. Because the time interval may vary, it should be specified by a subscript (such as L_{eq} 8) for an 8-hour exposure to workplace noise) or be clearly understood.

LOCALIZER - The component of an ILS which provides course guidance to the runway.

L_{max} - Maximum Sound Level, the maximum sound level (dB) during a particular noise event.

LOUDNESS - The attribute of auditory sensation in terms of which sounds may be ordered on a scale extending form soft to loud.

MISSED APPROACH COURSE (MAC) - The flight route to be followed if, after an instrument approach, a landing is not effected, and occurring normally:

1. When the aircraft has descended to the decision height and has not established visual contact, or
2. When directed by air traffic control to pull up or to go around again.

NOISE CONTOUR - A continuous line on a map of the airport vicinity connecting all points of the same noise exposure level.

NONDIRECTIONAL BEACON (NDB) -A beacon transmitting nondirectional signals whereby the pilot of an aircraft equipped with direction finding equipment can determined his bearing to and from the radio beacon and home on or track to or from the station. When the radio beacon is installed in conjunction with the Instrument Landing System marker, it is normally called a Compass Locator.

NONPRECISION APPROACH - A standard instrument approach procedure providing runway alignment but no glide slope or descent information.

PRECISION APPROACH - A standard instrument approach procedure providing runway alignment and glide slope or descent information.

PRECISION APPROACH PATH INDICATOR (PAPI) - A lighting system providing visual approach slope guidance to aircraft during a landing approach. It is similar to a VASI but provides a sharper transition between the colored indicator lights.

PROFILE - The physical position of the aircraft during landings or takeoffs in terms of altitude in feet above the runway and distance from the runway end.

PROPAGATION - Sound propagation refers to the spreading or radiating of sound energy from the noise source. Propagation characteristics of sound normally involve a reduction in sound energy with an increased distance from source. Sound propagation is affected by atmospheric conditions, terrain, and man-made and natural objects.

RESIDUAL NOISE - is ambient noise without specific noise. The residual noise is the noise remaining at a point under certain conditions when the noise from the specific source is suppressed.

RUNWAY END IDENTIFIER LIGHTS (REIL) - Two synchronized flashing lights, one on each side of the runway threshold, which provide rapid and positive identification of the approach end of a particular runway.

SEL - Sound Exposure Level. SEL expressed in dB, is a measure of the effect of duration and magnitude for a single-event measured in A-weighted sound level above a specified threshold which is at least 10 dB below the maximum value. In typical aircraft noise model calculations, SEL is used in computing aircraft acoustical contribution to the Equivalent Sound Level (L_{eq}), the Day-Night Sound Level (DNL), and the Community Noise Equivalent Level (CNEL).

SINGLE EVENT - An occurrence of audible noise usually above a specified minimum noise level caused by an intrusive source such as an aircraft overflight, passing train, or ship's horn.

SLANT-RANGE DISTANCE - The straight line distance between an aircraft and a point on the ground.

SOUND EXPOSURE LEVEL - See SEL.

SOUND LEVEL METER - An instrument, which is used for the measurement of sound level, with standard frequency weighting and standard exponentially weighted time averaging.

SPL - Sound Pressure Level, measure of the sound pressure of a given noise source relative to a standard reference value (typically the quietest sound that a young person with good hearing can detect).

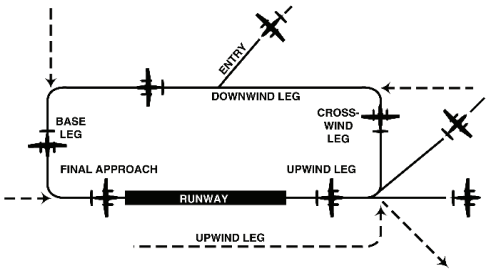
THRESHOLD - Decibel level below which single event information is not printed out on the noise monitoring equipment tapes. The noise levels below the threshold are, however, considered in the accumulation of hourly and daily noise levels.

TIME ABOVE (TA) - The 24-hour TA noise metric provides the duration in minutes for which aircraft-related noise exceeds specified A-weighted sound levels. It is expressed in minutes per 24-hour period.

TOUCHDOWN ZONE LIGHTING (TDZ) -Two rows of transverse light bars located symmetrically about the runway centerline normally at 100 foot intervals. The basic system extends 3,000 feet along the runway.

TRAFFIC PATTERN - The traffic flow that is prescribed for aircraft landing at or taking off from an airport. The components of a typical traffic pattern are the upwind leg, crosswind leg, downwind leg, base leg, and final approach.

UNICOM - A nongovernment communication facility which may provide airport information at certain airports. Locations and frequencies of UNICOM's are shown on aeronautical charts and publications.



UPWIND LEG - A flight path parallel to the landing runway in the direction of landing. See "traffic pattern."

VECTOR - A heading issued to an aircraft to provide navigational guidance by radar.

VERY HIGH FREQUENCY OMNIDIRECTIONAL RANGE STATION (VOR) - A ground-based electric navigation aid transmitting very high frequency navigation signals, 360 degrees in azimuth, oriented from magnetic north. Used as the basis for navigation in the national airspace system. The VOR periodically identifies itself by Morse Code and may have an additional voice identification feature.

VERY HIGH FREQUENCY OMNIDIRECTIONAL RANGE STATION/TACTICAL AIR NAVIGATION (VORTAC) - A navigation aid providing VOR azimuth, TACAN azimuth, and TACAN distance-measuring equipment (DME) at one site.

VICTOR AIRWAY - A control area or portion thereof established in the form of a corridor, the centerline of which is defined by radio navigational aids.

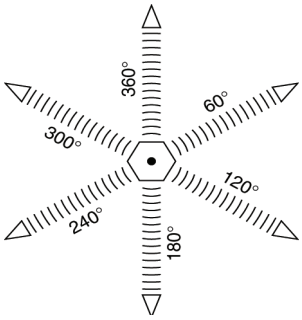
VISUAL APPROACH - An approach wherein an aircraft on an IFR flight plan, operating in VFR conditions under the control of an air traffic control facility and having an air traffic control authorization, may proceed to the airport of destination in VFR conditions.

VISUAL APPROACH SLOPE INDICATOR (VASI) - An airport lighting facility providing vertical visual approach slope guidance to aircraft during approach to landing by radiating an directional pattern of high intensity red and white focused light beams which indicate to the pilot that he is on path if he sees red/white, above path if white/white, and below path if red/red. Some airports serving large aircraft have three-bar VASI's which provide two visual guide paths to the same runway.

VISUAL FLIGHT RULES (VFR) - Rules that govern the procedures for conducting flight under visual conditions. The term VFR is also used in the United States to indicate weather

conditions that are equal to or greater than minimum VFR requirements. In addition, it is used by pilots and controllers to indicate type of flight plan.

VOR - See "Very High Frequency Omnidirectional Range Station."



VORTAC - See "Very High Frequency Omnidirectional Range Station/Tactical Air Navigation."

WAAS - Wide Area Augmentation System, ground-based antennas whose precisely known locations are used to correct the satellite signals and provide greater positional accuracy as well as integrity of service to aircraft in the air. Given the current difficulties with WAAS, LAAS now has higher priority for implementation at U.S. airports.

YEARLY DAY-NIGHT AVERAGE SOUND LEVEL - See DNL.

Appendix F

Initial Study

INTRODUCTION

This Initial Study evaluates the potential environmental effects of the implementation of an Airport Land Use Compatibility Plan (ALUCP) update for the environs of Stockton Metropolitan Airport. This Initial Study is provided as part of the *California Environmental Quality Act* (CEQA) documentation for the San Joaquin Council of Government's (SJCOG) consideration. SJCOG is assuming the role of lead agency for this project in accordance with CEQA and the State CEQA Guidelines. The SJCOG Board of Directors serves as the designated Airport Land Use Commission for San Joaquin County. In this role, the Board is guided by the relevant content in the *California Airport Land Use Planning Handbook* (October 2011), published by the Caltrans Division of Aeronautics, and implements the *California State Aeronautics Act* (SAA) pursuant to California Public Utilities Code (PUC) Sections 21674.5 and 21674.7. SJCOG review and determination regarding the potential environmental impacts of the ALUCP Update will be based on the information presented in this Initial Study.

ENVIRONMENTAL REVIEW PROCESS

This Initial Study document contains an "Environmental Checklist" for assessing potential environmental impacts of the proposed project in a modified form suggested by Appendix G of the State CEQA Guidelines. A brief explanation is provided for all responses contained in the Environmental Checklist, including supportive documentation for those responses identified as "No Impact" or "Less than Significant Impact."

Based on analysis undertaken to fill out the checklist, the proposed ALUCP Update is not expected to result in any potentially significant environmental impacts and no mitigation is necessary. Based on this determination, SJCOG proposes to adopt a Negative Declaration (ND) for the proposed project.

This Initial Study document fulfills the environmental review requirements for adoption of the proposed ALUCP by the SJCOG Board of Directors, in its designated role as the Airport Land Use Commission for San Joaquin County. As noted in Item 9 of the Environmental Checklist, there are no other agency approvals required.

PROJECT DESCRIPTION

1. Project Title:

Airport Land Use Compatibility Plan (ALUCP) Update for the Environs of Stockton Metropolitan Airport (SCK)

2. Lead Agency Name and Address:

San Joaquin Council of Governments
555 E. Weber Ave.
Stockton, CA 95202-2804

3. Project Location:

The Stockton Metropolitan Airport ALUCP Update applies to geographic areas in a portion of the City of Stockton, City of Lathrop, City of Manteca, and unincorporated areas in San Joaquin County that are located within the AIA. Pursuant to California PUC Section 21675, each airport has an AIA that indicates those areas in which current or future airport-related overflights, noise, safety, or airspace protection conditions may significantly affect land uses and may require land use restrictions to address those conditions. The airport influence area indicates the area within which ALUC review of certain land use actions is required.

For SCK, the AIA boundary was established using a combination of the current AIA boundary and the outer boundary of the Title 14 of the Code of Federal Regulations Part 77 (14 CFR Part 77) for SCK. 14 CFR Part 77 defines a series of airspace boundaries around an airport to determine if there are

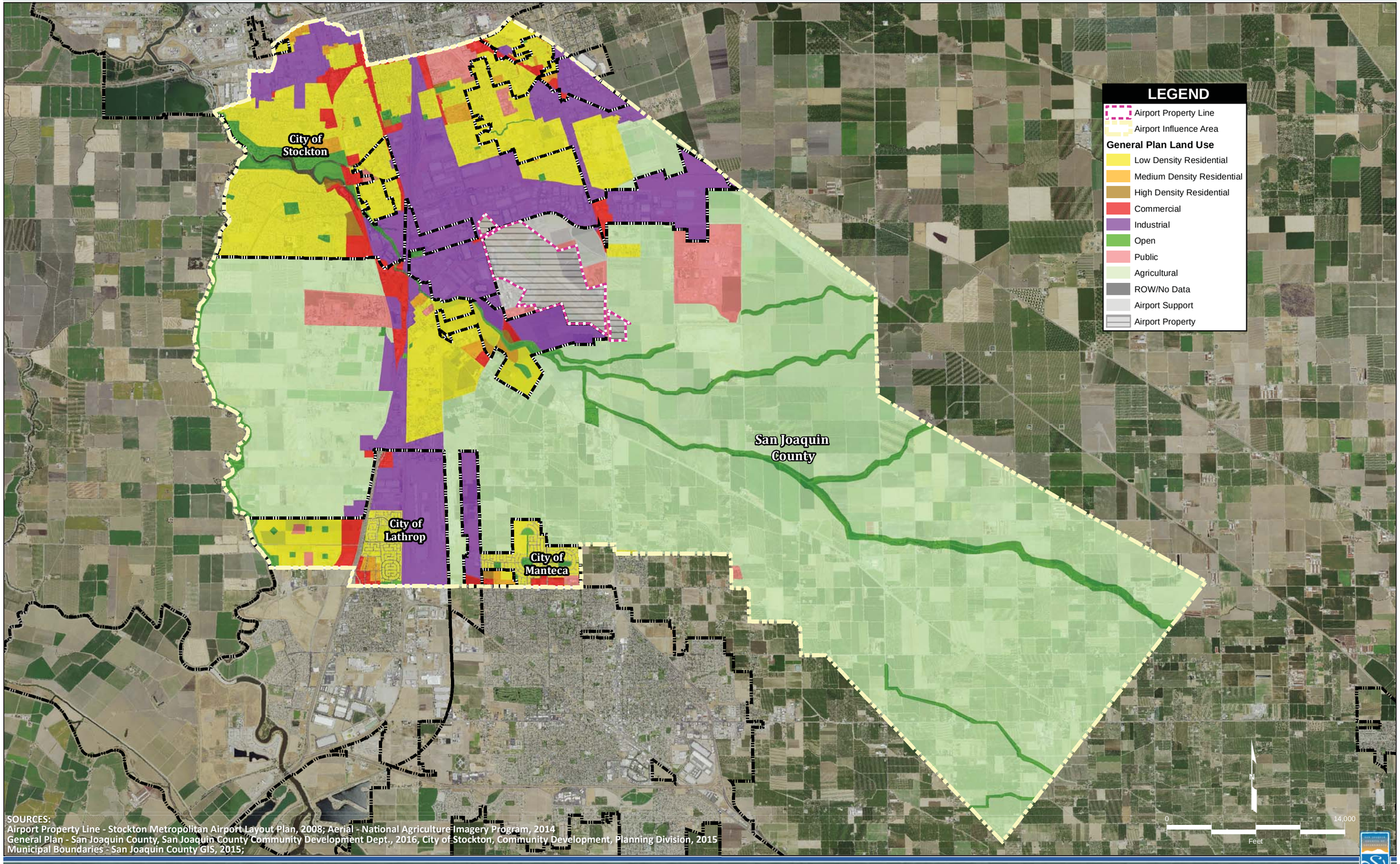
obstructions to air navigation. For the purposes of this plan, the combination of the current AIA boundary, conical surface, and approach surface is used to delineate the updated AIA. The portion of the current AIA boundary is defined by easily recognized geographic features and encompasses all the safety and airspace zones. The conical surface is the outer boundary of the 14 CFR Part 77 airspace boundaries and generally represents the traffic pattern, or the area within which aircraft operate; the approach surface is used for airports that have a precision runway, such as SCK.

4. Project Sponsor's Name and Address:

San Joaquin County Council of Governments
555 E. Weber Ave.
Stockton, CA 95202-2804
Andrew T. Chesley, Executive Director

5. General Plan Designation:

The General Plan land use designations for the City of Stockton, City of Manteca, City of Lathrop, and San Joaquin County are shown on **Figure 1** with acreages summarized in **Table 1**. As noted in the table, a majority of the land within the study area is planned for agricultural land uses. The next largest segment of land is planned for industrial land uses. Consistent with existing development, these areas are located northwest and southwest of the airport. The third largest acreage within the general plans is low density residential development. Areas planned for this type of development are also located northwest and southwest of the airport. Each community within the study area has outlined different density ranges for this type of development. The *City of Stockton General Plan*, adopted in 2007, defines low density residential development as areas with up to 8.7 dwelling units per gross acre. The *San Joaquin County General Plan*, adopted in 1992, defines this type of development as having between two and six dwelling units per acre. According to the City of Lathrop *Comprehensive General Plan*, low density residential would have one to seven dwelling units per acre. Within the City of Manteca *General Plan,* low density is defined as 2.1 to 8 dwelling units per acre. The remaining areas, in order of acreage, include open space, airport property, commercial, airport support, medium density residential, public, high density residential, and right-of-way. Airport support land uses are those parcels adjacent to or near the airport, which support airport operations, but are not within the airport boundary as shown on the ALP.



SOURCES:
Airport Property Line - Stockton Metropolitan Airport Layout Plan, 2008; Aerial - National Agriculture Imagery Program, 2014
General Plan - San Joaquin County, San Joaquin County Community Development Dept., 2016, City of Stockton, Community Development, Planning Division, 2015
Municipal Boundaries - San Joaquin County GIS, 2015;

Figure 1
GENERAL PLAN LAND USE

TABLE 1
Airport Influence Area General Plan Summary

Category	Acres	Percentage
Low Density Residential	7,873.6	14.01%
Medium Density Residential	421.3	0.75%
High Density Residential	97.9	0.17%
Commercial	1,223.0	2.18%
Industrial	7,345.0	13.07%
Open	2,447.0	4.36%
Public	1,705.6	3.04%
Agricultural	33,211.9	59.11%
Right of Way	391.1	0.70%
Airport Property	1,069.0	1.90%
Airport Support	398.3	0.71%
Total	**56,183.7**	**100.0%**

Source: San Joaquin County Community Development Department, 2015.
City of Stockton, Community Development, Planning Division, 2015.
City of Manteca, Community Development Department, 2011.
City of Lathrop, Community Development Department, 2004.
Coffman Associates analysis.

6. Zoning:

The largest amount of land within the study area is zoned as agricultural, followed by industrial and low density residential. Much of the agricultural zoned land is located southeast of the airport; and industrial and low density residential zoned lands are located northwest and southwest of the airport. The next largest portion of land is the airport property. This is followed by public land, right-of-way, commercial, medium and high density residential, open space and airport support. As mentioned previously, airport support is not an actual zoning designation for the cities of Stockton, Lathrop, or Manteca, or San Joaquin County, but is used in conjunction with the airport area to identify areas located off airport property which are zoned for uses which support the airport. **Figure 2** illustrates the zoning designations within the vicinity of the airport and **Table 2** summarizes the acreages for each zoning district.

TABLE 2
Airport Influence Zoning Summary

Category	Acres	Percentage
Residential Low Density	4,381.2	7.80%
Residential Medium Density	274.8	0.49%
Residential High Density	127.1	0.23%
Commercial	720.9	1.28%
Industrial	6,735.6	11.99%
Specific Plan or Master Plan	1,582.5	2.82%
Open	179.0	0.32%
Public	1,921.2	3.42%
Agricultural	36,474.5	64.91%
Right of Way	2,164.1	3.85%
Airport Property	1,069.0	1.90%
Airport Support	553.8	0.99%
Total	**56,183.7**	**100.0%**

Source: San Joaquin County Community Development Department, 2015. City of Stockton, Community Development, Planning Division, 2015. City of Manteca Community Development Department, 2014. City of Lathrop, Community Development Department, 2012. Coffman Associates analysis.

7. Description of Project:

The proposed ALUCP would replace the 1993 San Joaquin County Airport Land Use Plan for SCK (previously referred to as a CLUP). The SCK airport layout plan (ALP) (and associated Part 77 surfaces), aviation activity forecasts, and noise contour maps have been updated since 1993 and are reflected in the proposed ALUCP. The ALUCP has also been prepared with reference to, and is consistent with, guidance provided by the California Department of Transportation (Caltrans), Division of Aeronautics in the 2011 version of the *California Airport Land Use Planning Handbook* (Handbook) and all other relevant state and federal guidelines, criteria, and regulations.

Similar to the 1993 CLUP, the proposed ALUCP is intended to protect and promote the safety and welfare of residents, businesses, and airport users near the airport, while supporting the continued operation of SCK. Specifically, the plan seeks to protect the public from the adverse effects of airport noise, to ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and to ensure that no structures or activities encroach upon or adversely affect the use of navigable airspace.

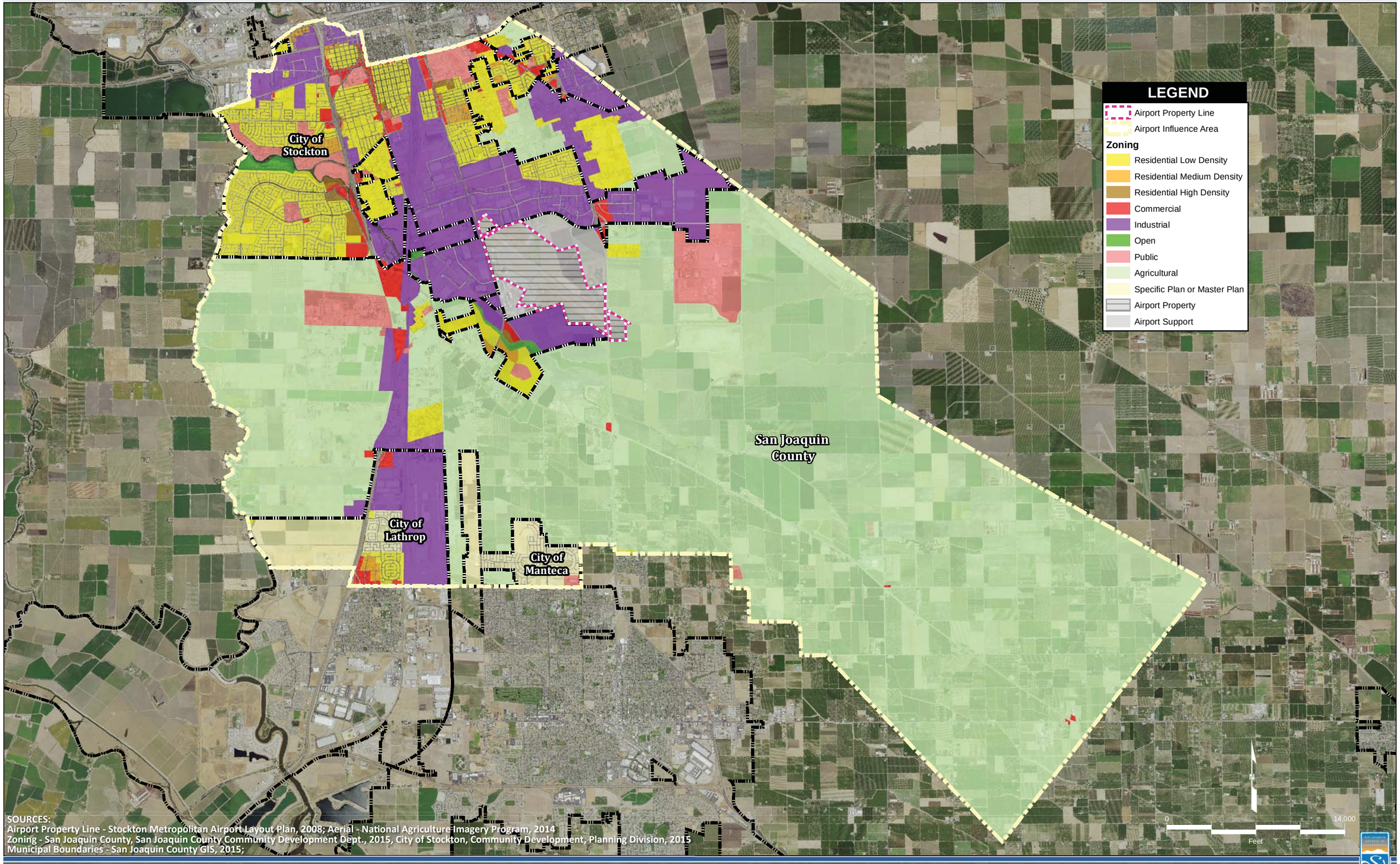
Per the CalTtrans Handbook, the ALUCP Update does not apply to existing land use (i.e., the land use compatibility policies contained within the proposed ALUCP are not intended to remove existing incompatible land uses within the AIA). This includes development already planned for the area as evidenced by a vesting tentative map, a development agreement pursuant to California Government Code, Section 65866 that is in effect at the effective date of this ALUCP Update, or a valid building permit.

Chapter Three of the proposed ALUCP contains general and specific policies to implement the relevant provisions of the plan. Specifically, the plan includes the land use compatibility review process and identifies allowable land uses and densities based on the projected long range noise exposure contours, safety zones, and Part 77 surfaces.

Noise Zones and Land Use Compatibility

The 1993 CLUP noise zones are based upon a projected 1994-1995 noise exposure contour taken from a Part 150 Noise Compatibility study prepared for the airport in 1991. The noise compatibility contours were developed in five community noise equivalent level (CNEL) increments beginning with the 60 CNEL noise contour. Between the 60 and 65 CNEL noise contour the following land uses are prohibited: schools (other than flying schools), churches, theaters, and auditoriums. Within the 65 CNEL and greater noise contours, the following land uses are prohibited: all residential uses, schools (other than flying schools), churches, theaters, and auditoriums.

In the ALUCP Update, noise compatibility policies are placed on new residential and institutional development within the CNEL 60 dB contour. Within the CNEL 60-65 dB range, mobile home parks, outdoor music shells/amphitheaters, sports stadiums, and zoo nature exhibits are considered incompatible. Other noise-sensitive uses are conditionally compatible if they are sound-insulated and if avigation easements are granted to San Joaquin County. Within the CNEL 65-70 dB range, dwellings are incompatible and would not be allowable, although exceptions for infill development. Within the



SOURCES:
Airport Property Line - Stockton Metropolitan Airport Layout Plan, 2008; Aerial - National Agriculture Imagery Program, 2014
Zoning - San Joaquin County, San Joaquin County Community Development Dept., 2015, City of Stockton, Community Development, Planning Division, 2015
Municipal Boundaries - San Joaquin County GIS, 2015;

Figure 2
ZONING

CNEL 75 dB contour, all residential, public/institutional uses, and commercial uses are incompatible and would not be allowable. Industrial and Agricultural uses are compatible within the CNEL 75 dB contour.

In addition to the CNEL noise contours, a single event noise contour is used in the ALUCP Update. Aircraft noise single event noise contours are commonly used for determining the potential impacts in residential areas as they can be used to approximate areas where sleep disturbance may occur. The Federal Interagency Committee on Aviation Noise (FICAN) recommends using a 10 percent awakening value associated with indoor sound exposure levels (SEL) of 80 decibels (dB). The typical home with the windows closed attenuates exterior noise of approximately 15 dB. The 95 dB SEL contour is used to identify noise-sensitive areas (residential, hospitals, hotels, and motels) that require disclosure for potential of sleep disruption from aircraft overflights.

Safety Zones and Land Use Compatibility

The 1993 CLUP safety zones have six zone zones (Airport Building and Airport Property Areas, Runway Protection Zone, Inner Approach and Climbout Areas, Outer Approach and Climbout Areas, Transitional Zone, Areas Under Horizontal and Conical Surfaces). All of these areas, referred to as subzones in the 1993 CLUP, comprise the Airport Influence Area (AIA).

The ALUCP Update has eight safety zones. These include the runway protection zone, (RPZ), inner approach/departure zone (IADZ), inner turning zone (ITZ), outer approach/departure zone (OADZ), the sideline safety zone (SSZ), and the airport zone (AP), traffic pattern zone (TPZ), and the AIA. The AIA from the ALUCP Update includes all areas within the 1993 CLUP described above but also extends to the southeast to include those areas located within the Part 77 approach surface which is used at airports with a precision runway approach, such as Stockton Metropolitan Airport.

Summary of Displacement Analysis

The change in amount of developable land and density allowed by the 1993 CLUP compared to what could occur under policies contained in the proposed ALUCP was analyzed in a "displacement analysis," which is appended to this Initial Study (**Attachment A**). The term "displacement" refers to the idea that development disallowed in one area may shift to other less restricted areas. The actual amount and location of such future development is dependent on a variety of factors, including market conditions, and would be subject to the zoning and permitting authority of the responsible local jurisdictions. Additionally, it is important to note that the displacement analysis discussed below only includes those areas subject to both the 1993 CLUP and the ALUCP Update. Although the proposed AIA (Zone 8) is larger, there are no density or intensity restrictions, therefore, no residential or non-residential displacement would occur in those areas.

Future Residential Buildout. The displacement analysis conducted for this project compares the overall amount and type of residential development allowed by the 1993 CLUP with what could occur under the proposed ALUCP, based on the locally adopted zoning maps and general plans. Based on the analysis, the amount of residential development, based on the zoning designations allowed within the

AIA, there is no net change in the number of dwelling units when compared to the 1993 CLUP (Table A6, **Attachment A**).

Implementation of the ALUCP is not expected to result in displacement of overall future residential development within the AIA, based on existing zoning designations when combined with the ALUCP update zones. Based on the zoning component of the displacement analysis, approximately 8.8 more dwelling units could be built given the proposed ALUCP safety zones. When considering general plan designations and the ALUCP Update zones, approximately 1.1 more dwelling units could be built within the AIA.

Future Non-Residential Buildout. For non-residential development, both the 1993 CLUP and the proposed ALUCP restrict the type of development and intensity (number of people allowed per acre). Non-residential development may include commercial, office, institutional, and industrial land uses. Since the locally adopted zoning ordinances and general plans do not specify intensity of use criteria for non-residential development; this displacement analysis will be prepared comparing the number of acres of non-residential development subject to intensity restrictions within the Baseline Condition and the ALUCP Update. The difference between the Baseline Condition and the ALUCP Update was used to determine the non-residential development displacement. A total of 154.8 acres meet the non-residential undeveloped parcel definition within the AIA. Of this total, seven acres are subject to intensity limitations within the 1993 CLUP that range between 0 to 50 people per acre, depending on the zone. In comparison, under the ALUCP Update, 130.4 acres are subject to intensity limitations (Table A9, **Attachment A**). The intensity limitations for the 1993 CLUP are generally more restrictive than the proposed ALUCP Update; therefore, the potential number of persons allowed on a property would be greater under the ALUCP Update. The proposed intensity restriction increases are based on the risk evaluation discussed in Chapter 4 of the 2011 *California Airport Land Use Planning Handbook.*

Of the 130.4 undeveloped acres within the ALUCP Update zones, 4.3 acres are subject to intensity limitations between 25 to 50 people per acre, and the remaining 126.1 acres are subject to a much higher limit of 450 people per acre. The 450 people per acre limitation in the Traffic Pattern Zone is intended to limit high intensity uses, such as stadiums, amphitheaters, or other similar uses. Presently, no land is zoned or planned for this type of use within the proposed AIA.

Displacement Analysis Conclusions. The proposed ALUCP is not a development plan (i.e., no specific land uses are designated for any particular parcel or parcels). Whether actual shifts in development would occur as a result of the proposed ALUCP would depend on the actual need for development; the rate, timing, location and extent of development; economic and market conditions; the nature and type of the project or projects; and project-level impacts to the environment and associated mitigation.

Attempts to accurately forecast the actual effects of potential future shifts in land use development and population are subject to considerable uncertainty. If such projects do occur in the future, like other land use development, they will be subject to the appropriate project-level environmental review under CEQA. (See California Code of Regulations, Title 14, §15145.)

The ultimate authority for implementation of the ALUCP rests with local governments who serve as the zoning and land use permitting authorities. These local governments have multiple options with regard to how to implement the new policies and criteria in the ALUCP. Thus, any potential development effects discussed in the Environmental Checklist portion of this Initial Study are dependent on the specific implementation actions taken by these entities.

8. Surrounding Land Uses and Setting: Briefly describe the project's surroundings.

Existing land uses within the AIA are depicted on **Figure 3** and the corresponding acreages are summarized in **Table 3**. As indicated in the table, the largest share of land is used for agricultural purposes. This is followed by industrial development, which is primarily located northwest of the airport. Additional industrial development is located southeast and southwest of the airport. Low density residential development follows industrial uses in total acreage. This type of development is located primarily northwest of the airport within the City of Stockton and in areas near Interstate 5, southwest of the airport within the City of Stockton and the City of Lathrop. Other notable parcels shown on the exhibit include the California Department of Corrections and Rehabilitation health care facility, located east of the airport; the landfill, located east of the airport; and San Joaquin General Hospital, located west of the airport. The remaining areas, in order of acreage, are classified as road and railroad right-of-way, open space, airport property, public facilities, commercial, medium density residential, vacant, and airport support. Airport support land uses are those parcels adjacent to or near the airport, which support airport operations, but are not within the airport boundary as shown on the ALP.

TABLE 3
Airport Influence Area Existing Land Use Summary

Category	Acres	Percentage
Low Density Residential	5,070.3	9.03%
Medium Density Residential	862.2	1.54%
Mixed-Use	16.7	0.03%
Commercial	1,006.7	1.79%
Industrial	5,842.7	10.40%
Public	1,639.6	2.92%
Open	2,871.9	5.11%
Agricultural	32,492.1	57.83%
Right-of-Way	4,760.0	8.47%
Vacant	282.8	0.50%
Airport Property	1,069.0	1.90%
Airport Support	269.7	0.48%
Total	**56,183.7**	**100.0%**

Source: Existing Land Use: *San Joaquin Council of Governments 2014-2040 Regional Transportation Plan and Sustainable Communities Strategy*. Coffman Associates analysis.

9. Other Agencies Whose Approval is Required (e.g., permits, financing approval, or participation agreement)

None.

10. Environmental Factors Potentially Affected:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" or a "Less Than Significant with Mitigation Incorporated" impact as indicated by the checklist on the following pages.

☐ Aesthetics	☐ Agriculture and Forestry Resources	☐ Air Quality
☐ Biological Resources	☐ Cultural Resources	☐ Geology /Soils
☐ Greenhouse Gas Emissions	☐ Hazards & Hazardous Materials	☐ Hydrology / Water Quality
☐ Land Use / Planning	☐ Mineral Resources	☐ Noise
☐ Population / Housing	☐ Public Services	☐ Recreation
☐ Transportation/Traffic	☐ Utilities / Service Systems	☐ Mandatory Findings of Significance

11. Determination:

On the basis of this initial evaluation:

☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

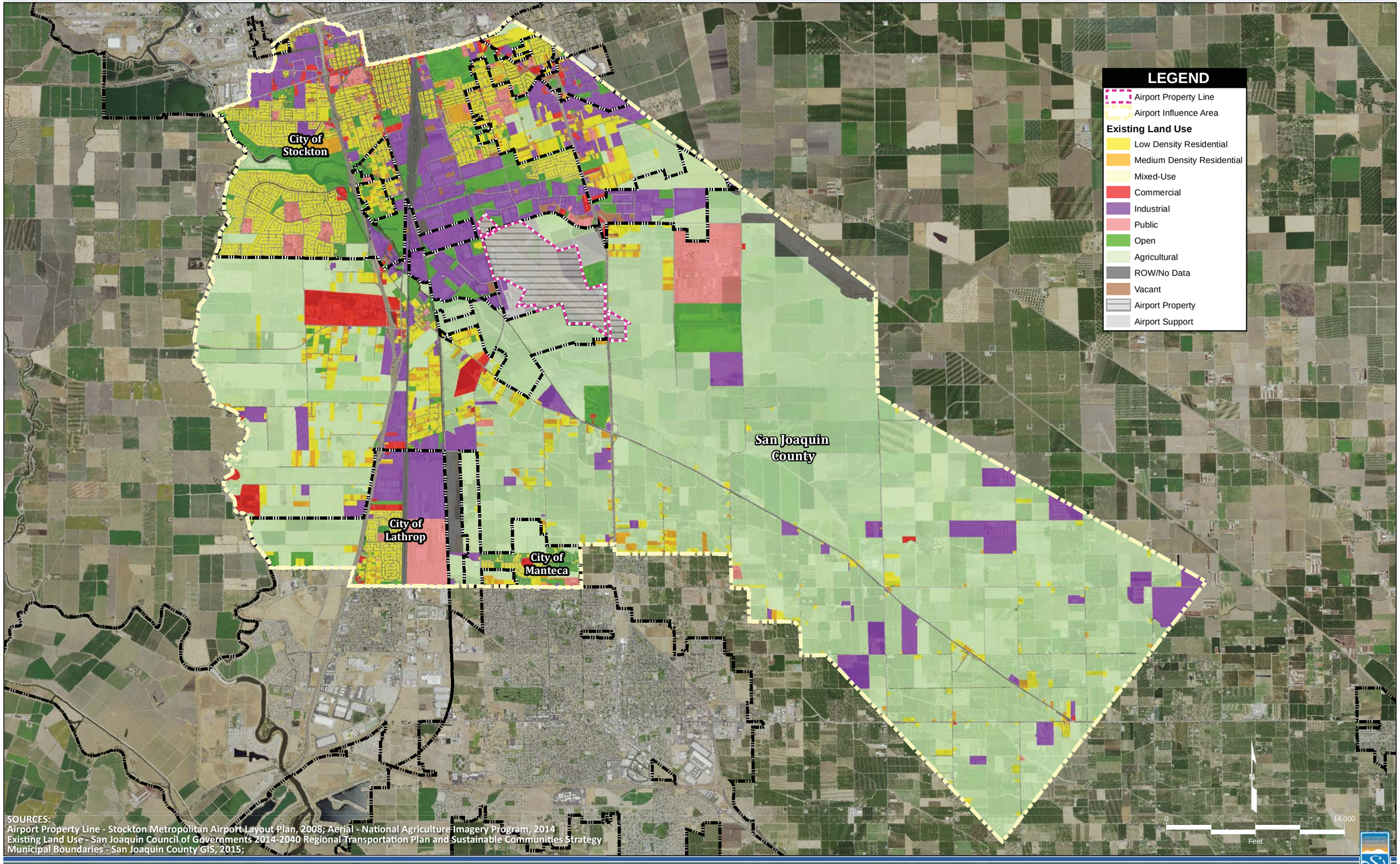
☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find the proposed project MAY have a significant effect(s) on the environment, but at least one effect: 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards; and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets, if the effect is a "potentially significant impact" or "potentially significant unless mitigated." An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, there WILL NOT be a significant effect in this case because all potentially significant effects: (a) have been analyzed adequately in an earlier EIR pursuant to applicable standards; and (b) have been avoided or mitigated pursuant to that earlier EIR, including revisions or mitigation measures that are imposed upon the proposed project.

Signature	Date
Printed Name	For



SOURCES:
Airport Property Line - Stockton Metropolitan Airport Layout Plan, 2008; Aerial - National Agriculture Imagery Program, 2014
Existing Land Use - San Joaquin Council of Governments 2014-2040 Regional Transportation Plan and Sustainable Communities Strategy
Municipal Boundaries - San Joaquin County GIS, 2015;

Figure 3
EXISTING LAND USE

EVALUATION OF ENVIRONMENTAL IMPACT

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors, as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an Environmental Impact Report (EIR) is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analyses," as described in (5) below may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration (CEQA Guidelines, Section 15063[c][3][D]). In this case, a brief discussion should identify the following:

a) Earlier Analysis Used. Identify and state where they are available for review.

b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of, and adequately analyzed in, an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources. A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The explanation of each issue should identify:

a) the significance criteria or threshold, if any, used to evaluate each question; and

b) the mitigation measure identified, if any, to reduce the impact to less than significant

ENVIRONMENTAL CHECKLIST

The following statement applies when considering all environmental factors discussed below: No displacement of development is anticipated due to the proposed ALUCP (see *Summary of Displacement Analysis* on pages 7-8 of this Initial Study), and the ALUCP itself would not result in any physical changes or development. The following discussions for all environmental factors discussed below, therefore, are based on impacts related to the implementation of policies contained within the proposed ALUCP Update.

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
I. AESTHETICS				
Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	X	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state-designated scenic highway?	☐	☐	X	☐
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	X	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	X	☐

Impact Analysis

I a-d) Less Than Signficant Impact. The *San Joaquin County General Plan 2010* (1992), City of Stockton *2035 General Plan* (2010), City of Lathrop *Comprehensive General Plan* (1991) and City of Manteca *General Plan 2023* (2003) do not define scenic vistas.

Although the ALUCP does not involve any physical changes or development, it provides land use restrictions within the airport's future (2028) 60 decibel (dB) Community Noise Equivalent Level (CNEL) or greater noise contours and within proposed safety zones to promote safety and land use compatibility within the AIA (refer to **Figure 4**). These land use restrictions are not in conflict with locally adopted general plan policies related to the protection of scenic view and resources.

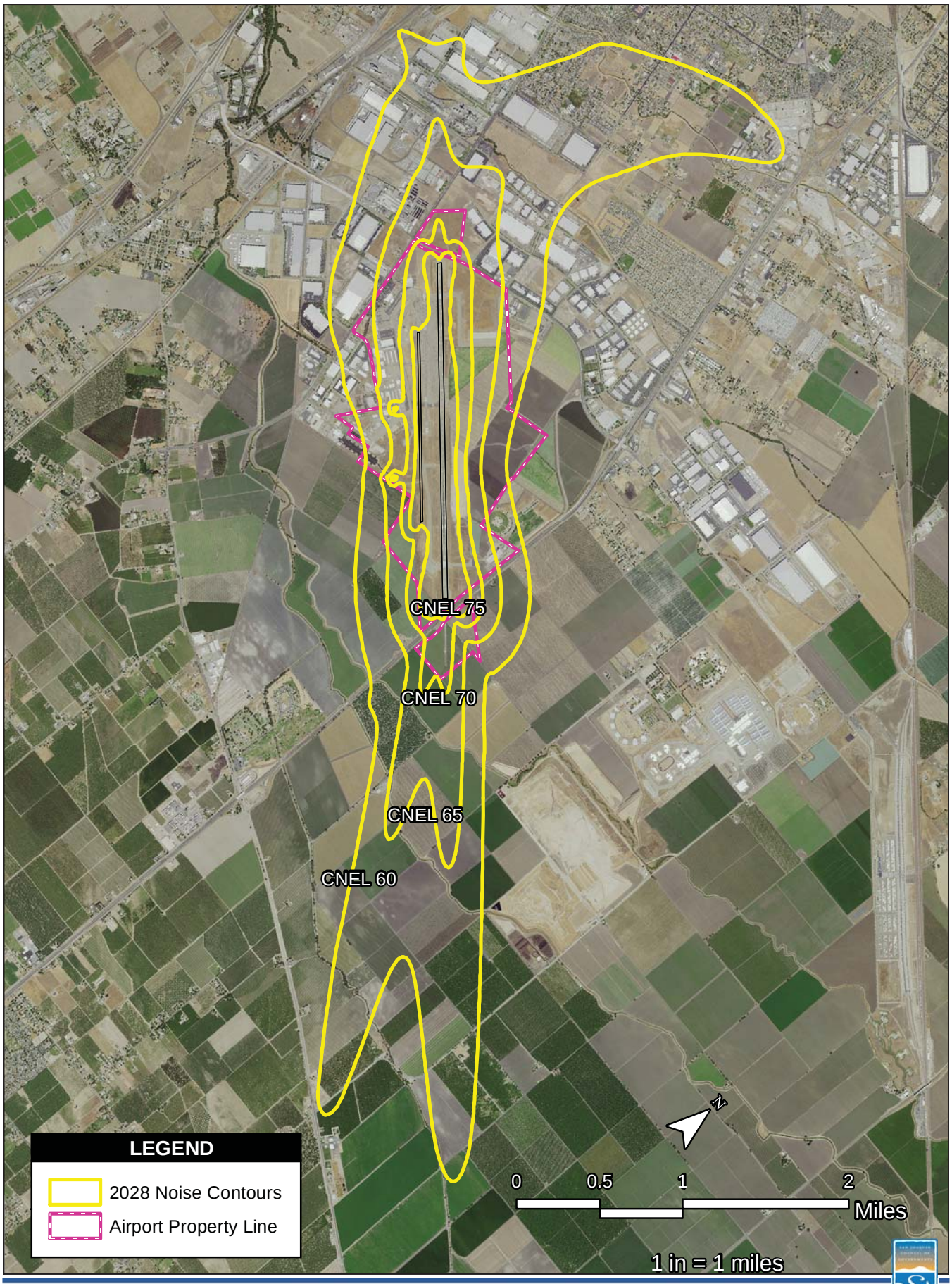


Figure 4
LONG RANGE CNEL NOISE EXPOSURE CONTOURS

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
II. AGRICULTURE AND FOREST RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	X
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	X
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	X

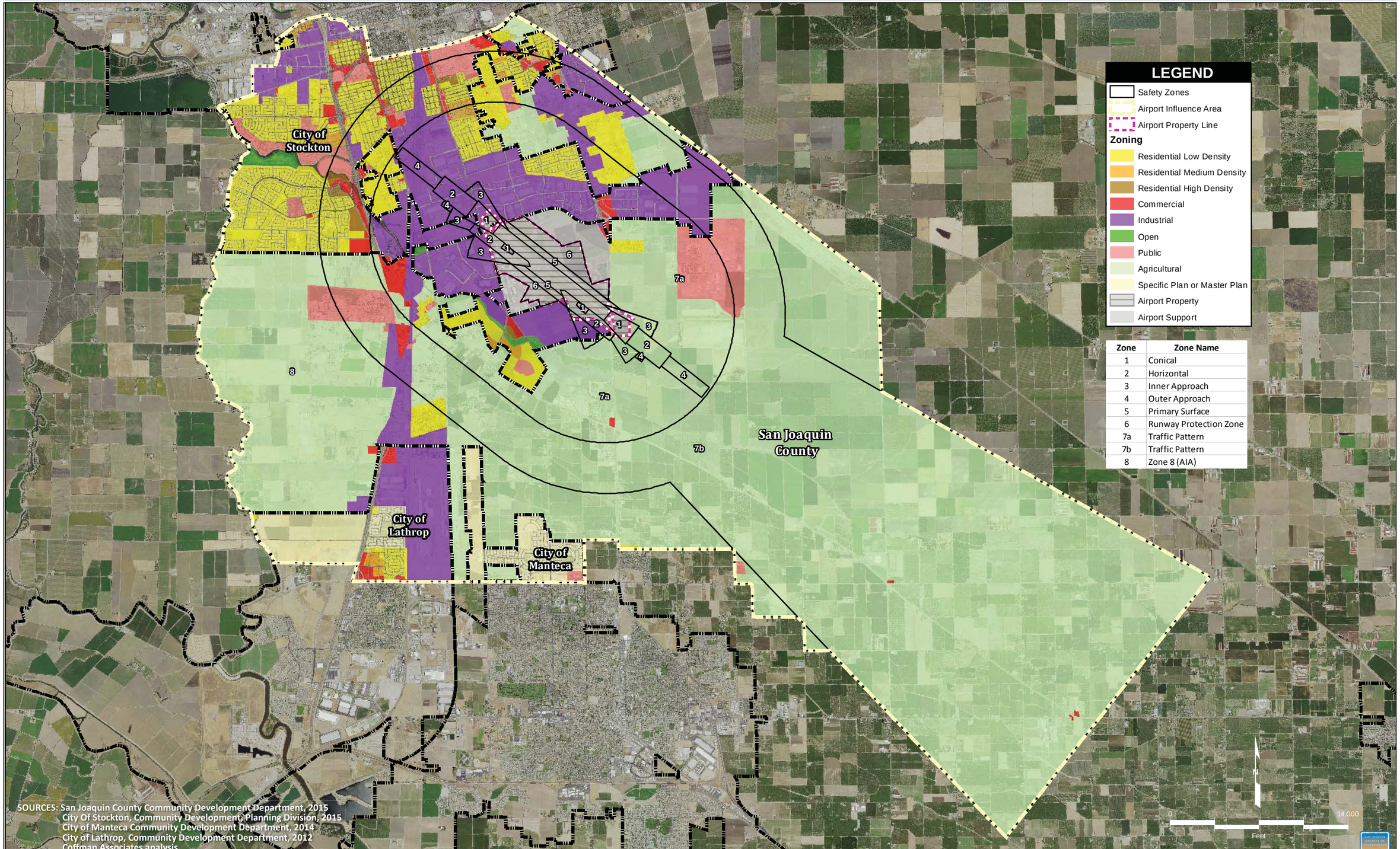
Impact Analysis

II a-e) No Impact. The proposed ALUCP does not involve any physical changes or development within the AIA and there are no forest or timberland zoned areas in the AIA. The ALUCP does provide certain land use restrictions on existing agriculturally zoned areas within Safety Zone 8 (AIA), which encompasses agriculturally zoned lands to the south and southeast of the airport (refer to **Figure 5**). However, the AIA's land use restrictions prohibit hazards to flight (such as tall objects), wildlife attractants (such as bird nesting and food sources), and the development of high intensity land uses (such as outdoor stadiums). These restrictions would also serve to encourage the retention of agricultural areas as open space rather than development of non-agricultural land use. Thus, the ALUCP would not have an impact on agricultural resources.

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
III. AIR QUALITY				
Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations:				
Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the air basin is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	X
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	X
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	X

Impact Analysis

III a-e) No Impact. The Stockton Metropolitan Airport's proposed AIA is located within the San Joaquin Valley Air Pollution Control District planning jurisdiction, which is a non-attainment area under the federal 8-Hour Ozone and PM2.5 standards. The proposed ALUCP Updated does not involve any physical changes or development within the AIA. Therefore, the proposed ALUCP Update would not conflict with or obstruct the implementation of San Joaquin Valley Air Pollution Control District's most recent 8-Hour Ozone (2010) and PM2.5 (2012) plans. Since this project does not involve any physical ground disturbance or development, it would not violate any air quality standards, result in an increase of any criteria pollutants, expose sensitive receptors to substantial pollutant concentrations, or create objectionable odors.



SOURCES: San Joaquin County Community Development Department, 2015
City Of Stockton, Community Development, Planning Division, 2015
City of Manteca Community Development Department, 2014
City of Lathrop, Community Development Department, 2012
Coffman Associates analysis.

Figure 5
SAFETY ZONES OVERLAIN ON ZONING

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
IV. BIOLOGICAL RESOURCES				
Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or b y the California Department of Fish and Game or US Fish and Wildlife Service?	☐	☐	☐	X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance ?	☐	☐	☐	X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	X

Impact Analysis

IV a-e) No Impact. The proposed ALUCP does not involve any physical changes or development within the AIA. Therefore, there would not be an adverse affect due to the project on any sensitive or special status species, riparian habitat or other sensitive natural communities, or federally protected wetlands. Similarly, the project would not interfere with native resident or migratory fish or wildlife species, wildlife corridors, or wildlife nursery sites.

IV e) Less Than Significant Impact. Portions of the SCK AIA are also included within the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). The County SJMSCP contains policies and guidelines to:

- Provide a strategy for balancing the need to conserve Open Space and the need to Convert Open Space to non-Open Space uses while protecting the region's agricultural economy.
- Preserve landowner property rights.

- Provide for the long-term management of plant, fish and wildlife species, especially those that are currently listed, or may be listed in the future, under the Federal *Endangered Species Act* (ESA) or the California *Endangered Species Act* (CESA).
- Provide and maintain multiple-use Open Space which contributes to the quality of life of the residents of San Joaquin County.
- Accommodate a growing population while minimizing costs to project proponents and society at large.

Within the ALUCP Update, new land uses considered "hazards to flight" and activities that may "cause the attraction of birds to increase", are prohibited in all eight of the safety zones. The SJMSCP is intended to protect and manage existing biological resources, rather than the expansion or development of new biologically sensitive areas; therefore, the policies of the ALUCP will not conflict with implementation of SJMSCP. No impacts to the implementation of the SJMSCP or other General Plan policies to protect biological resources are anticipated to result from the proposed ALUCP.

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
V. CULTURAL RESOURCES				
Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in State CEQA 15064.5?	☐	☐	☐	X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to State CEQA 15064.5?	☐	☐	☐	X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	X
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	X

Impact Analysis

V a-d) No Impact. The proposed ALUCP does not involve any physical changes or development within the AIA. As a result, there would not be an adverse affect or change in significance due to the project on any historical, archaeological, or paleontological resource, unique geologic feature, or human remains.

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
VI. GEOLOGY AND SOILS				
Would the project:				
a) Exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	X	☐
ii) Strong seismic ground shaking?	☐	☐	☐	X
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☐	X
iv) Landslides?	☐	☐	☐	X
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	X
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	X
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	X

Impact Analysis

VI a) Less Than Significant Impact. Although the proposed ALUCP does not involve any physical changes or development, it would not preclude future development within the AIA. The following information about the AIA is known:

i) Based on the San Joaquin County General Plan, the AIA encompasses portions of the Tracy-Stockton Fault[1], which "crosses the County from the southwest near Tracy to the northeast near Linden. Passing beneath the City of Stockton, the fault has no surface trace, and its position has been determined only from oil well log data. Subsurface data indicate that no appreciable movement has occurred on this fault for three million years or more. Normally, this evidence would suggest that the fault is inactive. On April 10, 1881 an earthquake occurred near Linden, having an estimated Modified Mercalli intensity

[1] San Joaquin County General Plan, Seismic and Geologic Hazards, https://www.sjgov.org/commdev/cgi-bin/cdyn.exe/handouts-planning_GP-V3-III-A?grp=handouts-planning&obj=GP-V3-III-A, accessed September 2015.

of VII. In addition, two other smaller earthquakes (Richter Magnitude 4) occurred on September 19 and 20, 1940 approximately five miles south of Linden. It is not certain whether these earthquakes were part of a northeast extension of the Stockton-Tracy Fault. This seismic activity raises the possibility of an active fault capable of at least a 5.0 magnitude earthquake located in or near the central part of San Joaquin County."

ii) The California Geological Survey maintains shaking hazard maps which indicate the level of ground motion that has one chance in 475 of being exceeded each year, which is equal to a 10 percent probability of being exceeded in 50 years. Based on available mapping, the peak ground acceleration for the AIA is between 10 and 30 percent.[2] Thus, future development would be "distant from known, active faults and will experience lower levels of shaking less frequently. In most earthquakes, only weaker, masonry buildings would be damaged. However, very infrequent earthquakes could still cause strong shaking here."

iii) SCK and the area within the AIA primarily consists of flat lands. Therefore, the ground slope of the developable portions of the AIA is generally too shallow to result in a landslide of any significance.

Since any future development would not be caused by the proposed ALUCP and would be subject to the existing zoning map and regulations, as well as the building permit, design review, and other approval processes, no mitigation is necessary and the potential project-related impact is considered less than significant.

VI b-e) No Impact. The proposed ALUCP Update does not involve any physical changes or development within the AIA. Therefore, the project would not result in substantial soil erosion or the loss of topsoil nor would it locate development on a geologic unit or soil that is unstable, that could become unstable as a result of the project, or is expansive. Since no development would occur due to the ALUCP, the discussion in VI e) regarding septic tanks or alternative waste water disposal systems is not applicable.

[2] http://www.conservation.ca.gov/cgs/rghm/pshamap/Pages/psha12238.aspx, accessed September 2015.

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
VII. GREENHOUSE GAS EMISSIONS				
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☐	X
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	X

Impact Analysis

VII a) No Impact. As discussed in Checklist Item III, the SCK AIA is located within the jurisdiction of the San Joaquin Valley Air Pollution Control District. The proposed ALUCP does not involve any physical changes or development within the AIA. Therefore, the proposed ALUCP would not generate greenhouse gas (GHG) emissions nor would it conflict with implementation of the San Joaquin Valley Air Pollution Control District's 2008 *Climate Change Action Plan*.[3]

[3] San Joaquin Valley Air Pollutant Control District Climate Change Action Plan, http://www.valleyair.org/Programs/CCAP/CCAP_menu.htm, accessed September 2015

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
VIII. HAZARDS AND HAZARDOUS MATERIALS				
Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	X

Impact Analysis

VIII a-d) No Impact. The proposed ALUCP does not involve any physical changes or development within the AIA. Therefore, the project would not result in a significant hazard to the public from the transport, use, disposal, or accidental release of hazardous materials.

VIII e) No Impact. The proposed ALUCP establishes policies to reduce hazards to aircraft in flight and to reduce the severity of the consequences of aircraft accidents within the proposed safety zones. Thus, through implementation of the proposed ALUCP, the safety hazard for people residing or working in the SCK AIA would be less than what otherwise might occur. This is consistent with the objectives of the *State Aeronautics Act*.

VIII f) No Impact. The question in VIII f) regarding private airstrips is not applicable since the proposed ALUCP is tied to a public airport (i.e., SCK).

VIII g-h) No Impact. The proposed ALUCP does not involve any physical changes or development within the AIA. In addition, any future development consistent with the proposed ALUCP would occur in conjunction with the local jurisdictions' zoning maps and regulations and associated approval processes; therefore, no additional impact related to emergency response plans or evacuation plans would occur. The proposed ALUCP would not expose additional people to wildland fires.

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
IX. HYDROLOGY AND WATER QUALITY				
Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	X
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	X
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☐	X
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	☐	☐	☐	X
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	X
f) Otherwise substantially degrade water quality?	☐	☐	☐	X
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	X
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	X
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	X
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	X

Impact Analysis

IX a-j) No Impact. The proposed ALUCP does not involve any physical changes or development within the AIA. Therefore, the project would not result in the violation of any water quality or waste discharge standards, the depletion of ground water resources or interference with ground water recharge, the alteration of existing drainage patterns or streams, or the creation of additional runoff water. No degradation of water quality would occur as a result of the project.

In addition, since no development would occur due to the ALUCP, no housing would be placed within a 100-year flood hazard area. Any future residential development occurring within the AIA would be subject to the existing zoning and land use designations already in place and would be subject to the local flood control ordinances, which require a development permit for projects within Special Flood Hazard Areas.

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
X. LAND USE AND PLANNING Would the project:				
a) Physically divide an established community?	☐	☐	☐	X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	X

Impact Analysis

X a) No Impact. The proposed ALUCP does not involve any physical changes or development within the AIA. Therefore, the project would not result in the physical division of any established communities. The additional safety-related restrictions that are proposed within the ALUCP would not change the underlying zoning and land use designations within the AIA. Thus, any future development occurring within the AIA would be subject to the existing zoning and land use designations already in place.

X b) No Impact. Since the ALUCP is not a specific development plan and does not designate specific land uses for any particular parcel or parcels of land, no conflicts with the policies contained within these elements would occur.

X c) No Impact. As discussed in Checklist Item IV e), no impacts to implementation of the SJMSCP would occur as a result of the proposed ALUCP. Therefore, no adopted conservation plans would be affected by the proposed ALUCP.

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XI. MINERAL RESOURCES Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	X

Impact Analysis

XI a-b) No Impact. According to the San Joaquin County general plan, the primary extractive resources in San Joaquin County are sand, gravel, and natural gas. Placer gold and silver are also extracted from the County to a lesser extent. Based on the County's Significant Sand and Gravel Aggregate Resource Sectors Map, which includes all mineral resource zones, there are no known mineral deposits within the AIA.[4] As a result, there would not be a loss of availability of any known regionally or locally important mineral resources due to the project.

[4] San Joaquin County General Plan, Extractive Resources, https://www.sjgov.org/commdev/cgi-bin/cdyn.exe/handouts-planning_GP-V3-IV-B?grp=handouts-planning&obj=GP-V3-IV-B, accessed September 2015.

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XII. NOISE				
Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	X	☐
b) Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?	☐	☐	☐	X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	X
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	X

Impact Analysis

XII a) Less Than Significant Impact. The proposed ALUCP is intended to complement the existing General Plan or other noise ordinances or standards by specifically addressing the potential noise of SCK. Land use compatibility policies are contained in Section 3.3.2 of the Plan. Standard construction residential land uses are considered conditionally compatible in areas exposed to noise levels between 60-64 CNEL if the following criteria are met:

- Fair disclosure statement required as a condition of development approval or building permit issuance.
- Avigation easement required as a condition of development approval or building permit issuance.
- Sound insulation required to reduce interior to exterior noise levels by at least 25dB.

Within the CNEL 65-70 dB range, dwellings are incompatible and would not be allowable, although exceptions for infill development of this type may be allowed per ALUCP Update policy defined in Section 3.1.5.3. Within the CNEL 75 dB contour, all residential, public/institutional uses, and commercial uses are incompatible and would not be allowable. Industrial and Agricultural uses are compatible within the CNEL 75 dB contour.

XII b,d) No Impact. The proposed ALUCP does not involve any physical changes or development within the AIA. Therefore, ground-borne vibration or noise would not be generated by the project nor would there be a temporary or periodic increase in ambient noise, such as what might occur during the construction of a new development project.

XII c) No Impact. The airport generates 60 CNEL noise contours that extend off the airport property over noise-sensitive areas in the future (2028) scenario (**Figure 4**) over existing residences. The 2028 65 CNEL noise contour does not encompass any noise-sensitive land uses. The proposed ALUCP, however, does not involve any physical changes or development within the AIA and does not drive future airport operations. Therefore, ambient noise levels would not be increased by the project.

The proposed ALUCP land use compatibility policies are not applicable to existing land uses, even those that may be considered noise-sensitive. There are, however, vacant parcels within the AIA that would be protected by the proposed land use compatiblility/noise policies of the proposed ALUCP.

XII e-f) No Impact. These checklist categories are not applicable to the proposed project since it is a planning project, not a development project. These checklist items refer to actual projects located in the vicinity of a public or private airport.

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XIII. POPULATION AND HOUSING				
Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	X	☐
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	X

Impact Analysis

XIII a) Less Than Significant Impact. Future residential and non-residential development has been planned for by the local jurisdictions in their General Plans and are included on the respective Zoning Maps. Thus, any potential increase in population or non-residential growth would have a less than significant affect on public service ratios, response times, or other public service performance objectives.

The proposed ALUCP itself is not a development plan (i.e., no specific land uses are designated for any particular parcel or parcels). Whether actual development would occur as a result of the proposed ALUCP would depend on the actual need for development; the rate, timing, location and extent of development; economic and market conditions; the nature and type of the project or projects; and project-level impacts to the environment and associated mitigation. If such projects do occur in the future, like other land use development, they will be subject to the appropriate project-level environmental review under CEQA. (See California Code of Regulations, Title 14, §15145.)

XIII b,c) No Impact. No direct or indirect displacement of development is anticipated due to the proposed ALUCP (see *Summary of Displacement Analysis* on pages 7-8 of this Initial Study). The land use compatibility policies contained within the proposed ALUCP are not intended to remove existing incompatible land uses within the airport environs. This includes development already planned for the area as evidenced by a vesting tentative map, a development agreement pursuant to California Government Code, Section 65866 that is in effect at the effective date of this ALUCP, or a valid building permit.

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XIV. PUBLIC SERVICES				
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services**:**				
a) Fire protection?	☐	☐	X	☐
b) Police protection?	☐	☐	X	☐
c) Schools?	☐	☐	X	☐
d) Parks?	☐	☐	X	☐
e) Other public facilities?	☐	☐	X	☐

Impact Analysis

XIV a-e) Less Than Significant Impact. Future residential and non-residential development has been planned for by the local jurisdictions in their General Plans and are included on the respective Zoning Maps. Thus, any potential increase in population or non-residential growth would have a less than significant affect on public service ratios, response times, or other public service performance objectives.

In addition, the proposed ALUCP itself is not a development plan (i.e., no specific land uses are designated for any particular parcel or parcels). Whether actual development would occur as a result of the proposed ALUCP would depend on the actual need for development; the rate, timing, location and extent of development; economic and market conditions; the nature and type of the project or projects; and project-level impacts to the environment and associated mitigation. If such projects do occur in the future, like other land use development, they will be subject to the appropriate project-level environmental review under CEQA. (See California Code of Regulations, Title 14, §15145.)

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XV. RECREATION				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	X	☐
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	X

Impact Analysis

XV a) Less Than Significant Impact. Future residential development has been planned for by the local jurisdictions in their General Plans and are included on the respective Zoning Maps. Any potential increase in population growth would have a less than significant affect on parks and recreational facilities. Non-residential development does not typically generate a demand for parks or other recreational facilities.

The proposed ALUCP itself is not a development plan (i.e., no specific land uses are designated for any particular parcel or parcels). Whether actual development would occur as a result of the proposed ALUCP would depend on the actual need for development; the rate, timing, location and extent of development; economic and market conditions; the nature and type of the project or projects; and project-level impacts to the environment and associated mitigation. If such projects do occur in the future, like other land use development, they will be subject to the appropriate project-level environmental review under CEQA. (See California Code of Regulations, Title 14, §15145.)

XV b) No Impact. The proposed ALUCP does not include the construction or expansion of recreational facilities. There are no physical changes or development involved in its implementation.

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XVI. TRANSPORTATION/TRAFFIC Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	X
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	X
e) Result in inadequate emergency access?	☐	☐	☐	X
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	X

Impact Analysis

XVI a,b,f) No Impact. As discussed in Checklist Item XIII, only a minimal potential change in residential development and primarily in-fill non-residential development might occur as a result of the policies associated with the ALUCP. Both the potential future residential and non-residential development has been planned for by the affected jurisdictions in their General Plans and are included on their Zoning Maps. The proposed ALUCP itself does not involve any physical changes or development within the AIA. Thus, there would not be an increase in demand on the existing or future circulation system within the AIA that has not already been planned for by the County. The ALUCP would not conflict with applicable regional or local transportation policies or congestion management plans.

XVI c) No Impact. Implementation of the proposed ALUCP would not change the air traffic patterns for SCK; rather, it analyzes the noise and safety zones for the airport based on its existing traffic patterns.

XVI d,e) No Impact. The proposed ALUCP does not involve any physical changes or development within the AIA; no changes to the design of roadways or public transit or emergency access routes within the AIA would result from the project.

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XVII. UTILITIES AND SERVICE SYSTEMS Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	X	☐
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	X	☐
c) Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	X	☐
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	X	☐
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	X	☐
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	X	☐
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	X	☐

Impact Analysis

XVII a-g) Less Than Significant Impact. Future residential development has been planned for by the local jurisdictions in their General Plans and are included on the respective Zoning Maps. Therefore, this potential increase in development would have a less than significant affect on existing utilities or service systems, including waste water collection and treatment, water service, or landfill capacity.

In addition, the proposed ALUCP itself is not a development plan (i.e., no specific land uses are designated for any particular parcel or parcels). Whether actual development would occur as a result of the proposed ALUCP would depend on the actual need for development; the rate, timing, location and extent of development; economic and market conditions; the nature and type of the project or projects; and project-level impacts to the environment and associated mitigation. If such projects do occur in the future, like other land use development, they will be subject to the appropriate project-level environmental review under CEQA. (See California Code of Regulations, Title 14, §15145.)

Issues (Supporting Information Sources)	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XVIII. MANDATORY FINDING OF SIGNIFICANCE				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	X
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	X	☐
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	X	☐

Impact Analysis

XVIII a) No Impact. The proposed ALUCP does not involve any physical changes or development within the AIA. Therefore, no impacts to biological or cultural resources would occur.

XVIII b) Less Than Significant Impact. The proposed policies of the ALUCP would be applied in conjunction with other locally adopted policies and regulations, including but not limited to, the general glan, zoning codes, and overlay designations. The ALUCP policies, while in some cases more restrictive in terms of land use density, only apply to future development within the AIA. Overall, no displacement of development is anticipated due to the proposed ALUCP. As discussed in this Initial Study, no significant impacts, cumulative or otherwise, would result from implementation of the proposed ALUCP.

XVIII c) Less Than Significant Impact. The proposed ALUCP establishes policies to reduce hazards to aircraft in flight and to reduce the severity of the consequences of aircraft accidents within the proposed safety zones. Thus, through implementation of the proposed ALUCP, the safety hazards for people residing or working in the SCK AIA would be less than what otherwise might occur and is, therefore, less than significant.

DOCUMENT PREPARERS AND REFERENCES

LIST OF PREPARERS:

Project Sponsor

San Joaquin County Council of Governments
555 E. Weber Ave.
Stockton, CA 95202-2804
Project Manager: Kim Anderson

Environmental Consultants

Coffman Associates
237 NW Blue Parkway, Suite 100
Lee's Summit, MO 64063

Lead Planner/Project Manager: David Fitz
CEQA/Environmental Analysis: Kory Lewis and Judi Krauss
Displacement/Land Use Analysis: Kory Lewis
GIS Technician: Ryan Ryherd

LIST OF REFERENCES:

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No non-residential displacement would result from the proposed ALUCP based on current zoning or general plan designations. Although additional land would be subject to intensity limitations (people per acre), these limitations are less restrictive than the 1993 CLUP.

It is important to note that the proposed ALUCP is not a development plan (i.e., no specific land uses are designated for any particular parcel or parcels). Whether actual shifts in development would occur as a result of the proposed ALUCP would depend on the actual need for development; the rate, timing, location and extent of development; economic and market conditions; the nature and type of the project or projects; and project-level impacts to the environment and associated mitigation. Attempts to accurately forecast the actual effects of potential future shifts in land use development and population are subject to considerable uncertainty. If such projects do occur in the future, like other land use development, they will be subject to the appropriate project- level environmental review under CEQA. (See California Code of Regulations, Title 14, §15145.)

An important purpose of this analysis of potential development displacement is that it will inform local agencies of the potential for displaced development and associated consequences, enabling them to plan accordingly. The ultimate authority for implementation of the ALUCP rests with local governments as the zoning and land use permitting authorities. These local governments have multiple options with regard to how to implement the new policies and criteria in the ALUCP. Thus, the potential displacement effects discussed in this analysis could change depending on the specific implementation actions taken by the local jurisdictions and the ALUC.

Attachment A
DISPLACEMENT ANALYSIS

INTRODUCTION

The Airport Land Use Compatibility Plan Update (ALUCP) for Stockton Metropolitan Airport includes policies to protect the public from the adverse effects of airport noise, to ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and to ensure that no structures or activities encroach upon or adversely affect the use of navigable airspace. The ALUCP provides this protection by limiting/restricting future noise and risk-sensitive land use development within the airport influence area (AIA) based on the location of noise, safety, and height zones. It should be noted that the ALUCP Update does not impact or remove existing incompatible uses from the AIA.

The State of California grants the authority of land use regulation to local governments and is accomplished through the use of general plans and zoning ordinances. California law also requires local governments to make their general plans and zoning regulations consistent with an ALUCP. As previously mentioned, ALUCP policies and criteria limit or restrict development in parts of the AIA that may otherwise be allowed under local general plans and zoning. Displacement for the purposes of this analysis will assess the potential noise and risk-sensitive land uses that may be displaced to other areas after the land use agencies implement the ALUCP.

Whether actual shifts in development would occur as a result of the proposed ALUCP would depend on the actual need for development; the rate, timing, location and extent of development; economic and market conditions; the nature and type of the project or projects; and project-level impacts to the environment and associated mitigation. Attempts to accurately forecast the actual effects of potential future shifts in land use development and population are subject to considerable uncertainty. If such projects

do occur in the future, like other land use development, they will be subject to the appropriate project-level environmental review under CEQA. (See California Code of Regulations, Title 14, §15145.)

Environmental impacts from the displacement of future land uses from one area to another may occur within the AIA. Potential environmental effects associated with displaced development may include changes in land use patterns and associated shifts in the distribution and concentration of population.

The first section of this attachment provides a comparison of the previous 1993 *Comprehensive Land Use Plan* (CLUP) and the proposed ALUCP Update. Noise, safety, airspace zones, and criteria from the 1993 CLUP and ALUCP Update will be compared to provide an understanding of the differences between the two plans. The second section of this attachment will analyze the potential displacement of future residential dwellings and acreage of future non-residential development in the AIA between the 1993 CLUP and ALUCP Update.

It should be noted that future development, whether or not it is displaced, is subject to the zoning and permitting authority of the responsible local jurisdictions. This displacement analysis does not constitute an approval for individual projects within the AIA under the *California Environmental Quality Act* (CEQA). Potential environmental impacts from future development projects will have to be specifically considered in the environmental documents prepared for those projects.

SECTION 1: COMPATIBILITY POLICY COMPARISON

This section describes the 1993 CLUP and ALUCP Update noise, safety, and airspace compatibility policies, and the potential for those policies to displace potential future development from within the noise compatibility zones to other areas.

NOISE COMPATIBILITY POLICY COMPARISON

The 1993 CLUP noise zones are based upon a projected 1994-1995 noise exposure contour from a Part 150 Noise Compatibility study prepared for the airport in 1991. The noise compatibility contours were developed in five community noise equivalent level (CNEL) increments beginning with the 60 CNEL noise contour. **Table A1** depicts the noise compatibility criteria for the 1993 CLUP based on these noise contours.

As shown in **Table A1**, the compatible land use criteria begin at 60 CNEL. New residential development is permitted within the 60 CNEL with the condition that the residences are constructed so that interior noise is attenuated to a level no higher than 45 dB and if an avigation easement is recorded in favor of the Airport Operator. **Exhibit F-A1** depicts the 1993 CLUP noise exposure contours.

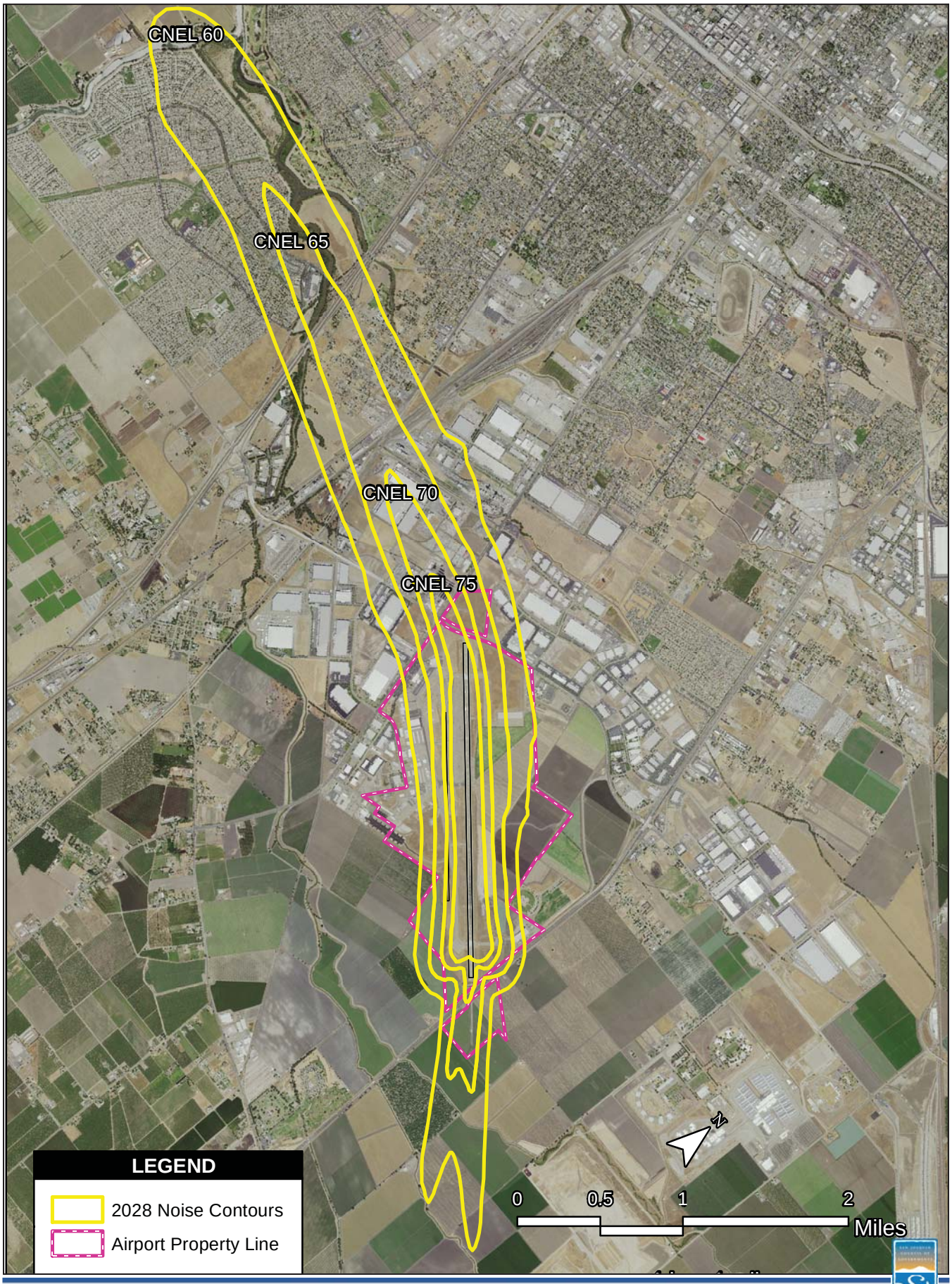


Exhibit F-A1
1993 CLUP NOISE EXPOSURE CONTOURS

TABLE A1
1993 San Joaquin Council of Governments Airport Land Use Plan
Noise Compatibility Criteria

Noise Contour Range	Permitted Uses With Conditions	Prohibited Uses	Additional Considerations
65+ CNEL	Dumps, landfills and waterways are permitted only if thorough evaluation indicates that they will not present a bird hazard to aircraft. Playgrounds and athletic fields are permitted if they are to be used for non-noise sensitive activities.	• All residential uses • Schools (other than flying schools) • Churches • Theaters • Auditoriums	Most other land uses are permitted if soundproofing is used where needed to reduce interior noise levels of exterior noise to no more than 45 dBs. The standards regarding non reflective materials, transmissions and visual distractions to pilots which apply to other zones apply also to these areas.
60-65 CNEL	Residential uses are permitted if insulated to reduce interior noise to a level no higher than 45 dB and if an avigation easement is recorded in favor of the Airport Operator. Dumps, landfills and waterways are permitted only if thorough evaluation indicates that they will not present a bird hazard to aircraft. Playgrounds and athletic fields are permitted if they are to be used for non-noise sensitive activities.	• Schools (other than flying schools) • Churches • Theaters Auditoriums	Most other land uses are permitted if soundproofing is used where needed to reduce interior noise levels of exterior noise to no more than 45 dBs. The standards regarding non reflective materials, transmissions and visual distractions to pilots which apply to other zones apply also to these areas.

The Long Range future (2028) CNEL aircraft noise exposure contours for Stockton Metropolitan Airport, shown on **Exhibit F-A2**, are used to determine noise compatibility in the ALUCP Update. These contours are adopted from the 2010 *Stockton Metropolitan Airport Master Plan*. The ALUCP Update noise compatibility policies place conditions on new residential and institutional development within the CNEL 60 dB contour, as described in **Table A2**. Within the CNEL 60-65 dB range, mobile home parks, outdoor music shells/amphitheaters, sports stadiums, and zoo nature exhibits are considered incompatible. Other noise-sensitive uses are conditionally compatible if they are sound-insulated and if avigation easements are granted to San Joaquin County. Within the CNEL 65-70 dB range, dwellings are incompatible and would not be allowable, although exceptions for infill development of this type may be allowed per ALUCP Update policy defined in Section 3.1.5.3. Within the CNEL 75 dB contour, all residential, public/institutional uses, and commercial uses are incompatible and would not be allowable. Industrial and Agricultural uses are compatible within the CNEL 75 dB contour.

TABLE A2
Noise Compatibility Criteria

	SEL	CNEL		
	95	60-65	65-70	70-75
RESIDENTIAL				
Single family, duplex, multi-family, manufactured housing	Y[1]	Y[1,2,3]	N	N
Manufactured housing	Y[1]	N	N	N
PUBLIC FACILITIES				
Education facilities	Y	Y[1,2,3]	N	N
Religious facilities, libraries, museums, galleries, clubs and lodges	Y	Y[1,2,3]	N	N
Outdoor sport events, entertainment and public assembly except amphitheaters	Y	Y	N	N
Indoor recreation, amusements, athletic clubs, gyms and spectator events, parks, outdoor recreation: tennis, golf courses, riding trails, etc.	Y	Y	Y	Y
COMMERCIAL				
Hotels/motels	Y[1]	Y[1,2,3]	N	N
Hospitals and other health care services	Y[1]	Y[1,2,3]	N	N
Services: finance, real estate, insurance, professional and government offices	Y	Y	Y[1]	Y[1]
Retail sales: building materials, farm equipment, automotive, marine, mobile homes, recreational vehicles and accessories	Y	Y	Y[1]	Y[1]
Restaurants, eating and drinking establishments	Y	Y	Y[1]	Y[1]
Retail sales: general merchandise, food, drugs, apparel, etc.	Y	Y	Y[1]	Y[1]
Personal services: barber and beauty shops, laundry and dry cleaning, etc.	Y	Y	Y[1]	Y[1]
Automobile service stations	Y	Y	Y	Y
Repair services	Y	Y	Y	Y[1]
INDUSTRIAL				
Processing of food, wood and paper products; printing and publishing; warehouses, wholesale and storage activities	Y	Y	Y	Y
Refining, manufacturing and storage of chemicals, petroleum and related products, manufacturing and assembly of electronic components, etc.	Y	Y	Y	Y
Manufacturing of stone, clay, glass, leather, gravel and metal products; construction and salvage yards; natural resource extraction and processing, agricultural, mills and gins	Y	Y	Y	Y
AGRICULTURE				
Animal husbandry, livestock farming, breeding and feeding; plant nurseries (excluding retail sales)	Y	Y	Y	Y[1]
Farming (except livestock)	Y	Y	Y	Y

1 Fair disclosure statement required as a condition of development approval or building permit issuance.
2 Avigation easement required as a condition of development approval or building permit issuance.
3 Sound insulation required to reduce interior to exterior noise levels by at least 25dB.

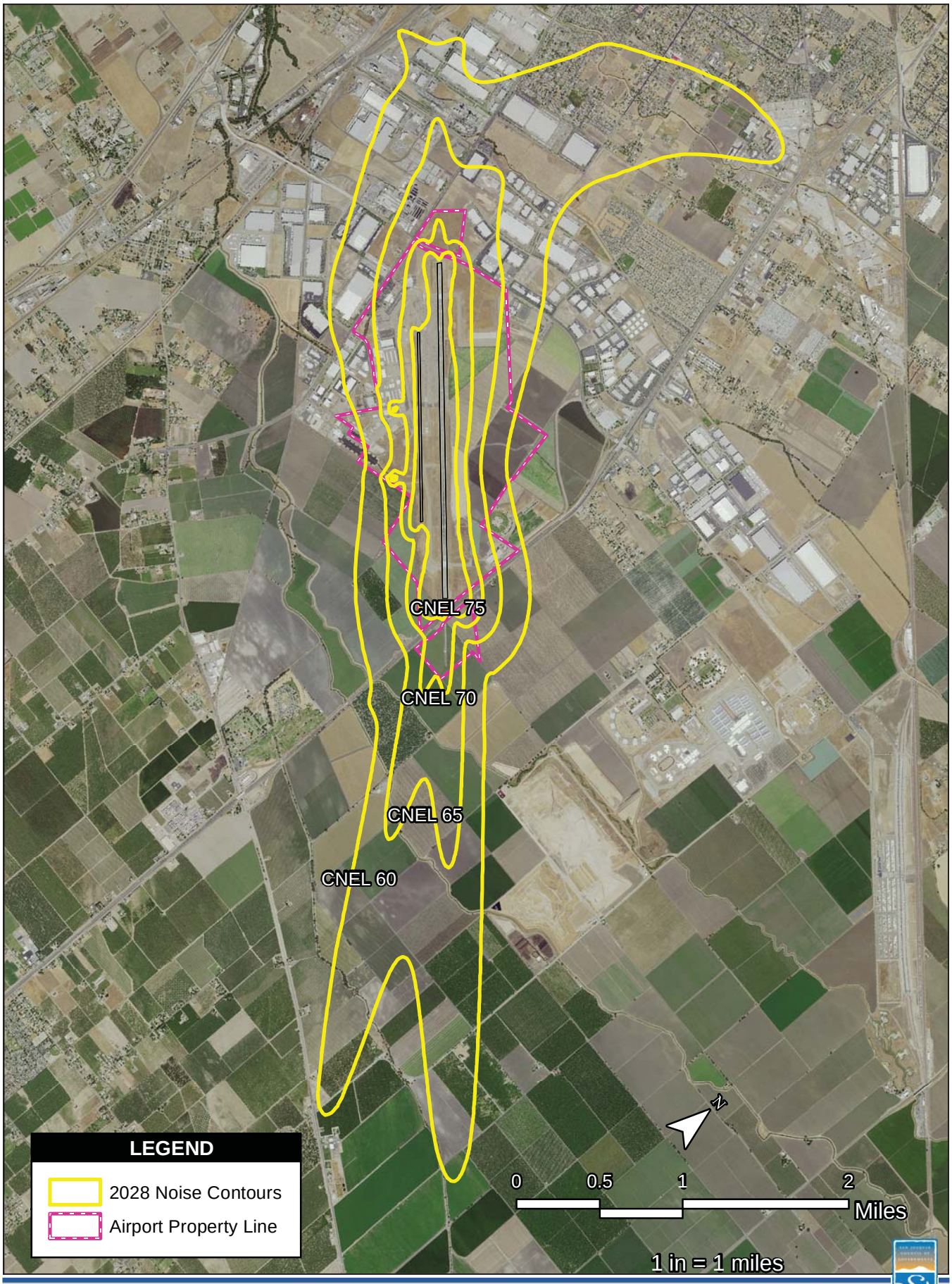


Exhibit F-A2
LONG RANGE CNEL NOISE EXPOSURE CONTOURS

In addition to the CNEL noise contours, a single event noise contour is used in the ALUCP Update. Aircraft noise single event noise contours are commonly used for determining the potential impacts in residential areas as they can be used to approximate areas where sleep disturbance may occur. The Federal Interagency Committee on Aviation Noise (FICAN) recommends using a 10 percent awakening value associated with indoor sound exposure levels (SEL) of 80 decibels (dB). The typical home with the windows closed attenuates exterior noise of approximately 15 dB. The 95 dB SEL depicted on **Exhibit F-A3** is used to identify noise-sensitive areas (residential, hospitals, hotels, and motels) that require disclosure for potential of sleep disruption from aircraft overflights. The SEL compatibility criteria are also included in **Table A2**.

SAFETY POLICY COMPARISON

The 1993 CLUP safety zones have six zones (Airport Building and Airport Property Areas, Runway Protection Zone, Inner Approach and Climbout Areas, Outer Approach and Climbout Areas, Transitional Zone, Areas Under Horizontal and Conical Surfaces). All of these areas, referred to as subzones in the 1993 CLUP, comprise the AIA. The delineation of the AIA boundary is described in the 1993 CLUP as follows: "Each area of influence is bounded by easily recognizable linear geographic features, principally roads, streets, railroads, utility corridors, and rivers. Boundaries have been chosen so as to enclose all of the subareas and as little additional area as practical." **Exhibit F-A4** depicts the 1993 CLUP safety zones and AIA.

As shown in **Table A3**, criteria for the Airport Building and Airport Property Areas and runway protection zone (RPZ) are the most restrictive. All land uses (except crop production with a usage intensity of not more than two persons per acre) are restricted from the RPZ zone. As indicated in the table, density guidelines, measured as dwelling units per acre, and non-residential intensity guidelines, measured as persons per acre, increase in the zones located farther from the airport property. All zones except for the outermost areas under the Horizontal and Conical Surfaces have density and intensity restrictions. In addition to the criteria listed in **Table A3**, the 1993 CLUP includes the following four criteria which apply to all areas within the AIA:

- New residential land use developments with no less than five units within each airport's area of influence must have an avigation easement recorded in favor of the airport. The Deed of Avigation and Hazard Easement must be filed with the local governing body's recording agency prior to the beginning of development construction.
- Occupied structures must be soundproofed to reduce interior noise to 45 dB according to State guidelines. Reflective materials are not permitted to be used in structures or signs, excluding traffic directing signs, to avoid distracting pilots.
- All proposed acquisitions of property within a 2 mile radius of an airport runway for the purpose of constructing a school requires a review and approval of the proposal by the State Department of Transportation Division of Aeronautics
- No transmissions which would interfere with aircraft communications or navigation are permitted. Power lines must be undergrounded if necessary to prevent hazard to aircraft.

TABLE A3
1993 San Joaquin Council of Governments Airport Land Use Plan
Safety/Land Use Compatibility Criteria

Zone	Maximum Dwelling Units Per Acre	Maximum Non-Residential Intensity (Persons Per Acre)	Prohibited Uses	Other Development Conditions
Airport Building and Airport Property Areas	0	0	• Residential • Dumps or landfills other than those consisting entirely of earth and rock • Waterways that create a bird hazard.	None
Runway Protection Zone	0	2 –agricultural land uses only	• All residential uses • All industrial manufacturing uses • All transportation, communications, and utility uses • Agriculture and mining except those permitted above • All commercial uses • All business personal services • Restaurants • Hotels and motels • All public and quasi-public services • Hospitals • Churches • Schools • Recreational uses • Theaters • Auditoriums • Stadiums • Athletic fields • Playgrounds • Dumps or landfills other than those consisting entirely of earth and rock • Waterways which create a bird hazard retention, basins, artificial lakes, ponds • Warehouses, storage yards, and all petroleum and chemical storage uses	None

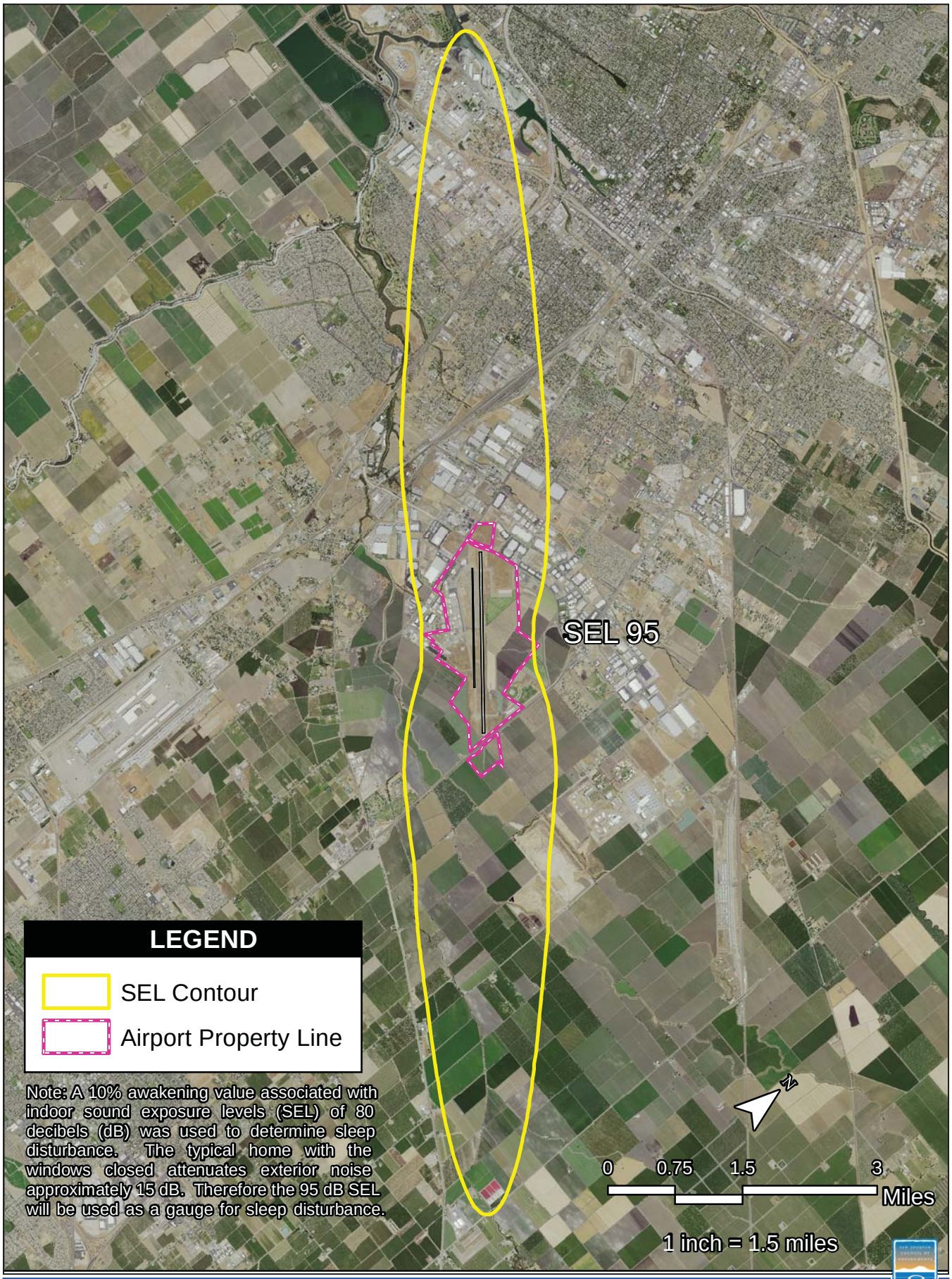
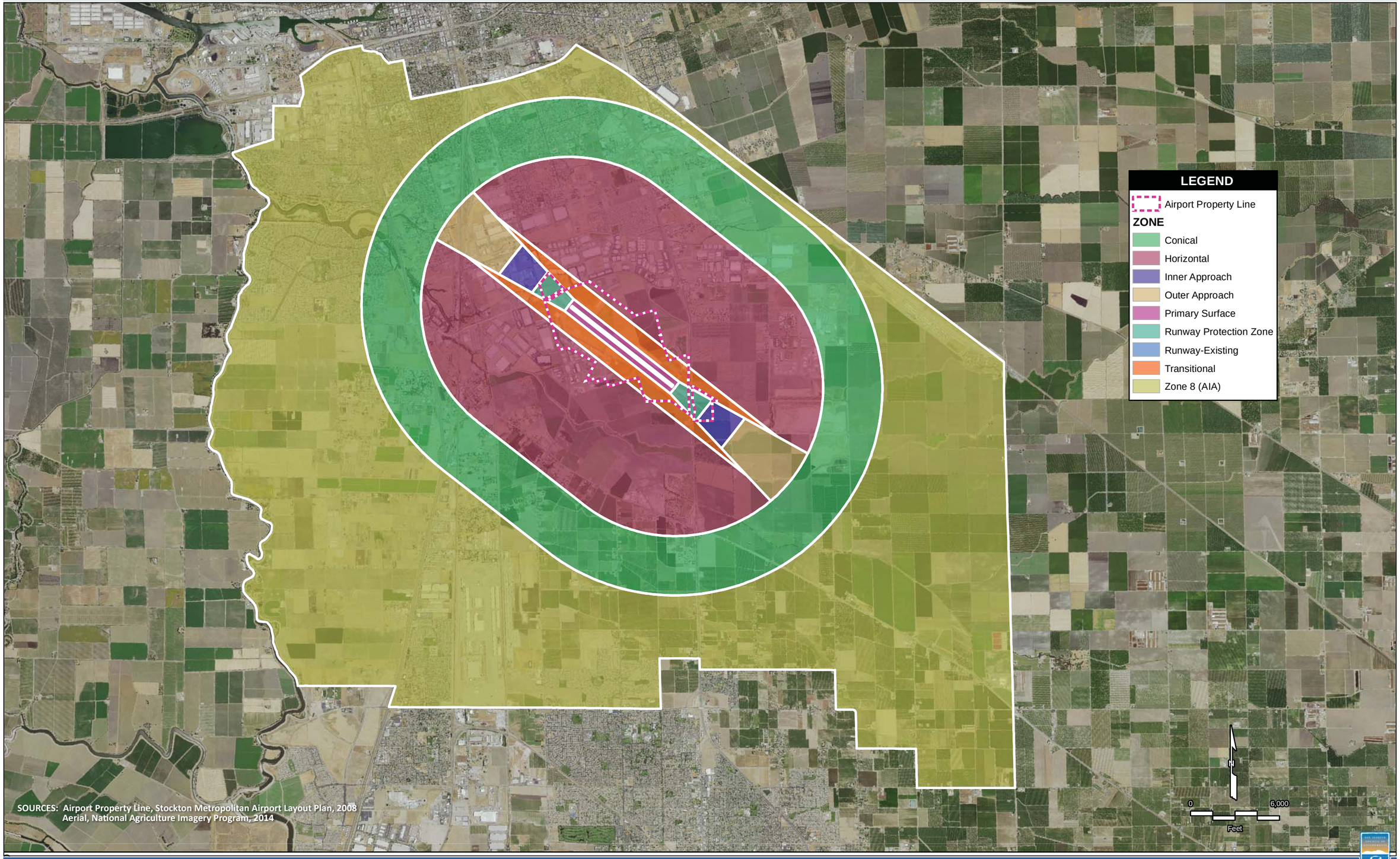


Exhibit F-A3
SEL NOISE EXPOSURE CONTOURS



SOURCES: Airport Property Line, Stockton Metropolitan Airport Layout Plan, 2008
Aerial, National Agriculture Imagery Program, 2014

Exhibit F-A4
1993 SAFETY COMPATIBILITY ZONES

TABLE A3 (Continued)
1993 San Joaquin Council of Governments Airport Land Use Plan
Safety/Land Use Compatibility Criteria

Zone	Maximum Dwelling Units Per Acre	Maximum Non-Residential Intensity (Persons Per Acre)	Prohibited Uses	Other Development Conditions
Inner Approach and Climbout Areas	0	10	• All residential uses • Manufacturing and industrial uses (chemicals and allied products; asphalt paving and misc. petroleum; petroleum refining; rubber and plastics) • Passenger terminals and stations • Radio, TV and telephone centers • Electrical and natural gas generation and switching • Oil and gas extraction • Natural gas petroleum pipelines • Business personal services (hotels and motels; restaurants) • Public and quasi-public services (hospitals; schools; churches) • Recreational uses (playgrounds; theaters; auditoriums; stadiums; athletic fields; riding stables) • Dumps or landfills, other than those consisting entirely of earth and rock • Waterways which create a bird hazard (retention basins, artificial lakes, ponds • Petroleum and chemical storage uses.	Agricultural uses and most other open space uses including golf courses without clubhouses, auto parking lots, etc. are permitted if they do not attract birds and do not involve a density of more than 10 persons in any one acre at any one time and are not noise sensitive.

TABLE A3 (Continued)
1993 San Joaquin Council of Governments Airport Land Use Plan
Safety/Land Use Compatibility Criteria

Zone	Maximum Dwelling Units Per Acre	Maximum Non-Residential Intensity (Persons Per Acre)	Prohibited Uses	Other Development Conditions
Outer Approach and Climbout Areas	2	50	• Manufacturing and industrial uses (chemicals and allied products; asphalt paving and misc. petroleum; petroleum refining; rubber and plastics) • Passenger terminals and stations • Radio, TV and telephone centers • Electrical and natural gas generation and switching • Natural gas petroleum pipelines • Oil and gas extraction • Commercial uses (chemicals and allied products; petroleum truck terminals • Hotels and motels; restaurants • Public and quasi-public services (schools; hospitals; churches • Recreational uses (theaters; auditoriums; stadiums; athletic fields; playgrounds; riding stables • Dumps or landfills, other than those consisting entirely of earth and rock are not permitted • Waterways which create a bird hazard retention (basins; artificial lakes; ponds • Petroleum and chemical storage uses	Very Low Density Residential land uses with a density of 1-2 dwellings per acre are also allowed in this zone. These dwellings must be located outside the 65 dB CNEL contour and must conform to soundproofing policies when located within the 60 dB CNEL contour. Agricultural uses and most other open space uses including golf courses without clubhouses, auto parking lots, etc. are permitted if they do not attract birds and do not involve a density of more than 50 persons in any one acre at any one time and are not noise sensitive.

TABLE A3 (Continued)
1993 San Joaquin Council of Governments Airport Land Use Plan
Safety/Land Use Compatibility Criteria

Zone	Maximum Dwelling Units Per Acre	Maximum Non-Residential Intensity (Persons Per Acre)	Prohibited Uses	Other Development Conditions
Transitional Zone	2	25	• Manufacturing and industrial uses (chemicals and allied products; asphalt paving and misc. petroleum; petroleum refining; rubber and plastics) • Passenger terminals and stations • Radio, TV and telephone centers • Electrical and natural gas generation and switching • Natural gas and petroleum pipelines • Oil and gas extraction • Commercial uses (chemicals and allied products; petroleum truck terminals • Business and personal services (hotels and motels; restaurants • Public and quasi-public services (schools; hospitals; churches • Recreational uses (theaters; auditoriums; stadiums; athletic fields; playgrounds • Dumps or landfills, other than those consisting entirely of earth and rock are not permitted • Waterways which create a bird hazard (retention basins; artificial lakes; ponds • Petroleum and chemical storage uses	Very Low Density Residential land uses with a density of 1-2 dwellings per acre are also allowed in this zone These dwellings must be located outside the 65 dB CNEL contour and must conform to soundproofing policies when located within the 60 dB CNEL contour. Agricultural uses and most other open space uses including golf courses without clubhouses, auto parking lots, etc. are permitted if they do not attract birds and do not involve a density of more than 25 persons in anyone acre at any one time and are not noise sensitive.

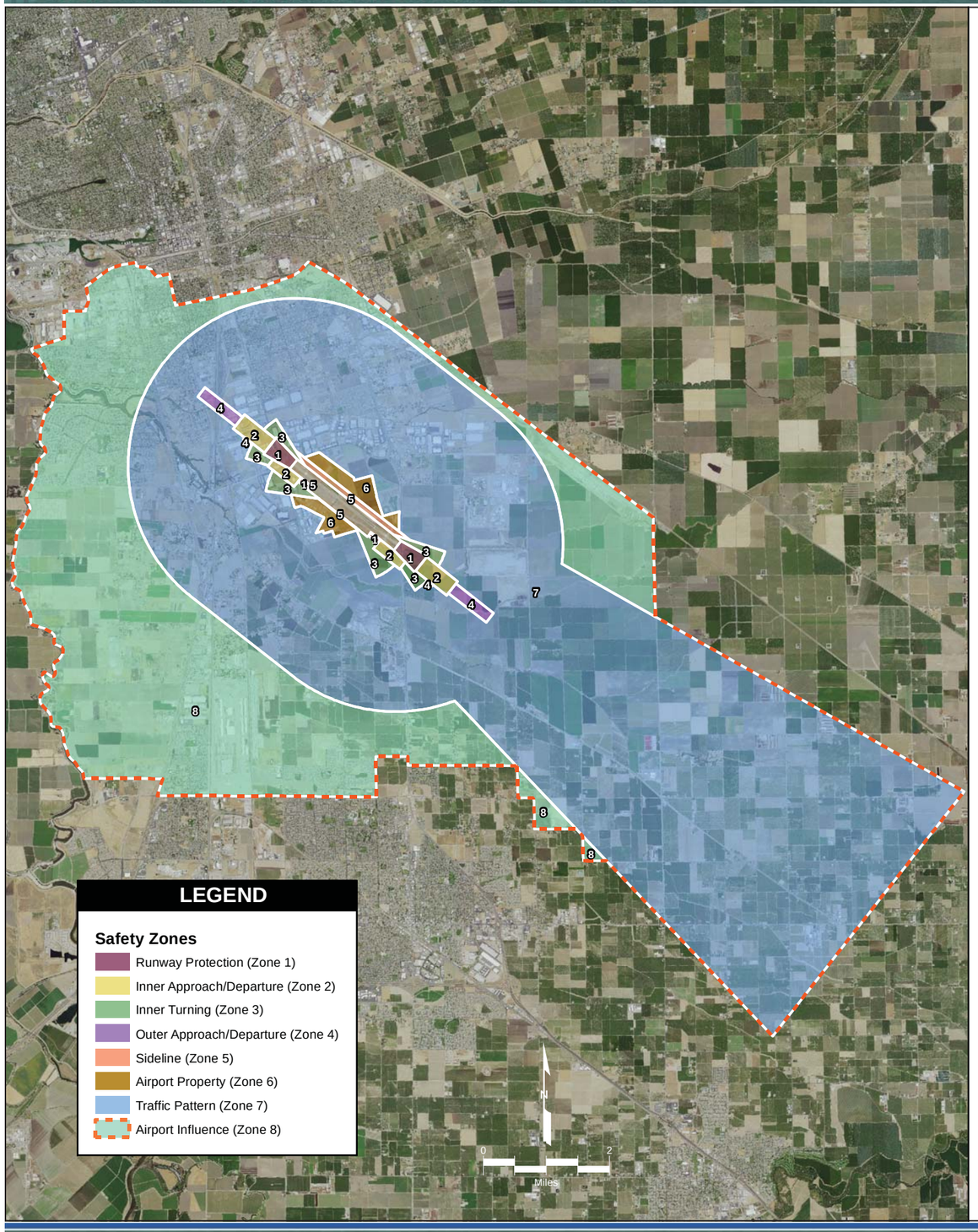
TABLE A3 (Continued)
1993 San Joaquin Council of Governments Airport Land Use Plan
Safety/Land Use Compatibility Criteria

Zone	Maximum Dwelling Units Per Acre	Maximum Non-Residential Intensity (Persons Per Acre)	Prohibited Uses	Other Development Conditions
Areas Under Horizontal and Conical Surfaces	-	-	-	The standards regarding non reflective materials, transmissions and visual distractions to pilots which apply to other zones apply also to these areas. Proposed communications towers and other very tall structures should be evaluated to ensure that they will not be aircraft hazards. Proposed dumps landfills and waterways should be evaluated to ensure that they will not present a bird hazard to aircraft.

The AIA from the ALUCP Update includes all areas within the 1993 CLUP described above, but also extends to the southeast to include those areas located within the Part 77 approach surface which is used at airports with a precision runway approach, such as Stockton Metropolitan Airport. The approach surface is represented by the trapezoidal shape extending southeast of the airport on **Exhibit F-A5**.

The ALUCP Update has eight safety zones. These include the runway protection zone, (RPZ), inner approach/departure zone (IADZ), inner turning zone (ITZ), outer approach/departure zone (OADZ), the sideline safety zone (SSZ), and the airport zone (AP), traffic pattern zone (TPZ) and the AIA.

The AP and RPZ prohibit all residential development. Residential development is subject to density restrictions in the IADZ, ITZ, OADZ, and SSZ, with the lowest density in the IADZ (one dwelling unit per 10 acres) and the highest in SSZ (one dwelling unit per 2 acres). There are no density restrictions in the TPZ or AIA. Non-residential intensity restrictions are included for the following five zones: IADZ, ITZ, OADZ, SSZ, and TPZ. Safety compatibility policies for the ALUCP Update are described in **Table A4**. **Exhibit F-A5** depicts the ALUCP Update safety zones.



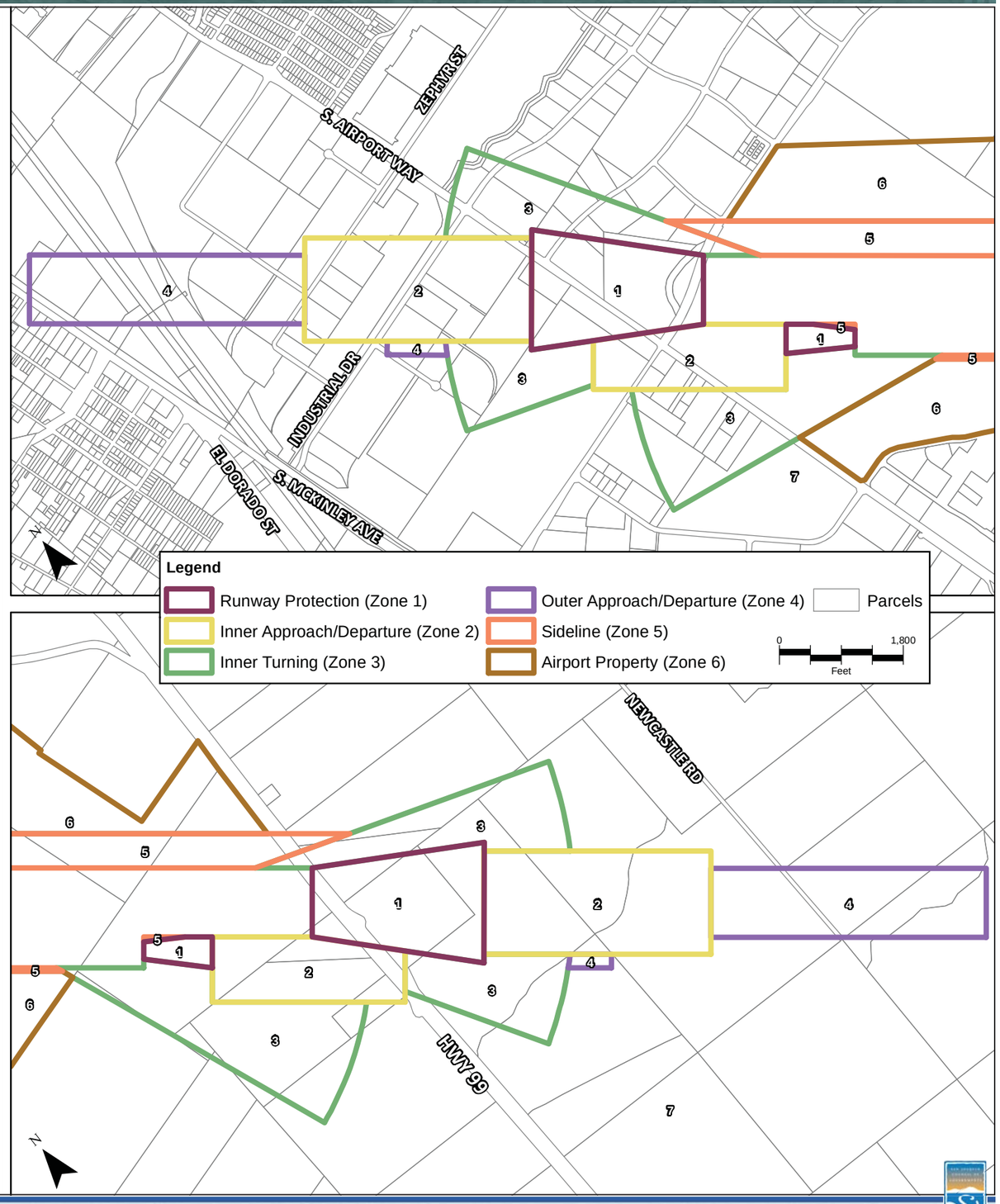


Exhibit F-A5
SAFETY ZONE MAP

TABLE A4
Safety Criteria Matrix

	Maximum Densities/Intensities/ Required Open Land			Additional Criteria	
Zone	**Dwelling Units per Acre[1]**	**Maximum Non-residen-tial Intensity[2]**	**Req'd Open Land[3]**	**Prohibited Uses[4]**	**Other Development Conditions[5]**
Zone 1 (RPZ)	None	None	All un-used	• All structures except ones with location set by aeronautical function • Assemblages of people • Public & quasi-public services • Objects exceeding 14 CFR Part 77 height limits • Storage of hazardous materials • Chemicals and allied products & storage • Petroleum refining & storage • Electrical & natural gas generation & switching • Oil & gas extraction • Natural gas & petroleum pipelines[12] • Waterways that create a bird hazard[6] • Hazards to flight[6] • New dumps and landfills or the expan-sion of existing dumps or landfills subject to applicable law and implementing advi-sories[7]	• Avigation easement dedication[5]
Zone 2 (IADZ)	1 d.u. per 10 acres	50 persons per acre	30%	• Residential, except for very low density residential Manufacturing and industrial uses: • Chemicals and allied products & storage • Petroleum refining & storage • Rubber & plastics • Passenger terminals & stations • Radio, TV & Telephone centers • Electrical & natural gas generation & switching • Oil & gas extraction • Natural gas & petroleum pipelines[12] • Petroleum truck terminals Businesses & personal services: • Hotels, motels, restaurants Public & quasi-public services:	• Avigation easement dedication[5] • Locate structures maximum distance from extended runway cen-terline • Minimum NLR of 45 dB residences (including mobile homes) and of-fice buildings[9] • Airspace review re-quired for objects > 35 feet tall[10]

TABLE A4 (Continued)
Safety Criteria Matrix

	Maximum Densities/Intensities/ Required Open Land			Additional Criteria	
Zone	**Dwelling Units per Acre[1]**	**Maximum Non-residential Intensity[2]**	**Req'd Open Land[3]**	**Prohibited Uses[4]**	**Other Development Conditions[5]**
Zone 2 (IADZ)	1 d.u. per 10 acres	50 persons per acre	30%	• Children's schools, day care centers, libraries • Hospitals, nursing homes • Places of worship • Schools Recreational uses: • Athletic fields, playgrounds, & riding stables • Theaters, auditoriums, & stadiums Waterways that create a bird hazard[6] Hazards to flight[6] New dumps and landfills or the expansion of existing dumps or landfills subject to applicable law and implementing advisories[7]	• Avigation easement dedication[5] • Locate structures maximum distance from extended runway centerline • Minimum NLR of 45 dB residences (including mobile homes) and office buildings[9] • Airspace review required for objects > 35 feet tall[10]
Zone 3 (ITZ)	1 d.u. per 5 acres	120 persons per acre	20%	Same as Zone 2	• Same as zone 2
Zone 4 (OADZ)	1 d.u. per 5 acres	180 persons per acre	20%	• Children's schools, day care centers, libraries • Hospitals, nursing homes • Bldgs. with >3 aboveground habitable floors • Highly noise-sensitive outdoor nonresidential uses[8] • New or expansion of existing dumps or landfills, other than those consisting entirely of earth & rock. • Waterways that create a bird hazard[6] • Hazards to flight[6] • New dumps and landfills or the expansion of existing dumps or landfills subject to applicable law and implementing advisories[7]	• Minimum NLR of 25 dB in residences (including mobile homes) and office buildings[9] • Airspace review required for objects >70 feet tall[11]
Zone 5 (SSZ)	1 d.u. per 2 acres	160 persons per acre	25%	• Same as Zone 2	• Same as Zone 2
Zone 6 (AP)	None	No Limit	No Requirement	• Hazards to flight[6]	• Airspace review required for objects >35 feet tall[11]
Zone 7a (TPZ)	No Limit	450 persons per acre	10%	• New or expansion of existing dumps or landfills, other than those consisting entirely of earth & rock. • Waterways that create a bird hazard[6] • Hazards to flight[6] • New dumps and landfills subject to applicable law and implementing advisories[7] • Outdoor stadiums	• Airspace review required for objects >100 feet tall[11]

TABLE A4 (Continued)
Safety Criteria Matrix

	Maximum Densities/Intensities/ Required Open Land			Additional Criteria	
Zone	**Dwelling Units Per Acre[1]**	**Maximum Non-residential Intensity[2]**	**Req'd Open Land[3]**	**Prohibited Uses[4]**	**Other Development Conditions[5]**
Zone 7b (TPZ)	No Limit	450 persons per acre	10%	• Hazards to flight[6] • New dumps and landfills subject to applicable law and implementing advisories[7] • Outdoor stadiums	• Airspace review required for objects >100 feet tall[11]
Zone 8 (AIA)	No Limit	No Limit	No Requirement	• Hazards to flight[6] • New dumps and landfills subject to applicable law and implementing advisories[7]	• Airspace review required for objects >100 feet tall[11]

Notes:

1 Residential development must not contain more than the indicated number of dwelling units (excluding secondary units) per gross acre (d.u./ac). Clustering of units is encouraged. Gross acreage includes the property at issue plus a share of adjacent roads and any adjacent, permanently dedicated, open lands.

2 Usage intensity calculations shall include the peak number of people per gross acre (e.g., employees, customers/visitors, etc.) who may be on the property at a single point in time, whether indoors or outside. Gross acreage includes the property at issue plus a share of adjacent roads and any adjacent, permanently dedicated, open lands.

3 Open land requirements are intended to be applied with respect to an entire zone. This is typically accomplished as part of a community general plan or a specific plan, but may also apply to large (10 acres or more) development projects.

4 The uses listed here are ones that are explicitly prohibited regardless of whether they meet the intensity criteria, subject to applicable state or federal law. In addition to these explicitly prohibited uses, other uses normally permitted may not be permitted in the respective compatibility zones because they do not meet the usage intensity criteria.

5 As part of certain real estate transactions involving residential property within any compatibility zone (that is, anywhere within an airport influence area), information regarding airport proximity and the existence of aircraft overflights must be disclosed. This requirement is set by state law. Easement dedication and deed notice requirements indicated for specific compatibility zones apply only to new development and to reuse if discretionary approval is required.

6 Hazards to flight include physical (e.g., tall objects), visual, and electronic forms of interference with the safety of aircraft operations. Land use development that may cause the attraction of birds or other wildlife hazards to increase is also prohibited. Such uses (e.g. stormwater management facilities, other waterways, golf courses) are further detailed in FAA Advisory Circular 150/5200-33B or subsequent advisory (Hazardous Wildlife Attractants On or Near Airports). See Appendix D.

7 New dumps or landfills and the expansion of existing dumps or landfills are subject to FAA notification and review and are further subject to restrictions and conditions outlined in U.S. Code Title 49, Subtitle VII, Part A, Subpart iii, Chapter 447, Section 44718; 40 CFR Section 258.10; FAA Advisory Circular 150/5200-34A or subsequent advisory (Construction or Establishment of Landfills Near Public Airports); FAA Advisory Circular 150/5200-33B or subsequent advisory, (Hazardous Wildlife Attractants On or Near Airports). See Appendix D.

8 Examples of highly noise-sensitive outdoor nonresidential uses that should be prohibited include amphitheaters and drive-in theaters. Caution should be exercised with respect to uses such as poultry farms and nature preserves.

9 NLR = Noise Level Reduction, the outside-to-inside sound level attenuation that the structure provides.

10 Objects up to 35 feet in height are permitted. However, the Federal Aviation Administration may require marking and lighting of certain objects.

11 This height criterion is for general guidance. Shorter objects normally will not be airspace obstructions unless situated at a ground elevation well above that of the airport. Taller objects may be acceptable if determined not be obstructions.

12 Natural gas & petroleum pipelines less than 36 inches below the surface.

RPZ	Runway Protection Zone	SSZ -	Sideline Safety Zone
IADZ	Inner Approach/Departure Zone	AP -	Airport Property
ITZ	Inner Turning Zone	TPZ -	Traffic Pattern Zone
OADZ	Outer Approach/Departure Zone	AIA -	Airport Influence Area

AIRSPACE POLICY COMPARISON

Height Limitations

The airspace protection and height limitation policies of the 1993 CLUP and ALUCP Update are similar. The 1993 CLUP considers the construction of any object determined by the FAA to constitute a hazard to safe air navigation as an incompatible use. This policy is continued in the proposed ALUCP, with an exception for structures for which Caltrans has issued a permit for the construction. The ALUCP Update has supplemented this policy with a more detailed explanation of the FAA process for reviewing proposed construction. The ALUCP Update also includes airspace drawings and a geographic information system (GIS) airspace tool for indicating the maximum height at which structures can be considered compatible with the ALUCP.

The Part 77 surfaces used in the 1993 CLUP are significantly different than the Part 77 surfaces used in the ALUCP Update. The 1993 CLUP does not include a specific Part 77 drawing, but rather includes the Part 77 surfaces on the Airport Land Use Zone map. One notable difference is that only one runway is included in the 1993 Airport Land Use Zone map. The ALUCP Update includes the Part 77 imaginary surfaces taken from the 2008 Airport Layout Plan set which includes two runways, including a proposed reconstruction and relocation of the Runway 11R-29L. **Exhibit F-A6** depicts the current Part 77 surfaces used in the ALUCP Update.

Other Compatibility Issues

As previously discussed, the 1993 CLUP identifies schools, transmissions which would interfere with aircraft communications, and aboveground powerlines as potential compatibility issues. The ALUCP Update expands on this list and considers land uses or land use features which may cause visual, electronic, or wildlife hazards, particularly bird strike hazards, to aircraft taking off or landing at the Airport or in flight as incompatible uses. It is also noted that specific guidance on the location of schools is not addressed within the ALUCP Update because this condition is addressed at the state level through Public Utilities Code 21655. Prohibited flight hazards addressed in the ALUCP include the following:

1. Sources of glare, such as highly reflective buildings or building features, or bright lights, including search lights or laser displays, which would interfere with the vision of pilots making approaches to the Airport;
2. Distracting lights that could be mistaken by pilots on approach to the Airport for airport identification lighting, runway edge lighting, runway end identification lighting, or runway approach lighting;
3. Sources of dust, smoke, or water vapor that may impair the vision of pilots making approaches to the Airport;
4. Sources of electrical interference with aircraft or air traffic control communications or navigation equipment, including radar;
5. Sources of thermal plumes with the potential to rise high enough and at sufficient velocities to interfere with the control of aircraft in flight; and
6. Any use that creates an increased attraction for wildlife, particularly large flocks of birds, that is inconsistent with FAA rules and regulations, including, but not limited to, FAA Order 5200.5A, *Waste Disposal Sites On or Near Airports*, FAA Advisory Circular 150/5200-33B, *Hazardous Wildlife Attractants On or Near Airports*, U.S. Code Title 49, Subtitle VII, Part A, Subpart iii, Chapter 447, Section 44718, which prohibits establishment of new landfills that receive putrescible waste within six miles of certain public airports unless otherwise exempted by the FAA, and any successor or replacement orders or advisory circulars.

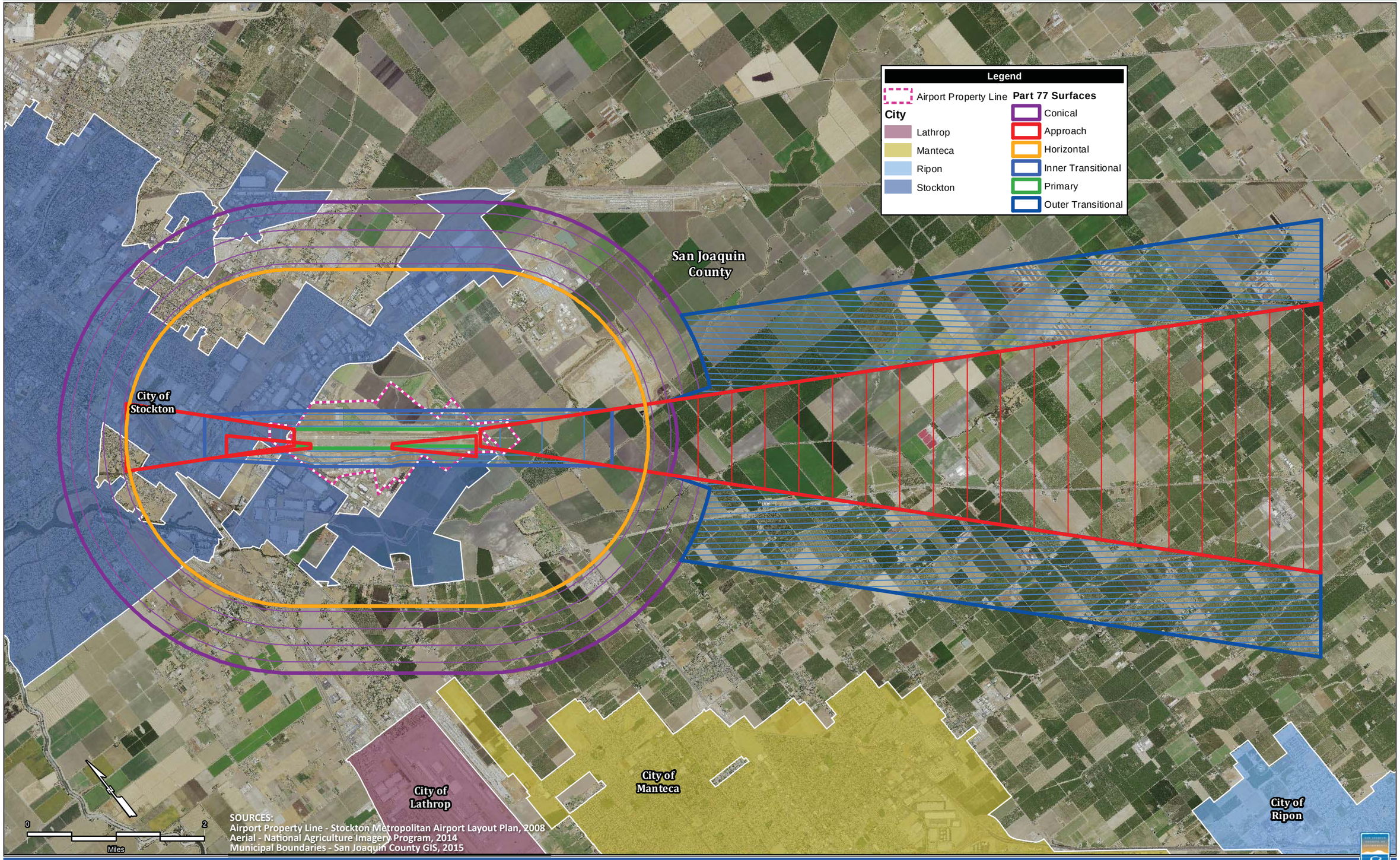


Exhibit F-A6
14 CFR PART 77 SURFACES

SECTION 2: FUTURE DEVELOPMENT DISPLACEMENT ANALYSIS

The adoption of the Stockton Metropolitan Airport ALUCP may result in the displacement of future land uses within parts of the AIA. The ALUCP would restrict the future development of dwellings and other noise or risk sensitive land uses within some parts of the AIA based on location relative to the noise and safety zones. The ALUCP would also restrict the height of proposed structures within airspace protection areas, although these provisions of the ALUCP are essentially the same as the 1993 CLUP and would represent little change from current policy.

The State of California requires municipalities and counties to plan for future land use development within their jurisdictions. This requirement is accomplished through the preparation of general plans that determine the desired pattern of future development within their jurisdictions. Zoning ordinances are enacted and maintained by local governments to implement the goals and policies established in the general plans. State law also requires local governments to make their general plans and land use regulations consistent with any ALUC- approved ALUCP applying within their jurisdictions. As the Stockton Metropolitan Airport ALUCP includes policies and criteria that limit or restrict development in parts of the AIA, some future land uses otherwise allowed under local general plans may be displaced to other areas after the land use agencies implement the ALUCP. Consequently, environmental impacts may arise from the displacement of future land uses from one area to another.

Potential environmental effects associated with displaced development may include changes in land use patterns and associated shifts in the distribution and concentration of population. By restricting development in parts of the AIA, there is the potential for increased pressure for growth and development in other areas. If this land use development were to occur, potential environmental impacts arising from increased traffic and associated air quality and noise impacts could arise.

As previously stated, future development, whether or not it is displaced, would be subject to the zoning and permitting authority of the local agencies (San Joaquin County, City of Stockton, City of Manteca or City of Lathrop). Under CEQA, the environmental impacts arising from future development projects would have to be specifically considered in the environmental documents prepared for those projects as conditions of permit issuance. Thus, it is unlikely that any potential environmental impacts from future projects would avoid appropriate environmental review at the project level. An important purpose of this analysis of potential development displacement is that it will inform local agencies of the potential for displaced development, and associated consequences, enabling them to plan accordingly.

Future development displacement is determined by comparing the Baseline Condition for undeveloped parcels to the proposed ALUCP Update. For the purposes of this analysis, the Baseline Condition is defined as the zoning and general plan designations combined with the 1993 CLUP for Stockton Metropolitan Airport. Undeveloped parcels are defined as vacant parcels that are zoned or planned with residential, commercial, institutional, industrial, or planned unit development. The vacant parcel information is derived from the land use discussion and mapping presented in Section 2.2 of the ALUCP Update. **Exhibit F-A7** depicts the undeveloped parcels in the AIA zone.

To determine potential future development displacement, each parcel is classified in the geographical information system (GIS) with its designated zoning and general plan land uses, noise exposure contour level, safety zone, and airspace height limits. A series of database queries provided the number of residential dwelling units and acres of non-residential development that is allowed under the current 1993

CLUP (Baseline Condition) and proposed ALUCP Update. The difference between these two calculations quantifies the future development displacement.

It is important to note that the displacement analysis discussed below only includes those areas subject to both the 1993 CLUP and the ALUCP Update. Although the proposed AIA (Zone 8) is larger than the existing AIA, there are no density or intensity restrictions in the area encompassed by the proposed AIA. Therefore, no residential or non-residential displacement would occur in those areas.

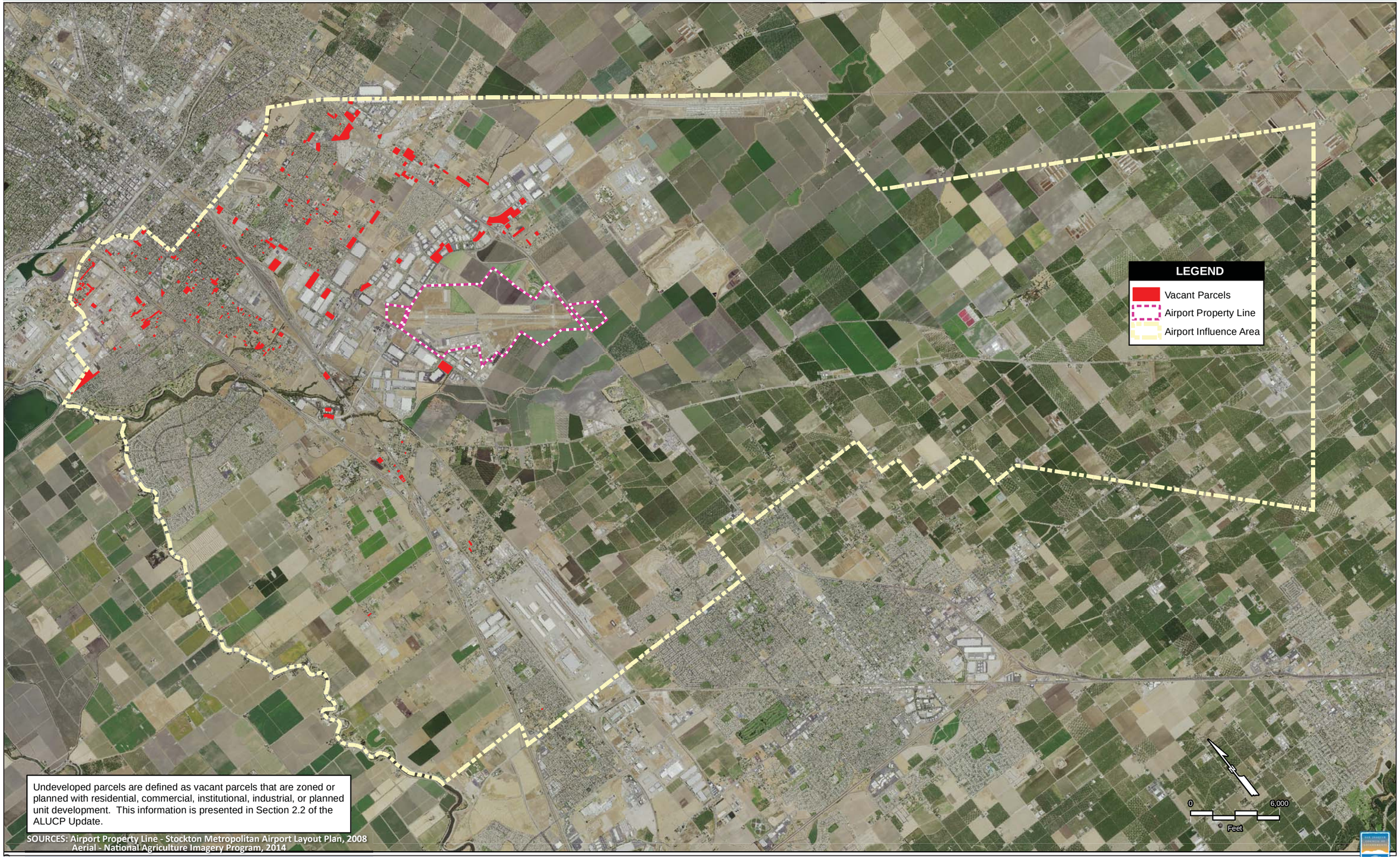
RESIDENTIAL DISPLACEMENT ANALYSIS

The total developable acreage used for the zoning dwelling unit displacement analysis for both the Baseline and ALUCP Update is summarized in **Table A5**. This table illustrates the distribution of the undeveloped parcels within the 1993 CLUP and ALUCP Update zones. These acreages are used to calculate the total potential dwelling units in these areas given the two sets of compatibility criteria presented in **Table A3** and **Table A4** and the locally adopted zoning ordinances plans. As indicated in **Table A5**, the vacant parcels are primarily located in the outer safety zones for both conditions.

TABLE A5
Residential Zoning Developable Acres
Stockton Metropolitan Airport Land Use Compatibility Plan

Zone	Residential Low Density Developable Acres	Residential Medium Density Developable Acres	Residential High Density	Total Developable Acres
Baseline Condition (1993 CLUP)				
Airport Building and Airport Property Areas	0.0	0.0	0.0	0.0
Runway Protection Zone	0.0	0.0	0.0	0.0
Transitional Surface	0.0	0.0	0.0	0.0
Primary Surface	0.0	0.0	0.0	0.0
Inner Approach and Climbout Areas	0.0	0.0	0.0	0.0
Outer Approach and Climbout Areas	1.7	0.0	0.0	1.7
Conical Zone	27.6	12.0	0.2	39.7
Horizontal Zone	18.2	0.0	0.0	18.2
Airport Influence Area	46.0	3.3	0.9	50.2
1993 CLUP 65 CNEL Noise Contour	**0**	**0**	**0**	**0**
Total	**93.4**	**15.3**	**1.1**	**109.8**
Future Condition (ALUCP Update)				
Runway Protection	0.0	0.0	0.0	0.0
Inner Approach / Departure	0.0	0.0	0.0	0.0
Turning	0.0	0.0	0.0	0.0
Outer Approach / Departure	0.0	0.0	0.0	0.0
Sideline	0.0	0.0	0.0	0.0
Airport Property	0.0	0.0	0.0	0.0
Traffic Pattern (7a)	23.9	0.0	0.0	23.9
Traffic Pattern (7b)	27.2	12.3	0.8	40.3
Area of Influence	42.3	3.0	0.2	45.5
ALUCP Update 65 CNEL Noise Contour	0	0	0	0
Total	**93.4**	**15.3**	**1.1**	**109.8**

Note: Numbers may not add up due to rounding.



Undeveloped parcels are defined as vacant parcels that are zoned or planned with residential, commercial, institutional, industrial, or planned unit development. This information is presented in Section 2.2 of the ALUCP Update.

SOURCES: Airport Property Line - Stockton Metropolitan Airport Layout Plan, 2008
Aerial - National Agriculture Imagery Program, 2014

Exhibit F-A7
UNDEVELOPED PARCELS

Zoning Analysis

Table A6 summarizes the potential number of dwelling units that could be built on the existing undeveloped parcels based on the 1993 CLUP and the proposed ALUCP Update and the locally adopted zoning ordinances. The potential number of dwelling units for each safety zone was calculated by multiplying the developable acreage for each zoning district and the permissible density for the corresponding zone. In cases where a density restriction is imposed through the 1993 CLUP or ALUCP which decreases the potential development, the smaller value is presented in the table and the adjustment is noted in the table. As noted in the table, the 1993 CLUP restrictions are applied within the Outer Approach and Climbout Area. The proposed change in safety compatibility zones equates to an approximate increase of 8.8 dwelling units for potential build out under the ALUCP Update when compared to the 1993 CLUP. In addition to the relatively small change in the overall number of dwelling units that could be developed, the type of development permitted within these areas also changes. As noted in the table, the number of low density dwelling units increases, while the number of medium density dwelling units decreases. It should be noted, however, that the minimum lot size for each of these development types is 6,000 square feet. Therefore, the density of development within these areas would be similar.

TABLE A6
Residential Zoning Potential Displacement (Dwelling Units)
Stockton Metropolitan Airport Land Use Compatibility Plan

Zone	Residential Low Density Dwelling Units (Minimum Lot Size 6,000 sq. ft.)	Residential Medium Density Dwelling Units (Minimum Lot Size 6,000 sq. ft.)	Residential High Density Dwelling Units (Maximum 40 Dwelling Units Per Acre)	Total Dwelling Units
Baseline Condition (1993 CLUP)				
Airport Building and Airport Property Areas	0.0	0.0	0.0	0.0
Runway Protection Zone	0.0	0.0	0.0	0.0
Transitional Surface[1]	0.0	0.0	0.0	0.0
Primary Surface	0.0	0.0	0.0	0.0
Inner Approach and Climbout Areas	0.0	0.0	0.0	0.0
Outer Approach and Climbout Areas[1]	3.3	0.0	0.0	3.3
Conical Zone	200.0	86.9	7.8	294.7
Horizontal Zone	132.1	0.0	0.0	132.1
Airport Influence Area	334.2	23.8	35.7	393.7
Total	669.7	110.7	43.5	823.9
Future Condition (ALUCP Update)				
Runway Protection	0.0	0.0	0.0	0.0
Inner Approach / Departure	0.0	0.0	0.0	0.0
Turning	0.0	0.0	0.0	0.0
Outer Approach / Departure	0.0	0.0	0.0	0.0
Sideline	0.0	0.0	0.0	0.0
Airport Property	0.0	0.0	0.0	0.0
Traffic Pattern (7a)	174.2	0.0	0.0	174.2
Traffic Pattern (7b)	197.1	89.1	33.7	319.9
Area of Influence	307.0	21.7	9.8	338.5
Total[2]	678.4	110.7	43.5	832.6
Difference	8.7	0.0	0.0	8.8

Note: Acreages used in the calculations include those undeveloped parcels zoned for one family and multi-family development and located outside the 65 CNEL noise contour for the baseline and future conditions. Numbers may not add up due to rounding.

[1] 1993 CLUP Safety Compatibility Criteria limits the number of dwelling units per acre to 2 within this zone.

[2] Based on a review of land use distribution within the proposed ALUCP Update zones, adequate open land is available within agricultural areas to meet the open land requirements outlined in **Table A4**. When considering agricultural, undeveloped, and open space land, the TPZ, OADZ, ITZ, and IADZ each have more than 40 percent open land; therefore, the open land requirement was not applied to these zones..

General Plan Analysis

The total developable acreage used for the general plan dwelling unit displacement analysis for both the Baseline and ALUCP Update is summarized in **Table A7**. This table illustrates the distribution of the undeveloped parcels within the 1993 CLUP and ALUCP Update zones.

TABLE A7
Residential General Plan Developable Acres
Stockton Metropolitan Airport Land Use Compatibility Plan

Zone	Residential Low Density Developable Acres	Residential Medium Density Developable Acres	Total Developable Acres
Baseline Condition (1993 CLUP)			
Airport Building and Airport Property Areas	0.0	0.0	0.0
Runway Protection Zone	0.0	0.0	0.0
Transitional Surface	0.0	0.0	0.0
Primary Surface	0.0	0.0	0.0
Inner Approach and Climbout Areas	0.0	0.0	0.0
Outer Approach and Climbout Areas	0.3	0.0	0.3
Conical Zone	33.9	11.9	45.8
Horizontal Zone	30.3	0.0	30.3
Airport Influence Area	48.6	3.0	51.6
1993 CLUP 65 CNEL Noise Contour	**0**	**0**	**0**
Total	113.0	14.9	127.9
Future Condition (ALUCP Update)			
Runway Protection	0.0	0.0	0.0
Inner Approach / Departure	0.0	0.0	0.0
Turning	0.0	0.0	0.0
Outer Approach / Departure	0.0	0.0	0.0
Sideline	0.0	0.0	0.0
Airport Property	0.0	0.0	0.0
Traffic Pattern (7a)	34.9	0.0	34.9
Traffic Pattern (7b)	34.4	11.9	46.3
Area of Influence	43.7	3.0	46.7
ALUCP Update 65 CNEL Noise Contour	0	0	0
Total	113.0	14.9	127.9

Note: Acreages used in the calculations include those undeveloped parcels zoned for one family and multi-family development and located outside the 65 CNEL noise contour for the baseline and future conditions. Numbers may not add up due to rounding.

Table A8 summarizes the potential number of dwelling units that could be built on the existing undeveloped parcels based on 1993 CLUP and the proposed ALUCP Update and the locally adopted general plans. The potential number of dwelling units for each safety zone was calculated by multiplying the developable acreage for each general plan district and the planned density for the corresponding zone. In cases where a density restriction is imposed through the 1993 CLUP or ALUCP which decreases the

potential development, the smaller value is presented in the table and the adjustment is noted in the table. As noted in the table, the 1993 CLUP restrictions are applied within the Outer Approach and Climbout Area. The proposed change in safety compatibility zones equates to an approximate increase of 1.1 dwelling units for the ALUCP Update for potential build out when compared to the 1993 CLUP based on the general plan designations for these areas.

TABLE A8
Residential General Plan Potential Displacement (Dwelling Units)
Stockton Metropolitan Airport Land Use Compatibility Plan

Zone	Residential Low Density (6 Dwelling Units Per Acre)	Residential Medium Density (10 Dwelling Units Per Acre)	Total Dwelling Units
Baseline Condition (1993 CLUP)			
Airport Building and Airport Property Areas	0.0	0.0	0.0
Runway Protection Zone	0.0	0.0	0.0
Transitional Surface	0.0	0.0	0.0
Primary Surface	0.0	0.0	0.0
Inner Approach and Climbout Areas	0.0	0.0	0.0
Outer Approach and Climbout Areas[1]	0.5	0.0	0.5
Conical Zone	203.1	119.0	322.1
Horizontal Zone	181.8	0.0	181.8
Airport Influence Area	291.7	29.8	321.6
Total	677.2	148.8	826.0
Future Condition (ALUCP Update)			
Runway Protection	0.0	0.0	0.0
Inner Approach / Departure	0.0	0.0	0.0
Turning	0.0	0.0	0.0
Outer Approach / Departure	0.0	0.0	0.0
Sideline	0.0	0.0	0.0
Airport Property	0.0	0.0	0.0
Traffic Pattern (7a)	209.4	0	209.4
Traffic Pattern (7b)	206.5	119.0	325.5
Area of Influence	262.4	29.8	292.3
Total[2]	678.3	148.8	827.1
Difference	1.1	0.0	1.1

Note: Acreages used in the calculations include those undeveloped parcels zoned for one family and multi-family development and located outside the 65 CNEL noise contour for the baseline and future conditions. Numbers may not add up due to rounding.

[1] 1993 CLUP Safety Compatibility Criteria limits the number of dwelling units per acre to 2 within this zone.

[2] Based on a review of land use distribution within the proposed ALUCP Update zones, adequate open land is available within agricultural areas to meet the open land requirements outlined in **Table A4**. When considering agricultural, undeveloped, and open space land, the TPZ, OADZ, ITZ, and IADZ each have more than 40 percent open land; therefore, the open land requirement was not applied to these zones.

NON-RESIDENTIAL DISPLACEMENT ANALYSIS

Both the Baseline Condition and ALUCP restrict the type of non-residential development and intensity of use (number of people allowed per acre). For the purposes of this analysis, non- residential displacement includes commercial, office, institutional, and industrial land uses. The local zoning ordinances and general plans do not specify intensity of use criteria for non-residential development. Therefore, this displacement analysis will be prepared comparing the number of acres of non-residential development subject to intensity restrictions within the Baseline Condition and the ALUCP Update. The difference

between the Baseline Condition and the ALUCP Update will be used to determine the non-residential development displacement.

Zoning Analysis

Table A9 summarizes the zoning non-residential displacement analysis. As presented in the table, there are a total of 154.8 acres which meet the non-residential undeveloped parcel definition within the AIA. Of this total, seven acres are subject to intensity limitations within the 1993 CLUP which range from 0 to 50 people per acre. In comparison, under the ALUCP update, 130.4 acres are subject to intensity limitations.

TABLE A9
Non-Residential Zoning Displacement Analysis
Stockton Metropolitan Airport Land Use Compatibility Plan

Zone	Intensity (Maximum Persons Per Acre)	Commercial Developable Acres	Industrial Developable Acres	Total Developable Acres
Baseline Condition (1993 CLUP)				
Airport Building and Airport Property Areas[1]	0.0	0.0	0.0	0.0
Runway Protection Zone[1]	0.0	0.0	0.0	0.0
Transitional Surface[1]	25.0	0.0	1.3	1.3
Primary Surface[1]	0.0	0.0	0.0	0.0
Inner Approach and Climbout Areas[1]	10.0	0.0	0.0	0.0
Outer Approach and Climbout Areas[1]	50.0	0.0	5.7	5.7
Conical Zone	No Restriction	13.7	14.1	27.8
Horizontal Zone	No Restriction	15.6	73.2	88.8
Airport Influence Area	No Restriction	11.0	20.3	31.3
Total		40.2	114.6	154.8
Future Condition (ALUCP Update)				
Runway Protection[2]	0	0.0	0.0	0.0
Inner Approach / Departure[2]	50	0.0	3.5	3.5
Inner Turning[2]	120	0.0	0.8	0.8
Outer Approach / Departure[2]	180	0.0	0.0	0.0
Sideline[2]	160	0.0	0.0	0.0
Airport Property	No Restriction	0.0	0.0	0.0
Traffic Pattern (7a)	450.0	18.1	83.8	101.9
Traffic Pattern (7b)	450.0	16.1	8.1	24.2
Area of Influence[2]	No Restriction	6.0	18.4	24.4
Total		40.2	114.6	154.8

Note: Numbers may not add up due to rounding.

[1] 1993 CLUP zone with non-residential intensity restriction

[2] ALUCP Update zone with on-residential intensity restriction. The intensity ranges included are based on updated guidance included in Chapter 4 of the 2011 *California Airport Land Use Planning Handbook* (see Figure 4B-Figure 4G).

As noted in **Table A9**, the intensity limitations for the 1993 CLUP are generally more restrictive than the proposed ALUCP Update; therefore, the potential number of persons allowed on a property would be greater under the ALUCP Update. The proposed intensity restriction increases are based on the risk evaluation discussed in Chapter 4 of the 2011 *California Airport Land Use Planning Handbook* (see Figure 4B-Figure 4G).

Of the 130.4 acres within the ALUCP Update zones, 4.3 are subject to intensity limitations of 25 to 50 people per acre and the remaining 126.1 are subject to a much higher limit of 450 people per acre. The 450 people per acre limitation in the Traffic Pattern Zone is intended to limit high intensity uses such as stadiums, amphitheaters, or other similar uses. Presently, no land is zoned or planned for this type of use within the proposed AIA. For informational purposes, **Table A10** provides intensity ranges presented in the 2011 *California Airport Land Use Planning Handbook* of typical nonresidential land uses.

Table A10
California Airport Land Use Planning Handbook
Average Intensities for Nonresidential Uses

Type of Use	Typical Intensity (people/acre)
Small retail shops (not shopping center)	20-30
Local retail centers (grocery/drug store anchor)	65-85
"Big Box" centers (single story, surface parking)	90-120
Major retail centers / malls (1-2 stories)	150-250
Fast food dining	120-150
Restaurants	90-120
Offices/banks	60-120
Motels	40-60
Light industrial	20-50
Warehouses	10-20

Source: Table 4E, California Airport Land Use Planning Handbook, 2011
Note: Numbers here assume surface parking.

General Plan Analysis

Table A11 summarizes the general plan non-residential displacement analysis. As presented in the table, there are a total of 149.7 acres which meet the non-residential undeveloped parcel definition within the AIA. Of this total, 8.4 acres are subject to intensity limitations within the 1993 CLUP. In comparison, under the ALUCP update, 23.5 acres are subject to intensity limitations. As noted in the table, the intensity limitations for the 1993 CLUP are generally more restrictive than the proposed ALUCP Update; therefore, the potential number of persons allowed on a property would be greater under the ALUCP Update. The proposed intensity restriction increases are based on the risk evaluation discussed in Chapter 4 of the 2011 *California Airport Land Use Planning Handbook* (see Figure 4B-Figure 4G).

TABLE A11
Non-Residential General Plan Displacement Analysis
Stockton Metropolitan Airport Land Use Compatibility Plan

Zone	Intensity (Maximum Persons Per Acre)	Commercial Developable Acres	Industrial Developable Acres	Total Developable Acres
Baseline Condition (1993 CLUP)				
Airport Building and Airport Property Areas[1]	0	0.0	0.0	0.0
Runway Protection Zone[1]	0	0.0	0.0	0.0
Transitional Surface[1]	25	0.0	1.3	1.3
Primary Surface[1]	0	0.0	0.0	0.0
Inner Approach and Climbout Areas[1]	10	0.0	0.0	0.0
Outer Approach and Climbout Areas[1]	50	1.4	5.7	7.1
Conical Zone	No Restriction	8.5	15.3	23.8
Horizontal Zone	No Restriction	15.6	71.7	87.3
Airport Influence Area	No Restriction	13.1	17.1	30.1
Total		38.5	111.1	149.7
Future Condition (ALUCP Update)				
Runway Protection[2]	0	0.0	0.0	0.0
Inner Approach / Departure[2]	50	0.0	3.5	3.5
Inner Turning[2]	120	0.0	0.8	0.8
Outer Approach / Departure[2]	180	0.0	0.0	0.0
Sideline[2]	160	0.0	0.0	0.0
Airport Property	No Restriction	0.0	0.0	0.0
Traffic Pattern (7a)	No Restriction	19.5	84.1	103.7
Traffic Pattern (7b)	No Restriction	10.7	7.5	18.2
Area of Influence[2]	450	8.3	15.2	23.5
Total		38.5	111.2	149.7

Note: Numbers may not add up due to rounding.
[1] 1993 CLUP zone with non-residential intensity restriction
[2] ALUCP Update zone with on-residential intensity restriction. The intensity ranges included are based on updated guidance included in Chapter 4 of the 2011 *California Airport Land Use Planning Handbook* (see Figure 4B-Figure 4G).

SUMMARY

Implementation of the ALUCP is not expected to result in displacement of overall future residential development within the AIA based on existing zoning designations, when combined with the ALUCP update zones. Based on the zoning component of the displacement analysis, approximately 8.8 more dwelling units could be built given the proposed ALUCP safety zones. When considering general plan designations and the ALUCP update zones, approximately 1.1 more dwelling units could be built within the AIA.

Potential impacts related to population-based impacts are evaluated within the following Environmental Checklist portion of this Initial Study.

No non-residential displacement would result from the proposed ALUCP based on current zoning or general plan designations. Although additional land would be subject to intensity limitations (people per acre), these limitations are less restrictive than the 1993 CLUP.

It is important to note that the proposed ALUCP is not a development plan (i.e., no specific land uses are designated for any particular parcel or parcels). Whether actual shifts in development would occur as a result of the proposed ALUCP would depend on the actual need for development; the rate, timing, location and extent of development; economic and market conditions; the nature and type of the project or projects; and project-level impacts to the environment and associated mitigation. Attempts to accurately forecast the actual effects of potential future shifts in land use development and population are subject to considerable uncertainty. If such projects do occur in the future, like other land use development, they will be subject to the appropriate project- level environmental review under CEQA. (See California Code of Regulations, Title 14, §15145.)

An important purpose of this analysis of potential development displacement is that it will inform local agencies of the potential for displaced development and associated consequences, enabling them to plan accordingly. The ultimate authority for implementation of the ALUCP rests with local governments as the zoning and land use permitting authorities. These local governments have multiple options with regard to how to implement the new policies and criteria in the ALUCP. Thus, the potential displacement effects discussed in this analysis could change depending on the specific implementation actions taken by the local jurisdictions and the ALUC.

Appendix G

Negative Declaration

SAN JOAQUIN COUNCIL OF GOVERNMENTS

555 E. Weber Avenue • Stockton, California 95202

209.468.3913 • 209.468.1084 (fax)

www.sjcog.org

May 5, 2016

FINAL

NEGATIVE DECLARATION

The San Joaquin Council of Governments has reviewed the proposed project described below to determine whether it could have a significant effect on the environment. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Airport Land Use Compatibility Plan (ALUCP) Update for the Environs of Stockton Metropolitan Airport (SCK)

PROJECT DESCRIPTION: The ALUCP provides policies for use by the San Joaquin County Airport Land Use Commission when evaluating the compatibility between proposals for land use development in the vicinity of Stockton Metropolitan Airport and the operations of these airports. The local agencies that have jurisdiction over land uses within the areas covered by this plan include San Joaquin County, and the cities of Stockton, Manteca, and Lathrop. The plan is prepared in accordance with the requirements of the *California State Aeronautics Act*.

PROJECT LOCATION & ENVIRONMENTAL SETTING: The Stockton Metropolitan Airport ALUCP Update applies to geographic areas in portions of the City of Stockton, City of Lathrop, City of Manteca, and unincorporated areas in San Joaquin County that are located within the airport influence area (AIA). Pursuant to California PUC Section 21675, each airport has an AIA that indicates those areas in which current or future airport-related overflights, noise, safety, or airspace protection conditions may significantly affect land uses and may require land use restrictions to address those conditions. The airport influence area indicates the area within which ALUC review of certain land use actions is required.

For SCK, the AIA boundary was established using a combination of the current AIA boundary and the outer boundary of the Title 14 of the Code of Federal Regulations Part 77 (14 CFR Part 77) for SCK. 14 CFR Part 77 defines a series of airspace boundaries around an airport to determine if there are obstructions to air navigation. For the purposes of this plan, the combination of the current AIA boundary, conical surface, and approach surface is used to delineate the updated AIA. The portion of the current AIA boundary is defined by easily recognized geographic features and encompasses all the safety and airspace zones. The conical

surface is the outer boundary of the 14 CFR Part 77 airspace boundaries and generally represents the traffic pattern, or the area within which aircraft operate; the approach surface is used for airports that have a precision runway, such as SCK.

APPLICANT CONTACT INFORMATION: Copies of the Negative Declaration, the Initial Study, and the Draft ALUCP may be obtained from the San Joaquin Council of Governments, 555 E. Weber Avenue, Stockton, CA 95202, (209) 235-0600.

FINDINGS AND DETERMINATION

The San Joaquin Council of Governments finds that, based on the completed Initial Study (attached), there is no substantial evidence the project described above will have a significant impact on the environment. Therefore, the following environmental determinations have been made:

1. **Based on the whole record (including the Initial Study and any supporting documentation), the San Joaquin Council of Governments has determined that there is no substantial evidence that the project will have a significant effect on the environment.**

2. **The Negative Declaration, with its supporting documentation, reflects the independent judgment and analysis of the lead agency, which is the San Joaquin Council of Governments.**

The basis for this determination is that there are no physical construction projects that would result from the adoption of the San Joaquin County ALUCP update or from subsequent implementation of the land use restrictions and policies. In addition, the proposed ALUCP does not reduce or inhibit the development beyond what is allowed in the 1993 ALUCP or proposed in the current general plans for the Cities of Stockton, Manteca and Lathrop. Current zoning within the Cities of Stockton, Manteca and Lathrop are also unaffected by the proposed ALUCP. If there are substantial changes that alter the character or impacts of the proposed project, another environmental impact determination will be necessary.

Circulated on: ~~January 4, 2016~~

Andrew T. Chesley, Executive Director

Adopted on: April 28, 2016

Andrew T. Chesley, Executive Director

Attachments:

A. Public Notice
B. Initial Study
C. Regional Location Map
D. Public Review Distribution; Comments Received and Response

PUBLIC REVIEW DISTRIBUTION

Copies or notice of this Negative Declaration were distributed to:

- State of California Clearinghouse
- CALTRANS
- San Joaquin County
- City of Stockton
- City of Manteca
- City of Lathrop
- Airport Land Use Compatibility Plan Update Planning Advisory Committee

PUBLIC REVIEW

(X) Draft document referred for comments on January 4, 2016.

( ) No comments were received during the public review period.

( ) Comments were received but did not address the draft Negative Declaration findings or the accuracy/completeness of the Initial Study. No response is necessary. The letters are attached.

(X) Comments addressing the findings of the draft Negative Declaration and/or accuracy or completeness of the Initial Study were received during the public review period. The letters and responses follow (see Response to Comments, attached).

Attachment A

SAN JOAQUIN C /ERNMENTS

555 E. Weber Avenue • Stockton, California 95202

209.468.3913 • 209.468.1084 (fax)

www.sjcog.org

January 4, 2016

PUBLIC NOTICE

INTENT TO ADOPT A NEGATIVE DECLARATION

The San Joaquin Council of Governments has completed and independently reviewed an Initial Study and has prepared a draft Negative Declaration for the update to the Airport Land Use Compatibility Plan (ALUCP) Update for the Environs of Stockton Metropolitan Airport (SCK).

Project Title: Airport Land Use Compatibility Plan (ALUCP) Update for the Environs of Stockton Metropolitan Airport (SCK)

Project Sponsor: San Joaquin Council of Governments (SJCOG)

PROJECT DESCRIPTION: The ALUCP provides policies for use by the San Joaquin County Airport Land Use Commission when evaluating the compatibility between proposals for land use development in the vicinity of Stockton Metropolitan Airport and the operations of these airports. The local agencies that have jurisdiction over land uses within the areas covered by this plan include San Joaquin County, and the cities of Stockton, Manteca, and Lathrop. The plan is prepared in accordance with the requirements of the *California State Aeronautics Act*.

PROJECT LOCATION & ENVIRONMENTAL SETTING: The Stockton Metropolitan Airport ALUCP Update applies to geographic areas in portions of the City of Stockton, City of Lathrop, City of Manteca, and unincorporated areas in San Joaquin County that are located within the airport influence area (AIA). Pursuant to California PUC Section 21675, each airport has an AIA that indicates those areas in which current or future airport-related overflights, noise, safety, or airspace protection conditions may significantly affect land uses and may require land use restrictions to address those conditions. The airport influence area indicates the area within which ALUC review of certain land use actions is required.

For SCK, the AIA boundary was established using a combination of the current AIA boundary and the outer boundary of the Title 14 of the Code of Federal Regulations Part 77 (14 CFR Part 77) for SCK. 14 CFR Part 77 defines a series of airspace boundaries around an airport to determine if there are obstructions to air navigation. For the purposes of this plan, the combination of the current AIA boundary, conical surface, and approach surface is used to delineate the updated AIA. The portion of the current AIA boundary is defined by easily recognized geographic features and encompasses all the safety and airspace zones. The conical

surface is the outer boundary of the 14 CFR Part 77 airspace boundaries and generally represents the traffic pattern, or the area within which aircraft operate; the approach surface is used for airports that have a precision runway, such as SCK.

Significant Environmental Impacts: There is no substantial evidence that the project will have a significant effect on the environment.

Public Comment Period: All interested persons are invited to comment on the Negative Declaration pursuant to the provisions of CEQA. The comment period is 30 days starting on January 4, 2016 and ending on February 12, 2016. Comments must be received by the end of business on February 12, 2016 and must be submitted to SJCOG at the address noted below.

Lead Agency/Contact Person:

San Joaquin Council of Governments
Kim Anderson, Senior Regional Planner
555 E. Weber Avenue
Stockton, CA 95202

Phone: 209.235.0600
Fax: 209.235.0438
Email: anderson@sjcog.org

Comments may be delivered to SJCOG in person or transmitted by fax, mail, or email.

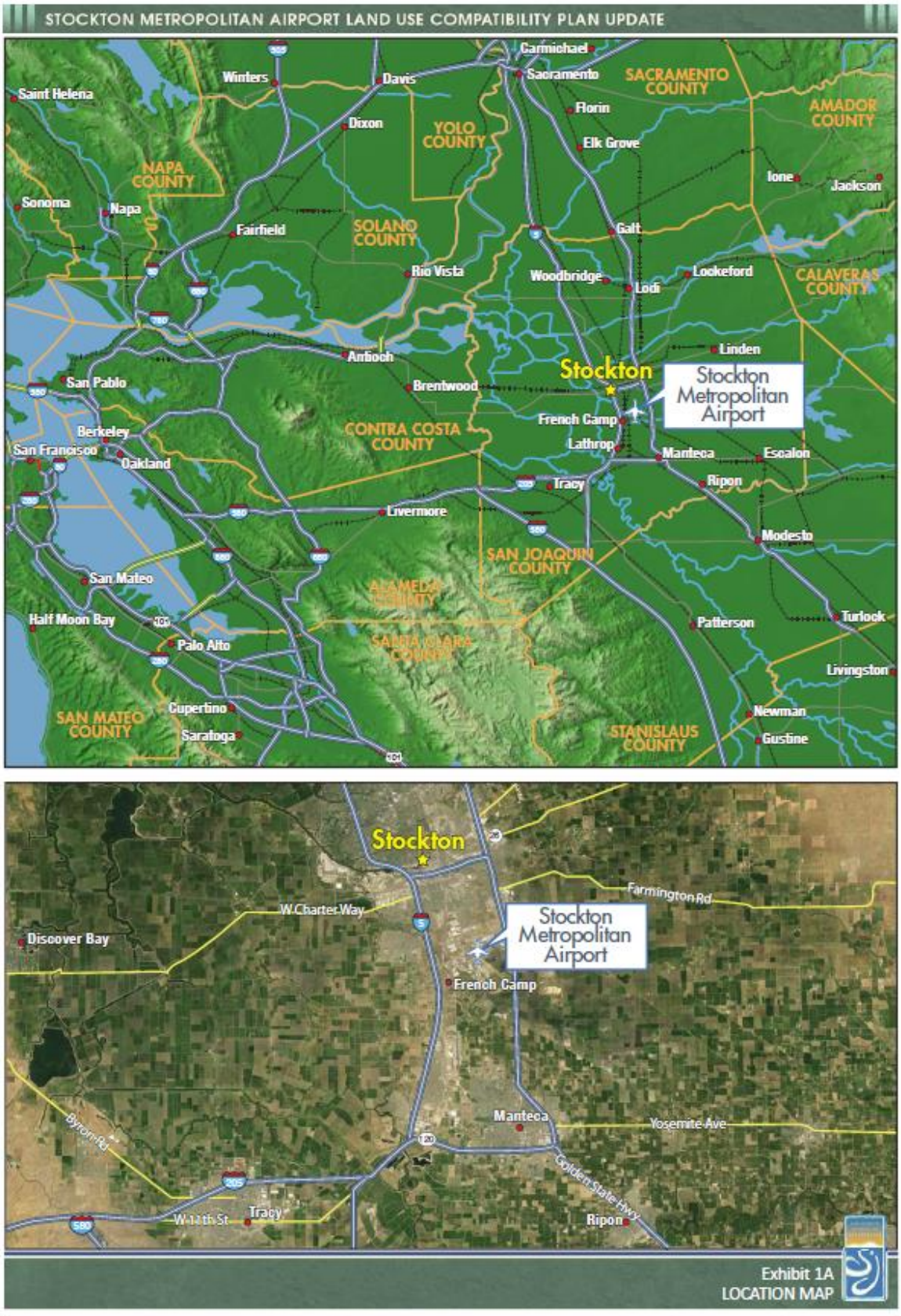
The project file is available for review during regular office hours at the SJCOG Regional Office located at 555 E. Weber Avenue in downtown Stockton. The document may also be reviewed and downloaded directly at http://stocktonalucp.airportstudy.com/. A CD containing the draft documents (ND/IS and Draft Final ALUCP) may be requested from Kim Anderson at the above contact.

Public Hearings: This is not a notice of public hearing. Future public hearings regarding this project will be duly noticed as required by law.

Attachment B

The Initial Study is included as Appendix F.

Attachment C



Attachment D

Stockton Metropolitan Airport
Airport Land Use Compatibility Plan Update
Responses to Comments Received

Letter Response	Commenter	Date Received
1	Andres Rubio	January 19, 2016
2	Robert Fiore (CALTRANS)	February 8, 2016
3	Monica Nino (San Joaquin County)	February 5, 2016
4	Andrew Watkins (San Joaquin Farm Bureau Federation)	February 12, 2016
5	Thomas Bruen (Representing Forward, Inc.)	February 12, 2016
6	Stephanie Tadlock (Central Valley Regional Water Quality Control Board)	February 3, 2016
7	Scott Morgan (State Clearinghouse Planning Unit)	February 18, 2016
8	Sangeeta Lewis (representing Forward, Inc.)	February 17, 2016
9	Edward Schexnayder (Shute, Mihaly & Weinberger LLP representing Clean San Joaquin)	February 11, 2016
10	Rick Tutt (Rick Tutt Aviation)	March 2, 2016
11	Edward Schexnayder (Shute, Mihaly & Weinberger LLP representing Clean San Joaquin)	April 10, 2016

Letter Response 1: Andres Rubio

Response 1-1: Comment noted. Commercial flight destinations are outside the scope of the Airport Land Use Compatibility Plan.

Letter Response 2: Robert Fiore (CALTRANS)

Response 2-1: Comment noted.

Response 2-2: Comment noted. Section 1.1.1 adequately summarizes the role and importance of Stockton Metropolitan Airport.

Response 2-3: A copy of the ALUC formation document has been added to Appendix D, Supporting Materials.

Response 2-4: Text Section 1.3.2 has been revised as follows to clarify the location of the AIA in relation to the Part 77 surfaces.

> For SCK, the AIA boundary was established using a combination of the current AIA boundary and the outer boundary of the Title 14 of the Code of Federal Regulations Part 77 (14 CFR Part 77) imaginary surfaces for SCK. 14 CFR Part 77 defines a series of airspace boundaries around an airport to determine if there are obstructions to air navigation. For the purposes of this plan, the combination of the current AIA boundary, approach surface, and outer transitional surface are used to delineate the updated AIA. The portion of the current AIA boundary is defined by easily recognized geographic features and encompasses all the safety zones. The 14 CFR Part 77 approach surface and outer transitional surface are used at airports that have a precision runway, such as SCK.

Response 2-5: The vested tentative map and development agreement are codified in the California Government Code (66498.1 and 65866, respectively) and further supported by their inclusion in the *2011 California Airport Land Use Compatibility Planning Handbook* on pages 3-49 and 3-50. In addition, the *San Joaquin County Aviation System Airport Land Use Compatibility Plan*, adopted in 2009, has a similar vested rights definition and we believe it is important to have consistency between these documents.

Response 2-6: Discretionary and ministerial actions are discussed in Section 3.0.21, Local Agency Actions, Regulations and Permits.

Response 2-7: An Airport Working Group was convened to serve in an advisory role during the preparation of the ALUCP. This group was comprised of representatives from local agencies and special districts within the vicinity of the airport. A listing of the Airport Working Group members will be added to Appendix D. Additionally, during the public review period, the Initial Study for the document was circulated through the State Clearinghouse.

Response 2-8: Section 3.1.5.3 is consistent with the existing infill policies found within the *San Joaquin County Aviation System Airport Land Use Compatibility Plan*, adopted in 2009. This approach is also consistent with the guidance found in the infill policy example on page 4-34 of the Handbook.

Response 2-9: Reference to the overrule process statute is included in Section 1.2.3 and the process is also explained in Section 1.4.1. Additionally, the ALUC's responsibilities regarding responses to a proposed overruling is outlined in Sections 3.2.2.5, 3.2.3.5, and 3.2.4.4. Further information regarding response time requirements can be found in Sections 3.2.2.4, 3.2.3.4, and 3.2.4.3. Also see Section 11 of the Project Review Guidelines for the Airport Land Use Commission at the following link: http://www.sjcog.org/DocumentCenter/View/284.

Response 2-10: Although the policies have not changed, Footnote 6 has been revised and Footnote 7 has been added to provide the requested clarification. Footnote 6 has been revised as follows and is applicable to all zones:

> "Hazards to flight include physical (e.g., tall objects), visual, and electronic forms of interference with the safety of aircraft operations. Land use development that may cause the attraction of birds or other wildlife hazards to increase is also prohibited. Such uses (e.g., stormwater management facilities, other waterways, golf courses) are further detailed in FAA Advisory Circular 150/5200-33B or subsequent advisory, (Hazardous Wildlife Attractants On or Near Airports). See Appendix D."

Footnote 7 has been added to Table 3A and is applicable in Zones 1 through 7a:

> "New dumps or landfills and the expansion of existing dumps or landfills are subject to FAA notification and review and are further subject to restrictions and conditions outlined in U.S. Code Title 49, Subtitle VII, Part A, Subpart iii, Chapter 447, Section 44718; 40 CFR Section 258.10; FAA Advisory Circular 150/5200-34A or subsequent advisory (Construction or Establishment of Landfills Near Public Airports); FAA Advisory Circular 150/5200-33B or subsequent advisory, (Hazardous Wildlife Attractants On or Near Airports). See Appendix D."

One of the aims of the plan update is to ensure that the policies are consistent with current CALTRANS and FAA guidance; therefore, a distinction has been made in the plan between establishment of new landfills and expansion of existing landfills, consistent with the guidance described above. Additionally, it is important to note that when land use projects are considered by the Airport Land Use Commission (ALUC), the action choices are: (1) find the project consistent with the ALUCP; (2) find the project consistent with the ALUCP with conditions such as height limitations; or (3) find the project is inconsistent with the ALUCP. Members of the ALUC use the guidance in the plan to make these determinations and the

policies within the plan are not intended to supersede any federal, state, or local laws regarding airport land use compatibility.

The policies contained within the draft ALUCP update have been developed consistent with current guidance from CALTRANS and FAA and are not intended to focus on specific property owners or properties. Since amendment of the Airport Land Use Plan in 1993, new guidance and laws have been adopted pertaining to landfills within the vicinity of airports. These include: U.S. Code Title 49, Subtitle VII, Part A, Subpart iii, Chapter 447, Section 44718 (2000); FAA Advisory Circular 150/5200-34A (Construction or Establishment of Landfills Near Public Airports, 2006); and FAA Advisory Circular 150/5200-33B, (Hazardous Wildlife Attractants On or Near Airports, 2007). As noted in the footnote revisions discussed above, copies of these documents will be added to the ALUCP in Appendix D for reference.

The elements of this guidance incorporated into the draft ALUCP policies is as follows:

- U.S. Code Title 49, Subtitle VII, Part A, Subpart iii, Chapter 447, Section 44718 and FAA Advisory Circular 150/5200-34A: FAA Advisory Circular 150/5200-34A summarizes the U.S. Code section pertaining to the limitation on construction of landfills near airports. The purpose of this law, enacted under Section 503 of the *Wendell H. Ford Aviation Investment and Reform Act* for the 21st Century (AIR-21), is to limit the construction or establishment of a municipal solid waste landfill near certain smaller airports. Specifically, the construction or establishment of a municipal solid waste landfill is prohibited within six statute miles of a public airport that has received grant funding from FAA. It is important to note that the provisions of Section 44718 apply to airports that are primarily served by general aviation aircraft and scheduled passenger operations using aircraft with less than 60 passenger seats. In general, these requirements include airports which meet the FAA's designation of a nonhub primary airport in the *National Plan of Integrated Airport Systems* (NPIAS). Stockton Metropolitan Airport is listed as a nonhub primary airport in the 2015-2019 NPIAS and had more than 82,000 enplanements for calendar year 2014 [12] Additionally, it is important to note that the statutory limitations of Section 44718 are not applicable where construction or establishment of a municipal solid waste facility began on or after April 5, 2000, and that such a facility expanded or modified after April 5, 2000 would not be held to these limitations.

- FAA Advisory Circular 150/5200-33B: The purpose of this advisory circular is to provide guidance on land uses that, "have the potential to attract hazardous wildlife on or near public-use airports." Within this advisory circular, FAA recommends a separation distance of 10,000 feet for airports serving turbine-powered aircraft, such as Stockton Metropolitan Airport, between the airport operations area and any wildlife attractants,

[1] http://www.faa.gov/airports/planning_capacity/npias/reports/media/npias-2015-2019-report-appendix-a.pdf
[2] http://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/passenger/, CY 2014 Passenger Boarding and All-Cargo Data

including landfills. For the purposes of the draft ALUCP Update, 10,000 feet generally coincides with the outer limit of the Part 77 Horizontal Surface, which has been utilized as the boundary between Zone 7a and Zone 7b. The advisory circular reiterates that new landfills should not be constructed within six miles of an airport, which encompasses the entire Airport Influence Area described in the draft ALUCP Update.

Regarding existing landfills within the 10,000-foot separation distance, the advisory circular refers to 40 CFR 258.10, which states that owners of existing landfills must demonstrate that the facility is designed and operated so that it does not pose a bird hazard to aircraft. Additionally, in accordance with Section 258.10, the operator of the landfill must place the demonstration in the operating record of the facility and notify the State that it has been placed in the operating record. As outlined in Section 4-2(b) of the Advisory Circular, to claim that a waste handling facility sited within 10,000 feet of the airport does not threaten aviation, the operator must "establish convincingly that the facility will not handle putrescible material," other than as described in Section 2-2.d of the Advisory Circular. Section 2-2.d describes the characteristics of enclosed trash transfer stations, which are enclosed waste handling facilities that receive garbage behind closed doors; process it via compaction, incineration, or similar manner; and remove the material in enclosed vehicles. Section 2.2d further states that, "transfer facilities that are open on one or more sides; that store uncovered quantities of solid waste outside, even if only for a short time, do not meet FAA's definition of fully enclosed transfer stations. The FAA considers these facilities incompatible with safe airport operations if they are located within the 10,000-foot separation distance."

Section 3.3.3.5 pertains to new land uses which may cause flight hazards, rather than existing land uses, such as Forward Landfill. All current guidance regarding wildlife hazards is incorporated into Sections 3.3.3.5 and 3.3.3.6.

Response 2-11: See response 2-10. Unmanned aerial systems are not associated with land uses, but rather actions taken by individuals; it is not clear what type of policy could be adopted that would be consistent with the goals of an airport land use compatibility plan. The text in Section 3.3.3.5 has been revised as follows: Specific characteristics of land use proposals to be evaluated include:…"

Response 2-12: Airport land use compatibility is addressed within the CEQA Environmental Checklist found in Appendix G, State CEQA Guidelines. Item "e" under Hazards and Hazardous Materials states, "For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?" Both statutory and California case law require that CEQA analysis include review and determination of compatibility with approved local plans and policies, as well as the express inclusion of this required analysis as a provided element in the guidelines as listed in the initial study check list.

Response 2-13: Information regarding calculation of land use intensity can be found on pages C-7 through C-9 of Appendix C – Implementation Materials. Table 3A, footnote 2 has been revised as follows: "Usage intensity calculations shall include the peak number of people per gross acre (e.g., employees, customers/visitors, etc.) who may be on the property at a single point in time, whether indoors or outside. Gross acreage includes the property at issue plus a share of adjacent roads and any adjacent, permanently dedicated, open lands."

Response 2-14: The omission of specific exemptions for nonconforming schools and hospitals is consistent with the existing policies found within the *San Joaquin County Aviation System Airport Land Use Compatibility Plan*, adopted in 2009. The intensity requirements as well as the California Education Code Section 172159(a) adequately reduce risk to schools within the airport influence area.

Response 2-15: Comment noted. The recommended notification options will be communicated to local agencies to promote consideration of potential airport impacts.

Letter Response 3: Monica Nino (San Joaquin County)

Response 3-1: Comment noted.

Response 3-2: Although not specifically identified in the plan, the Airpark 599 Project site is indicated on Exhibit 2D as a future airport support area. As an off-airport land use, development of the Airpark 599 Project will not affect the dimensions of the zones or the proposed land use compatibility policies. Additionally, as previously stated, the policies contained within the draft ALUCP update have been developed consistent with current guidance from CALTRANS and FAA and are not intended to focus on specific property owners or properties. Any development proposal on the Airpark 599 will be evaluated for land use compatibility at the time of project submittal.

Letter Response 4: Andrew Watkins (San Joaquin Farm Bureau Federation)

Response 4-1: Comment noted.

Response 4-2: See Response 2-10.

Letter Response 5: Thomas Bruen (Representing Forward, Inc.)

Response 5-1: Comment noted.

Response 5-2: See Response 2-10.

Response 5-3: As discussed in Section 3.3.1.1, the zones prepared for Stockton Metropolitan Airport are based on the guidance from the *California Land Use Planning Handbook* and 14 CFR Part 77, which is consistent with the 1993 ALUP. Zones 1-5 at the airport are based on the long

general aviation runway for Runway 11L-29R and medium general aviation runway for Runway 11R-29L in accordance with the runway length examples which are included in Appendix A of the document. Zone 6 is based on the airport property line. Zones 7a and 7b are based on the 14 CFR Part 77 Horizontal surface (7a) and the outer boundary of the conical, approach and outer transitional surfaces (7b). Section 3.3.1.1(g) has been updated to clarify the basis for the zones.

> This zone is further divided into the TPZ area under the 14CFR Part 77 Horizontal Surface Area (7a) and the remainder of the TPZ (7b) which corresponds to the outer boundary of the 14 CFR Part 77 conical, approach, and outer transitional surfaces.

Zones for the other airports within the county are based on the Handbook; however, none of the other airports fall into the long general aviation category, which includes runways of 6,000 feet or longer. Also, see Response 2-10.

Response 5-4: See Response 2-10.

Response 5-5: The ALUCP update is being prepared to ensure that the airport land use compatibility policies available to decision-makers are based on the most current CALTRANS guidance and information regarding the airport. Since amendment of the plan in 1993, changes to the runways have occurred. The following items summarize changes at the airport and airport land use compatibility guidance, which influence the delineation of compatibility zones for the airport.

- 1993 and Prior: At the time the Airport Land Use Plan was amended for Stockton Metropolitan Airport in 1993, the length of the larger runway, Runway 11L-29R, was approximately 2,000 feet shorter than the current length. Since that time, changes, described below, have been made that have altered the location of the runway ends.

- August 1993: Stockton Metropolitan Airport Land Use Plan is amended to update the version originally adopted in 1983. Presumably, this document was based on guidance included in the Airport Land Use Planning Handbook published by Caltrans in 1983.

- December 1993: Caltrans publishes an updated Airport Land Use Planning Handbook.

- Between 1993 and 1998: Based on a review of historical aerial photography available from Google Earth, at some time between 1993 and 1998, the area noted as a blast pad (indicated by a chevron symbol) at the Runway 11L end, was converted to useable runway. Additionally, during this time, a 990-foot displaced threshold was established. A displaced threshold is a runway threshold, indicated by standard markings, positioned at a location other than the runway end, which indicates pavement available for landing. The area prior to the displaced threshold is available for takeoffs, but not for landings. No changes to the Runway 11L endpoint have been made since that time. These changes are shown on **Exhibit 1**.

- Federal Fiscal Year 2000: Stockton Metropolitan Airport receives a federal grant to extend Runway 11L-29R.

- January 2002: Caltrans publishes an updated Airport Land Use Planning Handbook.

- Between May 2002 and November 2002: Similar to the Runway 11L end, the Runway 29R end was extended and marked with a displaced threshold. The displaced threshold for the Runway 29R end is 1,000 feet.

- February 2008: FAA approves the Airport Layout Plan for Stockton Metropolitan Airport. The required Part 77 surfaces are based on this Airport Layout Plan. This ALP and Part 77 surfaces are the basis for the zones developed for the draft ALUCP Update and depict the runway, as it exists presently, with the displaced thresholds described above.

As discussed in Section 1.3.1, ALUCP Assumptions, the draft ALUCP update is based on the updated ALP in accordance with Public Utilities Code §21675(a). It is important to note that all compatibility zones have been drawn based on the maximum physical end of the pavement available and not the displaced thresholds discussed above.

Response 5-6: See Response 5-5.

Response 5-7: See Appendix A – Safety Supporting Information; Section 2.1 – Airport Information; Exhibit 2A - Airport Layout Plan; and Response 2-10.

Response 5-8: SJCOG does not have these documents; these documents should be requested directly from SMA.

Response 5-9: No other safety, environmental or other studies or analyses other than those noted in Response 2-10 and Response 5-5 were used in the ALUCP update.

Response 5-10: Besides the Initial Study prepared for the Airport Layout Plan, no other environmental documentation has been prepared.

Response 5-11: See Response 5-8.

Response 5-12: See Response 5-8.

Response 5-13: See Response 5-5.

Response 5-14: See Response 5-5.

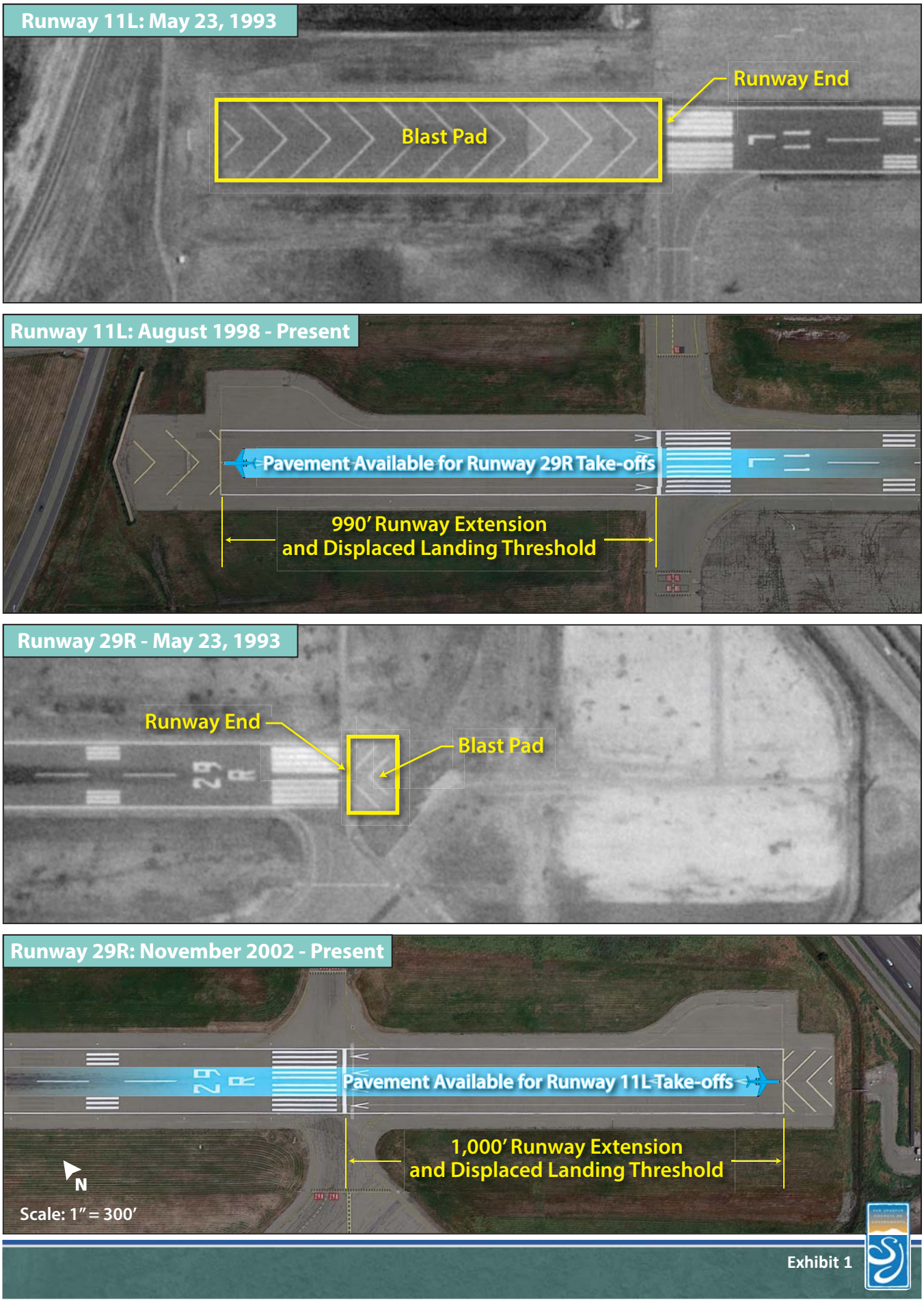

Runway 11L: May 23, 1993
Runway End
Blast Pad
Runway 11L: August 1998 - Present
Pavement Available for Runway 29R Take-offs
990' Runway Extension
and Displaced Landing Threshold
Runway 29R - May 23, 1993
Runway End
Blast Pad
Runway 29R: November 2002 - Present
Pavement Available for Runway 11L Take-offs
1,000' Runway Extension
and Displaced Landing Threshold
N
Scale: 1" = 300'

Exhibit 1

Response 5-15: Potential wildlife hazards related to land uses or activities such as agriculture and golf courses are incorporated by reference to FAA Advisory Circular 150/5200-33B (Hazardous Wildlife Attractants On Or Near Airports). Also, see Response 2-10.

Response 5-16: See Response 2-10 and 5-5.

Response 5-17: See Attachment A of the Initial Study which includes the displacement analysis. Additionally, it is the responsibility of the local jurisdictions to ensure consistency with the ALUCP policies. As outlined in the *Airport Land Use Planning Handbook*, "State law provides that a local agency must either modify its local plan(s) or to take the steps necessary to overrule the ALUC within 180 days of when an ALUC adopts or amends its ALUCP (Gov. Code Section 65302.3(b)-(c))."

Response 5-18: See Appendix A – Safety Supporting Information.

Response 5-19: A CEQA Environmental Impact Report (EIR) was prepared for the Stockton Metropolitan Airport Master Plan in 1996. This document references extensions to Runway 11L-29R of 1,000 feet to the east and west. An excerpt of this document was provided to SJCOG by Sangeeta Lewis, an engineer representing Forward, Inc. in March 2016. This information has been requested from the staff of Stockton Metropolitan Airport.

Response 5-20: See Response 2-10

Response 5-21: Comment noted.

Letter Response 6: Stephanie Tadlock (Central Valley Regional Water Quality Control Board)

Response 6-1: Comment noted.

Letter Response 7: Scott Morgan (State Clearinghouse Planning Unit)

Response 7-1: Comment noted.

Letter Response 8: Sangeeta Lewis (representing Forward, Inc. via phone conversation with Kim Anderson representing SJCOG)

Response 8-1: As discussed in Response 5-3, Zones 7a and 7b are based on the 14 CFR Part 77 horizontal surface (7a) and the outer boundary of the conical, approach and outer transitional surfaces (7b). Exhibit 3A of the December 2015 Draft Final Airport Land Use Compatibility Plan incorrectly depicts the outer boundary of 7a which was drawn at 10,000 feet from the end of the runway pavement. As a result, the boundary did not align with the horizontal surface as outlined in Section 3.3.1.1. Exhibit 3A has been revised to depict the horizontal surface as 10,000 feet from the 14 CFR Part 77 primary surface, which is located 200 feet from the end of

the runway. In the corrected exhibit, the location of Zone 7a is extended up to 200 feet to the east and west from the location shown on the previous version of the exhibit.

Letter Response 9: Edward Schexnayder (Shute, Mihaly & Weinberger LLP representing Clean San Joaquin)

Response 9-1: Comment noted.

Response 9-2: As outlined in Section 1.3.3 of the Draft Plan Update and reiterated in the Initial Study, the policies are not intended to remove existing incompatible uses. Additionally, none of the compatibility criteria contained in the plan are retroactive to existing land uses. As a baseline for comparison of the intensity, a summary of the existing land uses is included in Section 2.2.1 of the Draft Plan Update and Section 8 of the initial study.

Response 9-3: Thresholds of significance, while intrinsic to the CEQA process, are not always possible because the "significance of an activity may vary with the setting" (CEQA Guidelines Section 15064[b]). In the case of an ALUCP, this is especially true because the ALUCP itself has no direct impacts. The ALUCP is a policy document that seeks to guide land use decisions, and is intended to work in conjunction with local planning jurisdictions, General Plan land use designations, and zoning districts. There is no discretionary action on the part of the Airport Land Use Commission to approve or disprove projects. Therefore, any thresholds of significance related to the physical development of land within the Airport Influence Area covered by the ALUCP rests with the local governing boards. CEQA Guidelines Sections 15064(d)(2 and 3) provide additional guidance on the evaluation of the significance of reasonably foreseeable indirect physical changes. In the case of this project, no displacement is anticipated as a result of implementation of the plan. Therefore, thresholds of significance for indirect physical changes are not necessary.

Thresholds of significance for safety hazards are determined by FAA and built into the ALUCP process itself. Since the ALUCP implements all applicable FAA safety hazard guidance, there are no significant safety hazards related to the implementation of the plan.

Response 9-4: The Displacement Analysis, included as Attachment A of the Initial Study, summarizes the land use compatibility guidelines from the 1993 plan and the Draft Plan Update, including those for dumps and landfills. As indicated in the text and illustrated on the attached **Exhibit 2**, under the 1993 plan, dumps or landfills other than those consisting entirely of earth and rock are prohibited uses in the Inner Approach, Outer Approach, Primary Surface, Runway Protection Zone, and Transitional Zones. Within the Horizontal and Conical Surfaces, as a development condition, proposed dumps, landfills, and waterways should be evaluated to ensure that they will not present a bird hazard to aircraft. In the area between the Conical Surface and the AIA, there is no prohibition or development condition regarding dumps or landfills included in the plan.

In comparison, the Draft Plan Update prohibits the construction of new landfills and the expansion of existing landfills within Zones 1, 2, 3, 4, 5, and 7a, and prohibits the construction of new landfills within Zones 6, 7b, and 8. Table 1 summarizes the total areas, in square miles, subject to these land use criteria. It should be noted that the Draft ALUCP Update applies to a larger area; therefore, the areas shown in the table are not equal between the two plans. See Response 2-10.

TABLE 1
Landfill Policy Comparison Within the AIA

Policy Text	1993	Draft ALUCP Update
New landfills prohibited1	3.5 sq. mi.	18.3 sq. mi.
New landfills and expansion of existing landfills prohibited1	0 sq. mi.	69.5 sq. mi.
Dumps, landfills, and waterways are permitted only if thorough evaluation indicates that they will not present a bird hazard to aircraft.1	27.6 sq. mil.	0 sq. mi.
No restriction on landfills1	38.5 sq. mi.	0 sq. mi.

Note: As indicated in the table, landfill policies within the Draft ALUCP update prohibit landfills over a larger area when compared to the 1993 plan. This prohibition is consistent with U.S. Code Title 49, Subtitle VII, Part A, Subpart iii, Chapter 447, Section 44718, which states that new landfills that receive putrescible waste are prohibited within six miles of certain public airports unless otherwise exempted by the FAA. It is important to note that the limitations under Section 44718 are not applicable where establishment of a municipal solid waste landfill began on or before April 5, 2000.

Response 9-5: Comment noted.

Response 9-6: As indicated previously, construction of new landfills and expansion of existing landfills, in accordance with Section 44718, is prohibited within Zones 1, 2, 3, 4, 5, and 7a. Additionally, the policies contained within the draft ALUCP update have been developed consistent with current guidance from CALTRANS and FAA and are not intended to focus on specific property owners or properties. See Response 2-10.

Response 9-7: See Response 2-10.

Dump and Landfill Criteria from 1993 Plan	
Area	**Criteria**
Area 1: Inner Approach, Outer Approach, Primary Surface, Runway Protection Zone, and Transitional Zones	Dumps or landfills other than those consisting entirely of earth and rock are prohibited uses
Area 2: Horizontal and Conical Surfaces	As a development condition, proposed dumps, landfills, and waterways should be evaluated to ensure that they will not present a bird hazard to aircraft
Area 3: Area between the Conical Surface and the AIA	*No prohibition or development condition regarding dumps or landfills is included in the plan*

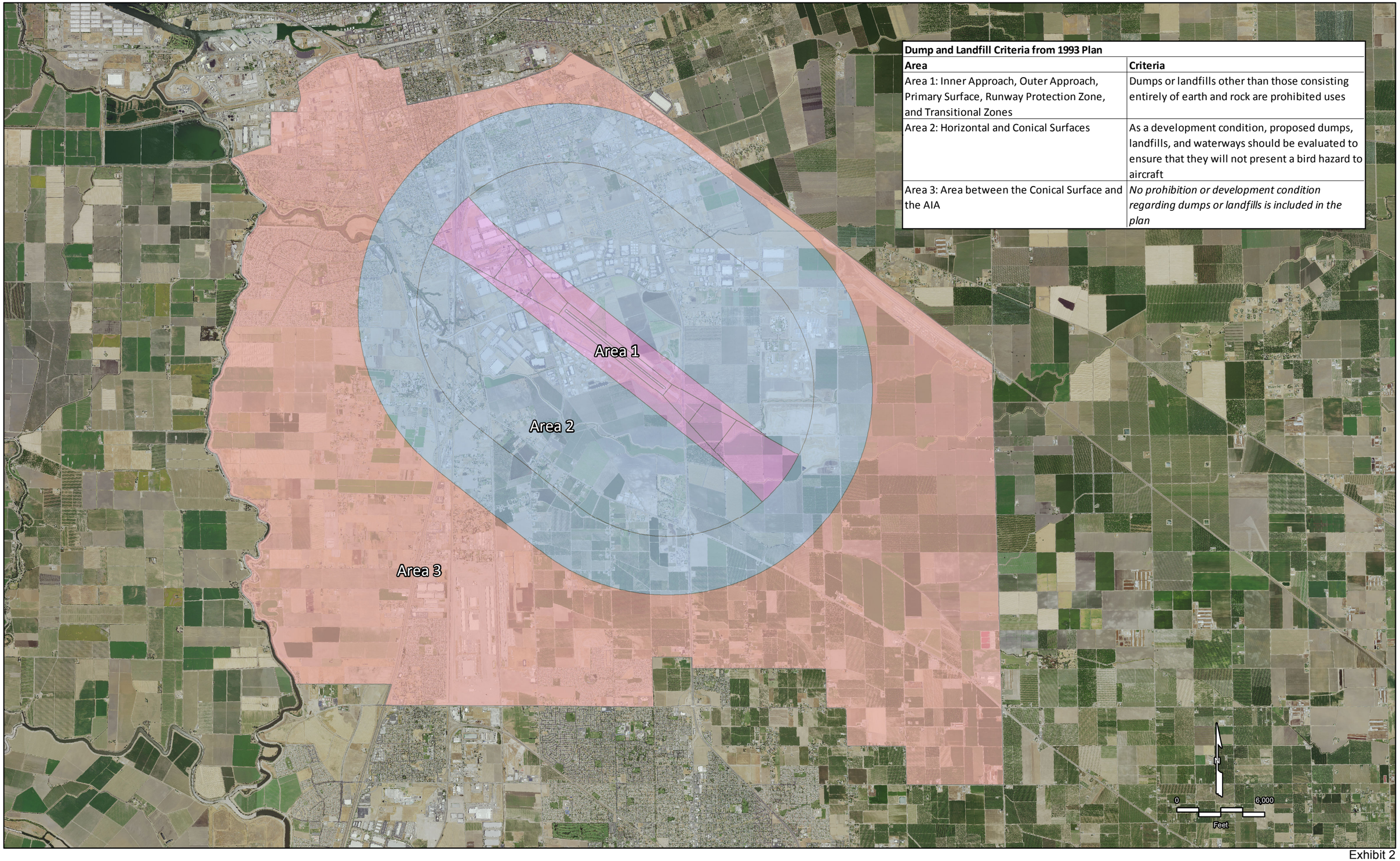


Exhibit 2
Stockton Metropolitan Airport
Dump and Landfill Criteria from 1993 Plan

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Response 9-8: Comment noted. The text will be revised to 60 days consistent with Pub. Util. Code § 21675.2.

Response 9-9: Thresholds of significance for safety hazards are determined by FAA and built into the ALUCP process itself. Since the ALUCP implements all applicable FAA safety hazard guidance, there are no significant safety hazards related to the implementation of the plan. See Response 2-10, Response 9-3 and Response 9-4.

Response 9-10: Comment noted.

Response 9-11: Comment noted.

Response 9-12: Comment noted.

Response 9-13: See Response 8-1.

Response 9-14: The Runway Protection Zones depicted on Exhibit 3A are based on the RPZs shown on the Airport Layout Plan for Stockton Metropolitan Airport that was approved by FAA in 2008, rather than the RPZ dimensions shown in the Handbook. Further, it is important to note that RPZs are established for both the approach and departure ends of each runway. As a result, each runway has a total of four RPZs (approach and departure for both directions of activity). When a runway does not have a displaced threshold on either end, the approach and departure RPZs for that end are collocated in accordance with FAA Advisory Circular 150/5300-13A, *Airport Design*. With a displaced threshold, the approach RPZ begins at the point 200 feet from the displaced threshold marking, while the departure RPZ in the opposite direction begins at the point 200 feet from the end of the pavement. The RPZ which encompasses the area farthest from the runway has been incorporated into the ALUCP for Stockton Metropolitan Airport.

Response 9-15: The Sideline Safety Zone and Inner Approach/Departure Zone for Runway 11R-29L have been updated to be consistent with Handbook guidance.

Response 9-16: Comment noted.

Response 9-17: See Response 2-10.

Response 9-18: See Response 5-3 and Response 8-1.

Response 9-19: Comment noted.

Response 9-20: Comment noted.

Response 9-21: See Response 2-10.

Response 9-22: Comment noted.

Response 9-23: See Response 9-14.

Response 9-24: See Response 2-10.

Response 9-25: See Response 2-10.

Response 9-26: Comment noted.

Response 9-27: Comment noted.

Response 9-28: Text in Section 3.1.6.3(a)9 has been revised to state "Outer." Text in this section and Sections 3.3.3.2 and 3.3.3.3 were also revised to provide consistent guidance for airspace review in all zones. In summary, Zones 2, 3, 5, 6 specify a height of 35 feet; Zone 4 specifies a height of 70 feet; and Zone 7 specifies a height of 100 feet.

Response 9-29: See Response 9-28.

Response 9-30: See Response 9-28.

Response 9-31: Text in Appendix A has been revised to clarify the rationale of the Runway 11L-29R Inner Turning Zones on the west side of the runway as follows:

> Therefore, based on Handbook guidance, it is reasonable to include the Inner Turning Zone over the areas where these turns occur. The Inner Turning Zone is also depicted for Runway 11L-29R to account for the path of departing aircraft that may potentially exit the traffic pattern to the west. These zones were not drawn to the east for Runway 11R-29L, as aircraft attempting to exit the traffic pattern in this manner would potentially cross the path of aircraft operating on Runway 11L-29R which is generally considered an unsafe practice.

Response 9-32: Comment noted. Text revisions made as suggested.

Response 9-33: Comment noted. Text revisions made as suggested.

Response 9-34: Labels on Exhibit 3A have been revised to be consistent with the zone names used in the ALUCP.

Response 9-35: Comment noted.

Response 9-36: Within Table 3A, formatting for some land use categories prohibited within Zone 2 (Manufacturing and industrial, Businesses and Personal Services, Public and Quasi

Public, and Recreational Uses) have been adjusted to be headings followed by detailed land uses.

Letter Response 10: Rick Tutt (Rick Tutt Aviation)

Response 10-1: Comment noted.

Letter Response 11: Edward Schexnayder (Shute, Mihaly & Weinberger LLP representing Clean San Joaquin)

Response 11-1: Comment noted; outside the scope of the ALUCP.

Letter 1

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JAN 19 2016
San Joaquin
Council of Governments

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Por MeDio dela PreSeNTe Me
ESTOy LoMuNiLaNDo a Tas
PerSoNas QUe ESTaN yeVaNDo
aCaBo ES ProyeCTo
de aSer PoSiBle QUe LoS aBioNes
SaLGa a DiFereNTes PaRTes
del ESTraNJero
aQUi ES MUy NeSeSario MaS
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MeNTo o asTa LaBaia
yo aPollo y TODa Mi FaMiLia yamisTa-
des de BaRias PaRTes de ESTos
CoNDados SerCaNos
Si yo eNaLGo PUeDo ayUDar CoMo
BoLUNTario ESTOy aSUS oRDeNes
ParayeVar aCaBo ESTe ProyeCTo
545. N. ChaSTa AVe STOKTON 95205
209. 585126
o 12449 Valley Home OAKDale 95361

Letter Translated from Spanish by SJCOG Staff

January 14, 2016

I am writing to the people making it possible that the airplanes flight out to different parts of the world. It is necessary, is much closer than having to drive to Fresno, Sacramento and even the Bay Area. My family, friends and I support this idea. If I can help with anything to make this idea happen, let me know. My contact information is the following: 1-1

545 N. Shasta Avenue 12449 Valley Home
Stockton, CA 95205 **or** Oakdale, CA 95361

Phone number 209-581-5126.

Andres Rubio

DEPARTMENT OF TRANSPORTATION
DIVISION OF AERONAUTICS – M.S. #40
1120 N STREET, SUITE 3300
P. O. BOX 942874
SACRAMENTO, CA 94274-0001
PHONE (916) 654-4959
FAX (916) 653-9531
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February 4, 2016

Ms. Kim Anderson, Senior Regional Planner
Airport Land Use Planning Commission
San Joaquin Council of Governments
555 East Weber Avenue
Stockton, CA 95202-3016

Dear Ms. Anderson:

Thank you for providing the California Department of Transportation, Division of Aeronautics (Division), with a copy of the draft final Comprehensive Airport Land Use Compatibility Plan (ALUCP) for the environs of Stockton Metropolitan Airport (SCK), dated December 2015. According to California Public Utilities Code (PUC) section 21675(e), the Division shall notify the airport land use commission (ALUC) if said ALUCP does not include the required matters pursuant to the California State Aeronautics Act (SAA), PUC sections 21001, et seq. and 21670, et seq.

Primarily, an ALUCP adopted pursuant to the SAA:

- Shall establish policies that discourage local agencies from granting building permits that would be inconsistent with the intent of the legislature and incompatible with airport operations pertaining to matters such as height, use, noise, safety, and density (or intensity) as established by the SAA, the 2011 California Airport Land Use Planning Handbook (Handbook), PUC sections 21674.5 and 21674.7, and any applicable Federal Aviation Regulations (FAR)
- Will provide for the orderly growth of each public airport and the area surrounding the airport within its jurisdiction
- Will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general
- Shall include and be based on a long-range airport master plan or airport layout plan that reflects the anticipated growth of the airport during at least the next 20 years
- May develop height restrictions on buildings, specify use of land, and determine building standards, including soundproofing adjacent to airports within the airport influence area
- Shall include a review schedule of the ALUCP so as to be reviewed as often as necessary in order to accomplish its purpose, but shall not be amended more than once a year
- Shall include the area within its jurisdiction surrounding any military airport and be consistent with the safety and noise standards of Air Installation Compatible Use Zone prepared for such airport

2-1

The Division's role is advisory and the Division is statutorily limited in performing land use planning in the vicinity of the SCK. We are, however, available to assist the San Joaquin County

Association of Governments (SJCOG), the ALUC for San Joaquin County, and its local agencies in ensuring proper land use compatibility planning near and surrounding airports.

We have reviewed the draft SCK ALUCP in accordance with the SAA, for consistency with the Handbook and compliance with FAR and other regulations and policies. Our comments on the draft ALUCP are intended to ensure that the provisions and processes of the SAA and Handbook are properly implemented. The Division offers this letter and the following comments on the ALUCP. 2-1

As presented herein, an ALUCP has many purposes. One of the purposes is to protect and provide orderly growth of the SCK. Section 1.1.1 briefly describes the vital role the airport imparts within the San Joaquin County region. The airport is a significant contributor to the economy, provides emergency service functions, and provides international trade and intrastate and interstate access. This section could be expanded to present and demonstrate the airport's far-reaching economic importance, the critical emergency service role and the ease of interstate and intrastate travel. Then policies affecting the airport can cite the discussion on this matter to support the policy.

Evidence of SCK's vitality can be obvious or innocuous. The obvious comes in the form of commercial air service and the SCK plans for a strategic cooperation with Chengdu Shuangliu International Airport, China, in the *Greater San Joaquin Business Journal*, on August 27, 2015. The innocuous includes cargo services, service providers such as fueling companies, taxi and ride-sharing companies, mechanics, and taxes. The SCK also serves as an interconnection to the Port of Stockton and interstate railroads. Multiple sources estimate between 450-500 on-site jobs at the SCK. The multiplier-effect suggests as many as three times that many jobs are created off-site due to the SCK. 2-2

Section 1.2.1.3, summarizes the role, formation and membership of the SCK ALUC. A copy of the formation document(s) included in the appendices would be appropriate for reference. In addition, the membership of the ALUC shall comply with PUC section 21670.1, which includes or is augmented by members having expertise in aviation. 2-3

Section 1.3.2, summarizes the geographic scope of the ALUCP. It states that "the AIA boundary was established using a combination of the current AIA boundary and the outer boundary of the Title 14, Code of Federal Regulation, Part 77 (14 CFR Part 77) for the SCK." Exhibit 1C, the graphic representation of the geographical area, seems to conform to jurisdictional boundaries and natural features, in addition to the FAR. Please provide discussion pertaining to whether airport influence area (AIA) boundaries exceed or fall short of FAR surfaces. 2-4

Section 1.3.3, discusses existing land use and its applicability to the airport land use compatibility process. The Handbook provides three categories of land use: development rights established, development rights uncertain, and development rights not established. Development rights established must consist of three elements, which are: "Obtain a valid building permit, perform substantial work, and incur substantial liability in good faith." Development rights not established includes issuance of a tentative tract map, recording of a final map, and filing of an application for a 2-5

building permit. The descriptions and definitions of existing land use and vested rights contained in the draft ALUCP include the following:

- A vesting tentative map has been approved pursuant to California Government Code, section 66498.1, and has not expired as of the effective date of this ALUCP
- A development agreement has been executed pursuant to California Government Code, section 65866, and remains in effect as of the effective date of this ALUCP

A vesting tentative map and an executed development agreement do not meet the test of development rights established. The California Supreme Court determined, in *AVCO Community Developers, Inc. versus South Coast Regional Commission (1976),* that vested rights have not been established unless the developer has:

- Obtained a valid building permit
- Performed substantial work
- Incurred substantial liabilities

Within the discussion pertaining to development rights established, the Handbook cites California Government Code, section 65864 et seq., regarding vesting tentative maps and development agreements. It states that this legislation was enacted to provide some certainty to the land use development process. A 1991 court case is cited, and the court determined that a tentative map is the final discretionary approval by a local government. This discussion, however, does not conclude that a vesting tentative map is considered development rights established.

The Handbook's discussion on this topic should not be considered as a policy, but as a resource for an ALUC to develop their own policy. It is within the authority of the SCK ALUC to develop policy that represents the intent of the SAA and Handbook. The Division's concern is to ensure new development does not encroach upon the airport and airport operations do not affect new development. Any number of things can change at an airport, such as length of a runway, types of aircraft, and air traffic patterns. There may be instances where a vesting tentative map or a development agreement was approved or adopted several years prior to the issuance of a building permit and during that time airport operations had changed. Changed conditions may cause a project to be subject to an aircraft operational hazard. Aviation data as provided by the Federal Aviation Administration (FAA), the Division, and the airport operator should be considered prior to the issuance of a building permit. 2-5

Defining existing land use is discussed on page 3-51 of the Handbook. Essentially, if the ALUC develops a more restrictive policy, the ALUC may insulate itself from adverse actions. If the ALUC develops a less restrictive policy, it may open itself to adverse actions in the event of an aircraft operational hazard.

Section 3.0.19, discusses types of policy actions subject to ALUC review. The draft ALUCP discussion on this matter should include other types of discretionary or ministerial actions, like sign permits and development standards. The land use policy actions could be generalized by stating discretionary and ministerial permits occurring on land within the AIA. 2-6

A key aspect of the SAA is that local agencies are partnered with the ALUCs to implement an ALUCP. Section 3.0.20 lists the county, cities, school district, community college districts, and others as local agencies. Other special districts include water, flood control, maintenance, and others that acquire land, build projects, or use equipment that can affect or be affected by airports. It is important for these agencies to be a part of the process. Their awareness of airport land use compatibility with respect to height, use, noise, safety, and density (or intensity) may help them perform better due diligence in evaluating locations of their future development needs. Please list all special districts contacted in the appendices. 2-7

Section 3.1.5.3, defines the requirements for land to be considered as infill. The policy is consistent with the Handbook, Table 4F, Sample Policy 4. The sample policy states that the ALUC can identify the appropriate size of the project site considered for infill. This section, however, does not state how it was determined that 20 acres would be the appropriate size of the infill parcel. 2-8

In Section 3.1.8.1, the draft ALUCP relies on the framework established by the SAA for establishing procedures for reviewing local agency overrules. It does not provide specifics pertaining to scheduling and number of hearings, noticing requirements, and adoption or approval carrying votes. There have been numerous inquiries to the Division for interpretation of the overrule procedures as cited in the SAA. The SCK ALUC can avoid any misinterpretation of the overrule procedures in the SAA by establishing a policy that specifies the procedures. 2-9

The Division commends the ALUC for developing a policy that specifies the "substance of findings" for the overrule process. Local agencies must meet or demonstrate compliance with the required specific findings for an overrule to be consistent with the ALUCP, Handbook, and SAA. A local agency overrule that cannot satisfy this policy will be subject to adverse action. The SCK ALUC proactive approach of this policy will likely limit local agency overrules.

Section 3.3.3.6, lists other potential hazards to airspace, including wildlife hazard attractants. Because the Forward Landfill project has been controversial, the Division recommends that the discussion be expanded. The Division received a grant from the FAA to perform Wildlife Hazard Assessments at 15 airports in California. Our consultant encountered storm drainage facilities and landfills located on or near airports and found that there is significant evidence that such facilities attract wildlife that could pose hazards to aircraft. Further, the FAA discourages the construction of open water facilities and landfills within the critical zone for wildlife hazards, which is defined as the area within 10,000 feet of airports that support turbine-powered operations and the area within five miles of approach-departure corridors. For more than two decades the FAA and the United States Department of Agriculture have warned against the creation of storm water management ponds and landfills near airports, as many of the species ranked most hazardous to aircraft are attracted to open water and landfills, including waterfowl, gulls, waders, doves and blackbirds, all of which are known to occur near the SCK. In addition to water itself, wildlife may be attracted to such features as ponds, slopes, and available food sources (landscaping and aquatic resources). The location of other nearby attractants can cause wildlife to pass through critical airspace as they travel between other ponds or habitat. 2-10

FAA Advisory Circular (AC) 150/5200-33B, *Hazardous Wildlife Attractants on or Near Airports,* and the Handbook warn against the creation of features that would attract hazardous wildlife to airports, and conclude the expansion and construction of open water ponds and landfills are inconsistent with aircraft operations. Although the AC provides mitigation measures to make ponds and landfills less attractive to wildlife, the use of another storm water management or waste management method that does not provide for open water or habitat creation is recommended. At a minimum, all storm water management and landfill plans should be reviewed by an FAA-qualified wildlife biologist. Statistics also show that wildlife attractants should be minimized near airports. According to Citydata.com, the SCK experiences 6–10 wildlife incidents each year. 2-10

Hazardous conditions to flight also include glare or distracting lights, sources of dust, steam, or smoke, and electrical interference. Section 3.3.3.5 discusses these types of hazards to flight and notes that these hazards should be avoided. In addition, unmanned aerial systems are becoming increasingly problematic for airports. "Avoid" is a term that can be misinterpreted. The ALUC should consider policies that minimize the possibility of misinterpreting the word "avoid" or set conditions that a local agency must impose for approval of a use or activity. 2-11

Pursuant to the Public Resources Code, section 21096, the Handbook is required to be used as a technical resource for a "project" as defined by the California Environmental Quality Act. It states that, "a lead agency shall not adopt a negative declaration unless the lead agency considers whether the project will result in a safety hazard or noise problem." The ALUCP should include a policy pertaining to a local agency's responsibility in considering airport land use compatibility when preparing an initial study. This would be important, because it could alert local agency planners or staff to their responsibility in considering airport land use compatibility planning when formulating land use actions or reviewing land development projects. 2-12

The ALUCP does not address the methods for determining nonresidential intensities. There are several methods an ALUC can use in determining nonresidential intensities. Please refer to Appendix G of the Handbook. The discussion or policy should include whether "gross" versus "net" acreage or "average" or "peak" nonresidential intensities would be used. Further, the discussion or policy should include the advantages and disadvantages of clustering and uses with structures versus uses not in structures (sports fields, etc.). These policies should be definitive and be written to minimize misinterpretation. 2-13

The ALUCP does not address exceptions for nonconforming schools and hospitals. This discussion could include other safety measures in allowing school and hospital building modifications or reconstruction. Such measures could include minimizing windows, increasing exits, increasing fire suppression systems or equipment, etc. Any of these types of measures should be vetted for the appropriateness on a case-by-case basis. 2-14

The Division understands that hospitals and schools are valuable community resources, and land for these uses is scarce; however, students and patients require significant assistance and attention during calamities or emergencies. The ALUCP does not address K-12 schools and hospitals that house occupants that are vulnerable during calamities or emergencies. Guidance on locating uses

with vulnerable occupants is provided in the Handbook. Please refer to the enclosed sections of the Handbook pertaining to this matter.

The Division receives several requests annually from the California Department of Education to review K-12 school sites. Our aviation safety officers regularly fly over school sites that lie below the traffic pattern. The information contained in the enclosure, however, does not specifically prohibit K-12 schools in certain safety zones. It is within the authority of the SCK ALUC to develop policy that represents the intent of the SAA and Handbook. The policy could include qualifying criteria for appropriate school site locations. Procedures and review processes should also be developed and included in the policy to evaluate alternative sites. 2-14

Section 3.1.6, provides types of land use actions that would or could be subject to ALUC review. The best means for a local agency to assure itself of complying with this requirement is by adopting an airport overlay district as part of a local agency's general plans and zoning ordinances. An airport overlay district alerts planners to review the ALUCP for airport planning consistency and compatibility. Also, the posting of a map or list of assessor parcel numbers within the AIA in a planning and building department and in the special district offices would alert their staff to consider potential airport impacts. 2-15

We appreciate your efforts in updating the ALUCP for the SCK. Please contact me at (916) 654-5314 or via email at Robert.Fiore@dot.ca.gov, if you would like to discuss the comments in this letter in more detail.

Sincerely,

ROBERT FIORE
Airport Land Use Planner
Office of Aviation Planning

Enclosure

ENCLOSURE

Handbook, 4.4.2 Basic Safety Compatibility Criteria, Pages 4-18

Figures 4B through 4G outline some of the qualitative differences in compatibility criteria suitable for each safety zone that was identified in Chapter 3. The basic compatibility criteria for each safety zone are delineated in the following ways:

- Normally Allow—Typical examples of the use are acceptable.
- Limit—Use is acceptable with limitations on density or intensity.
- Avoid—Use generally should be permitted only if an alternative site outside the zone would not serve intended public function.
- Prohibit—Use should not be permitted under any circumstances.

As discussed above, the suitability of certain densities and intensities may vary by the level of development. The following development characteristics are used in Figures 4B through 4G:

- Rural—Areas where the predominant land uses are natural or agricultural; buildings are widely scattered.
- Suburban—Areas characterized by low-rise (1-2 story) development and surface parking lots.
- Urban—Areas characterized by mid-rise (up to 5 stories) development; generally surface vehicle parking, but potentially some parking structures.
- Dense Urban—City core areas characterized by extensive mid- and high-rise buildings, often with 100 percent lot coverage and limited surface parking.

Relationship of Compatibility Policies to Local Zoning

- While the *Handbook* categorizes land use uses into four compatibility headings (discussed on the previous page and used in Figures 4b through 4G), local zoning usually relies on only three categories: allowed (or allowed by right), conditionally allowed (through a conditional use permit), and not allowed. "Normally Allow" corresponds with uses allowed by right in a particular zoning district, while "prohibit" includes those uses not allowed in a particular zoning district.
- "Limit" and "Avoid" are more nuanced than "allowed" and "prohibited" in terms of potential zoning consistency. "Limit" refers to density and intensity, and may be allowed by right if they fall within a particular range, or may be controlled by conditional use permit. Two examples: (1) for a given safety zone, the *Handbook* recommends a range of 1 unit per 1 to 2 acres, and the local zoning is rural residential, 1-acre minimum lot, therefore the zoning would be consistent with the compatibility criteria; (2) the *Handbook* recommends low-intensity light industrial with

a range of 25 to 40, the local zoning allows all industrial uses except hazardous or explosive materials by right, therefore the zoning is potentially inconsistent as there is no way to control the intensity of the allowed use.

- Uses identified as "avoid" should either be identified as conditional in a zoning district (with very strict criteria identified), or identified as not allowed (if the local agency has identified suitable alternative sites and is willing to prohibit such uses within that area).
- The issue of local plan and zoning consistency is explored further in Chapter 5.

4.4.4 Safety Criteria for Other Types of Land Uses, Page 4-29

Uses with Vulnerable Occupants

Other types of land uses also tend to be given special deference by the community. These are uses for which risk acceptability cannot be measured simply in terms of the number of occupants. The vulnerability of the occupants to the risks of aircraft accidents must also be considered. In many instances, the appropriate policy may be outright prohibition of new instances of these uses and expansion of existing facilities.

Perhaps the most significant uses on this list are schools. This status is reflected in building codes and other regulations that set higher standards for school buildings. Even with respect to aviation-related impacts, the California Education Code (Section 17215(a)) requires special attention be given to new school sites, dictating that Caltrans review and approve sites within two miles of an airport runway. In general, the community gives special attention to protection of children. Similarly, special consideration should also be given, when formulating safety policies, to other facilities that cater to children such as recreation/after-school centers and sports facilities.

APPENDIX H

- Land Uses of Special Concern: Certain types of land uses represent special safety concerns irrespective of the number of people associated with those uses. Land uses of particular concern and the nature of the concern are listed below. Table 2 indicates the criteria applicable to these uses. In some cases, these uses are not allowed in portions of the airport environs regardless of the number of occupants associated with the use. In other instances these uses should be avoided— allowed only if a site outside the zone would not serve the intended function. When allowed, special measures should be taken to minimize hazards to the facility and occupants if the facility were to be struck by an aircraft.

    a. Uses Having Vulnerable Occupants: These uses are ones in which the majority of occupants are children, elderly, and/or disabled—people who have reduced

effective mobility or may be unable to respond to emergency situations. The primary uses in this category are:

i. Children's schools (grades K–12).

ii. Day care centers (facilities with 15 or more children, as defined in the California Health and Safety Code).

iii. Hospitals, health care centers, and similar facilities, especially where patients remain overnight.

iv. Nursing homes.

v. Inmate facilities.

5.3.2 Reviews by other Agencies, Page 5-12

- School Site Reviews—Two sections of the Education Code (17215 and 81033) require that the Department of Transportation investigate and make recommendations regarding acquisition of property for school and community college sites near airports. Specifically, before a district can acquire property for a school or community college site that would be within two miles of an airport runway or potential runway included in an airport master plan, the Department must investigate and submit a report of its findings regarding that acquisition. This requirement also applies to additions to an existing site. The primary factors considered in the analysis of a site by the Department's Division of Aeronautics are aircraft accident exposure and aircraft noise. Division staff will review the ALUCP, if one exists, and will ask for comments from the appropriate ALUC as a part of its investigation. Input from an ALUC and compatibility criteria established in an adopted plan weigh heavily in the Department's final report and recommendation about the suitability of the proposed acquisition for use as a school or community college.

Letter 3

COUNTY OF SAN JOAQUIN

Office of the County Administrator
44 North San Joaquin Street, Suite 640
Stockton, California 95202-2931
(209) 468-3203 Telephone (209) 468-2875 Fax

MONICA NINO
County Administrator

ROSA LEE
Assistant County Administrator

DEB WEST
Assistant County Administrator

RECEIVED
FEB 05 2016
San Joaquin
Council of Governments

February 2, 2016

San Joaquin Council of Governments
Kim Anderson, Senior Regional Planner
555 E. Weber Avenue
Stockton, CA 95202

COMMENTS VIA EMAIL TO:
ANDERSON@SJCOG.ORG

Dear Ms. Anderson:

Comments on Draft Update to the Airport Land Use Compatibility Plan (ALUCP)
for the Stockton Metropolitan Airport
(Notice of Intent to Adopt a Negative Declaration)

Thank you for the opportunity to comment on the Draft Update to the ALUCP for the Stockton Metropolitan Airport (Airport) issued in late December, 2015. The County is the owner and operator of the Airport, as such, the Airport is governed by the San Joaquin County Board of Supervisors. The County's Airpark 599 Project is located adjacent to the Airport, within the Airport Influence Area (AIA), and within the Airport's established Foreign Trade Zone. 3-1

During the September 14, 2015 Airport Land Use Working Group meeting, the Group was reminded that the Airpark 599 Project was located within the AIA. On September 18, 2015, County staff requested that the Airpark 599 Project be documented in the draft Updated ALUCP Compatibility Plan (Attachment A). The County was disappointed to find that the Airpark 599 Project was not included in the draft updated ALUCP released in December, 2015.

The existing Airpark 599 Project (also known as the Airpark East Project, (Attachment B), a 500 acre mixed-use flex industrial, research development project with retail and commercial business is in the process of being revised to a 275-acre mixed-use mega warehouse/distribution, light manufacturing facilities, with retail and commercial businesses, adjacent to the Stockton Metropolitan Airport (Attachment C and D). Of the 275-acre Project, approximately 243.86 acres is owned by San Joaquin County and 31.38 acres is designated as Airport Property. The Airpark 599 Project is part of the greater Stockton Metropolitan Airport Special Purpose Plan that was approved by the County Board of Supervisors in October 2000. The subject property is zoned AP/X, Airport Mixed-Use, intended to provide flexibility to establish industrial and commercial land uses. The current anticipated build-out of the Project includes approximately 3.5 million square feet of industrial/distribution buildings and approximately 178,000 square feet of retail/commercial buildings. 3-2

Since 2000, the existing Airpark 599 Project has been known to SJ COG, and is documented as a project within "Airport Land Use" in the 2014 SJ COG Regional Transportation Plan, Appendix L Modal Discussion (Pg. 12 of the RTP).

The County is particularly concerned that the updated draft ALUCP does not recognize the Airpark 599 Project as a planned future project. The Airpark 599 Project appears to continue to be consistent with the draft updated ALUCP, and at a minimum, the draft updated ALUCP should include Airpark 599 as a planned project. Therefore, the County respectfully re-submits its request that the Airpark 599 Project be documented as a planned project, preferably in Section 2.1.3 "future Airport Plans" in the draft updated ALUCP, utilizing the project description above. The County's request is consistent with SJ COG's practice of appropriately documenting existing projects in SJ COG's respective studies/ reports. 3-2

Thank you for consideration of the County's request. Should you have any questions regarding this request, please contact me at (209) 468-3203, or Elena Reyes, Senior Deputy County Administrator at (209) 468-3399.

Sincerely,

Monica Nino
County Administrator

MN:ERR:ag

c: Kathy Miller, Council of Governments Board Member
Carlos Villapudua, Council of Governments Board Member
Chuck Winn, Council of Governments Board Member
Andy Chesley, Executive Director, Council of Governments
Harry Mavrogenes, Airport Director
Kerry Sullivan, Community Development Department Director

MN02-01

Attachment A

Reyes, Elena

From:	Reyes, Elena
Sent:	Friday, September 18, 2015 3:11 PM
To:	'Kim Anderson'
Cc:	Nino, Monica; Sullivan, Kerry; Mavrogenes, Harry; Funderburg, John; Selling, Mike; Buchman, Fritz; Chetley, Alex; Guinnane, Andrea
Subject:	RE: Follow-up to Sept. 14th Meeting RE SJC Airport Land Use Compatibility Plan Update

Hi Kim:
This is a follow-up to the County Administrator's comment regarding the Airpark 599 Project during the SJC Airport Land Use Compatibility Plan meeting on Sept. 14th. The original Airpark 599 Project (formerly the Airpark East Project) was a 500 acre mixed-use flex industrial, research development project with retail and commercial business. The revised Airpark 599 project has changed from 500 acres to an estimated 280 acre mixed-use mega warehouse/distribution, light manufacturing facilities, and retail and commercial businesses. The revised Airpark 599 Project consists of a portion of Parcel B5 (31.3 acres), Parcel U (57 acres), Parcel W (82.1 acres) , and Parcel X (110.8 acres) – See attached map entitled "Exhibit A – Airpark 599 – Stockton Metro Airport" (the Airpark 599 Project is outlined in blue). All four parcels making-up the Airpark 599 Project are currently zoned AP/X in the Special Purpose Plan dated 2000 (SPP is for the original 500 acre project plan).

In July, 2015, the County received a Will Serve letter from the City of Stockton for water and sewer services for the Airpark 599 Project. And, before the end of this calendar year, the County Administrator's Office plans to recommend the amended and revised Master Development Agreement for the revised Airpark 599 Project to the County Board of Supervisors.

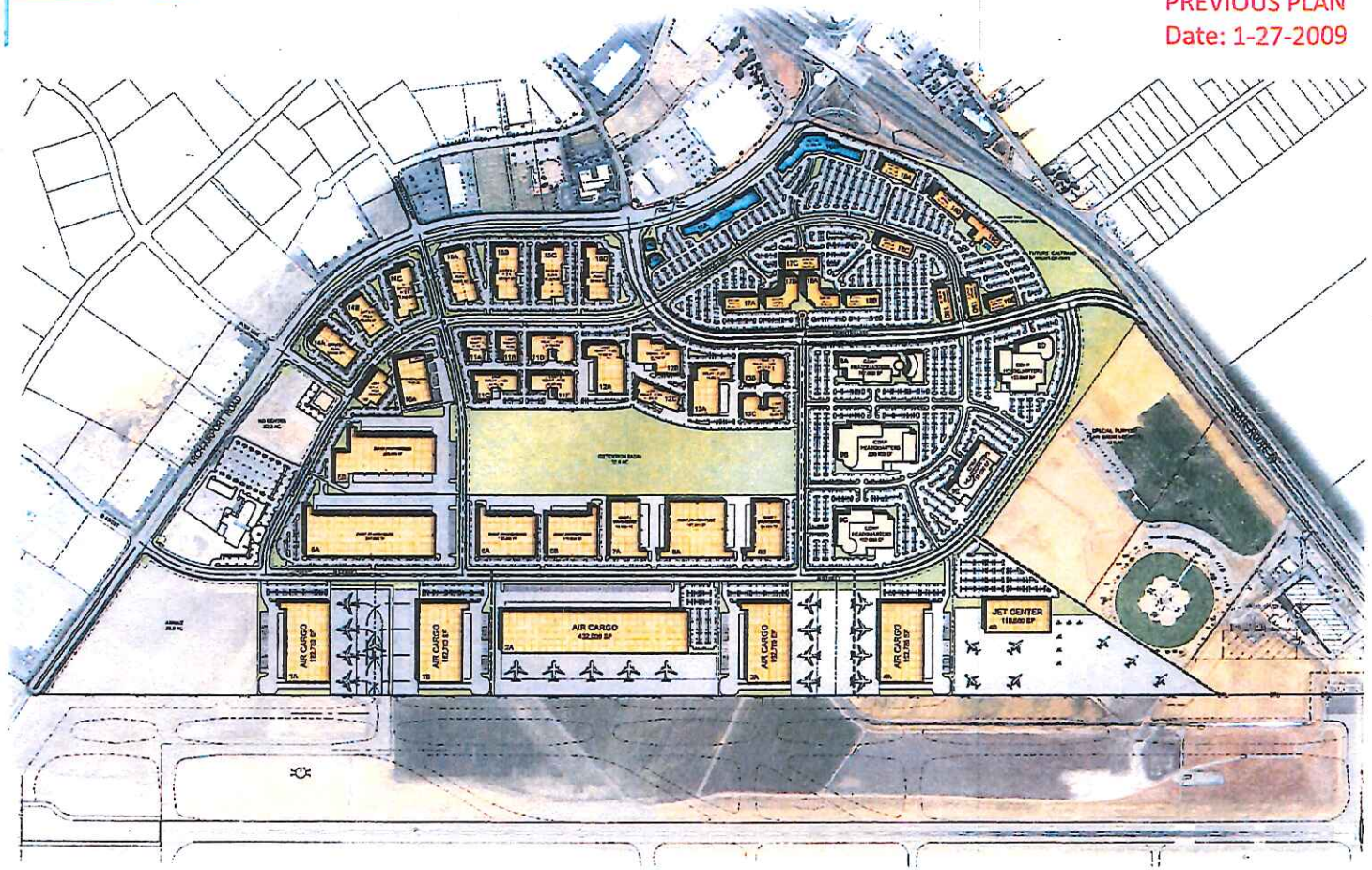
Based on the draft SJC Airport Land Use Compatibility Plan reviewed at the Sept. 14th meeting, the revised Airpark 599 Project appears to be consistent and within the draft Land Use Compatibility. Please notify me, asap, if COG identifies any inconsistencies with the revised Airpark 599 Project and draft Land Use Compatibility Plan. Following, for your consideration, is a brief paragraph summarizing the draft amended Airpark 599 Project for inclusion in the draft Airport Land Use Compatibility Plan.

> *The Airpark 599 project is situated on approximately 295 acres, adjacent to the Stockton Metropolitan Airport, in San Joaquin County, CA. The land is currently owned by San Joaquin County. Airpark 599 is part of the greater Stockton Metropolitan Airport Special Purpose Plan that was approved by the County in October, 2000. The subject property is zoned AP/X, Airport Mixed-Use, intended to provide flexibility to establish industrial and commercial land uses. The current anticipated build-out of the project includes approximately 3.5 million square feet of industrial/distribution buildings and approximately 178,000 square feet of retail/commercial buildings. Market demand for new, state-of-the-art, industrial/distribution buildings is strong in San Joaquin County. This project also benefits from its location with excellent access to Interstate 5 and Highway 99.*

Inclusion of the above paragraph will serve to assist in avoiding any unnecessary inconsistencies between the draft Airport Land Use Compatibility Plan and development of the revised Airpark 599 Project as we move forward with our respective projects and plans. Your assistance with this matter is very much appreciated.

Thank You,

PREVIOUS PLAN
Date: 1-27-2009



PROJECT DATA:

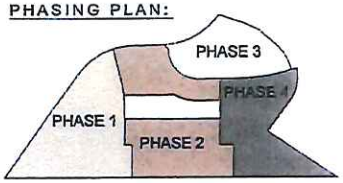
SITE AREA:
GROSS: 510.5 AC (22,237,380 SF)
NET: 389.5 AC (16,966,620 SF)
(LESS DETENTION, SPECIAL PURPOSE PLAN BASIN LOCATION, ARNAIZ PROPERTY AND AG CENTER PROPERTY)

BUILDING AREA: 5,263,270 SF

MANF./WAREHOUSE:	1,183,250 SF
AIRPORT RELATED:	1,322,620 SF
INDUST./OFFICE/FLEX:	1,009,100 SF
OFFICE/CORP. HQ:	1,541,800 SF
RETAIL/REST.:	138,500 SF
HOTEL:	68,000 SF

F.A.R.: .31 (NET)

PHASING PLAN:



VICINITY MAP:

NOTE:
THIS CONCEPTUAL DESIGN PLAN IS BASED UPON A PRELIMINARY REVIEW OF ENTITLEMENT REQUIREMENTS AND ON UNVERIFIED AND POSSIBLY INCOMPLETE SITE INFORMATION, AND IS INTENDED MERELY TO ASSIST IN EXPLORING HOW THE SITE MIGHT BE DEVELOPED.

0 300' 1200'
150' 600'
scale: 1" = 300'-0"

north

CATELLUS

AIRPARK 599

Airpark 599
Stockton, California

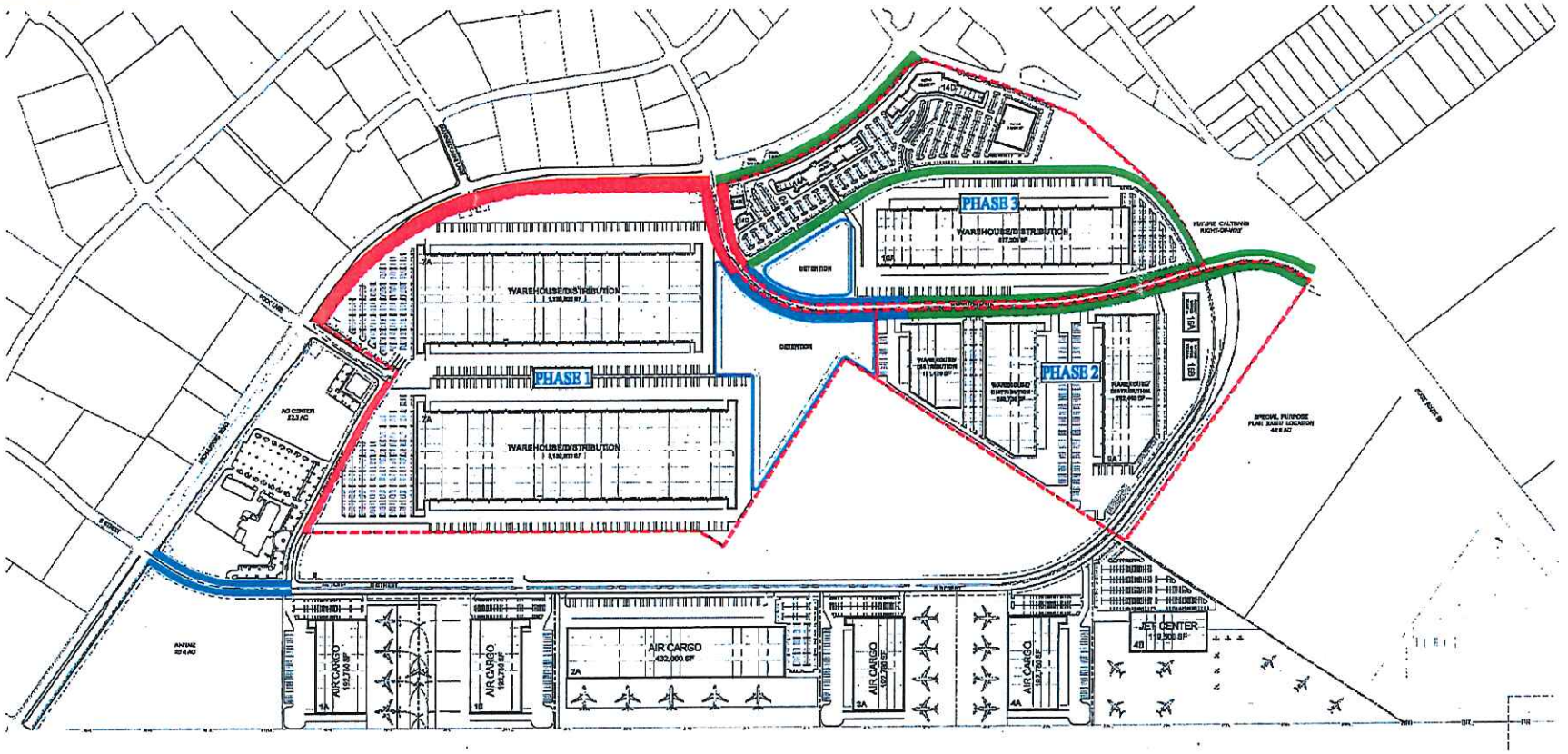
PREVIOUS
Conceptual Master Plan
Scheme: 7

SNR08-0059-00

WARE MALCOMB
Leading Design for Commercial Real Estate

7

Attachment B



AREA BREAKDOWN:	
PHASE 1 –	113.0 AC±
PHASE 1 DETENTION BASIN –	13.4 AC±
PHASE 2 –	56.6 AC±
PHASE 3 –	67.7 AC±
PHASE 3 DETENTION BASIN –	4.0 AC±
TOTAL -	254.7 AC±

LEGEND

- PHASE BOUNDARIES
- PHASE 1 ROADWAYS
- PHASE 2 ROADWAYS
- PHASE 3 ROADWAYS

AREA BREAKDOWN

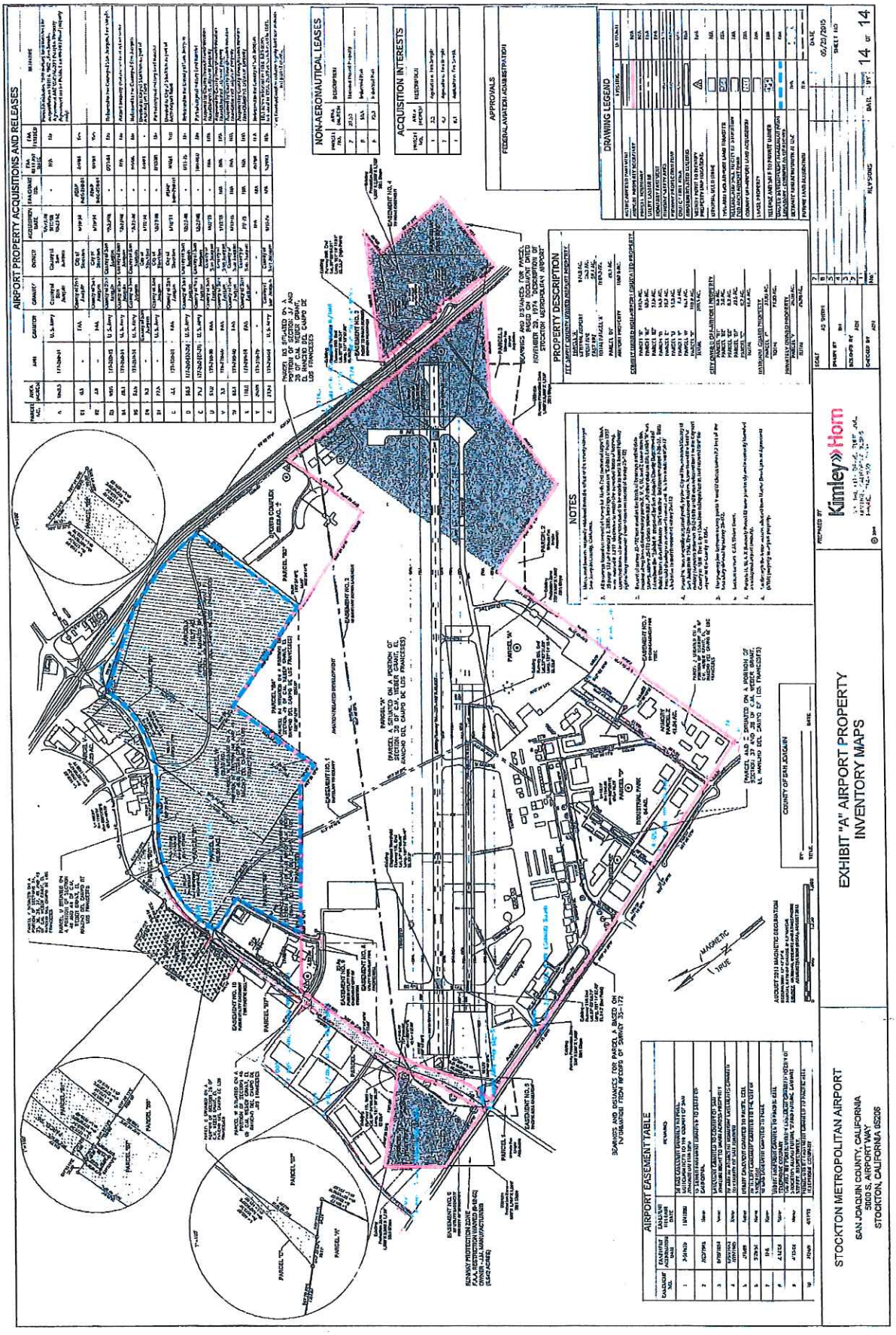
AIRPARK 599

CITY OF STOCKTON SAN JOAQUIN COUNTY CALIFORNIA

0' 300' 900' 1,200'

SCALE: 1" = 300' DATE: APRIL 12, 2012

Carlson, Barbee & Gibson, Inc.


AIRPORT PROPERTY ACQUISITIONS AND RELEASES
NON-AERONAUTICAL LEASES
ACQUISITION INTERESTS
APPROVALS
FEDERAL AVIATION ADMINISTRATION
PROPERTY DESCRIPTION
NOTES
DRAWING LEGEND
AIRPORT EASEMENT TABLE
EXHIBIT "A" AIRPORT PROPERTY INVENTORY MAPS
STOCKTON METROPOLITAN AIRPORT
SAN JOAQUIN COUNTY, CALIFORNIA
5000 S. AIRPORT WAY
STOCKTON, CALIFORNIA 95206
COUNTY OF SAN JOAQUIN
Kimley»Horn
PREPARED BY
CHECKED BY
DATE
05/20/2015
SHEET NO
14 OF 14

SAN JOAQUIN FARM BUREAU FEDERATION

MEETING TODAY'S CHALLENGES / PLANNING FOR TOMORROW

RECEIVED
FEB 12 2016
San Joaquin
Council of Governments

February 1, 2016

Ms. Kim Anderson
San Joaquin Council of Governments
555 E. Weber Avenue
Stockton, CA 95202

Re: ALUCP Update

Dear Ms. Anderson:

The San Joaquin Farm Bureau Federation is a private, not for profit volunteer organization that has been dedicated to the advancement and promotion of agriculture in San Joaquin County for over 100 years. We have been closely monitoring update the Airport Land Use Compatibility Plan (ALUCP) for the Stockton Metropolitan Airport to ensure that impacts to the surrounding agricultural areas are impacted any more greatly and that the resource of the local airport can thrive. Attached are our comments to the first draft of the ALUCP. 4-1

Under Note 6 for Table 3A, it is expressly stated that new landfills are strictly prohibited in areas that include the airport influence area. This sentiment is echoed in section 3.3.3.5 "Other Flight Hazards" where new land uses that may cause bird strikes shall not be permitted within an airports influence area. We find the emphasis expressly on new landfills to be misleading as section 3.3.36 and Note 6 both also cite FAA Advisory Circular 150/5200-33B which also includes expanded uses.

"Hazardous Wildlife Attractants On or Near Airports" (FAA Advisory Circular 150/5200-33B) specifically addresses the issue of expanded waste management facilities and "strongly recommends against" any facility other than an enclosed transfer station. Therefore it is strongly misleading to define hazards to flight as a new landfill in the ALUCP and omit the applicability to existing landfills' potential to expand under FAA AC 150/5200-33B.

We previously recommended and still maintain that section 3.3.3.5 be amended to reflect that is applies to both new and expanded uses. This could be easily accomplished by amending the section to read: 4-2

> *"New or expanded land uses that may cause visual, electronic, or increased bird strike hazards to aircraft in flight shall not be permitted within any airport's influence area."*

This would clarify that expanded uses that pose a hazard to flight are ineligible to be permitted per the cited reference FAA AC 150/5200-33B.

This is a minor amendment that will foremost ensure the safety of pilots, crews, San Joaquin County residents, and visitors that use Stockton Metropolitan Airport. Secondly, it ensures that the airport maintains all available funding sources and can continue to grow and add more travel routes and more carriers.

3290 NORTH AD ART ROAD • STOCKTON, CA • 95215 • (209) 931-4931 • (209) 931-1433 Fax
WWW.SJFB.ORG

We look forward to continued participation in the development of the ALUCP. If you have any questions please do not hesitate to contact the Farm Bureau at (209) 931-4931.

Sincerely,

Andrew Watkins
President

Letter 5

LAW OFFICES OF
THOMAS M. BRUEN
A PROFESSIONAL CORPORATION
1990 NORTH CALIFORNIA BOULEVARD
SUITE 620
WALNUT CREEK, CALIFORNIA 94596

THOMAS M. BRUEN
ERIK A. REINERTSON

TELEPHONE: (925) 295-3137
FACSIMILE: (925) 295-3132
TBRUEN@TBSGLAW.COM

February 12, 2016

VIA FACSIMILE AND EMAIL

San Joaquin Council of Governments
Kim Anderson, Senior Regional Planner
555 E. Weber Avenue
Stockton, CA 95202
Anderson@sjcog.org
FAX: (209) 235-0438

Re. Comments of Forward, Inc. On Stockton Metropolitan Airport Land Use Compatibility Plan

Our firm represents Forward, Inc., the owner and operator of the Forward Landfill. On behalf of our client, we wish to thank the San Joaquin County Council of Governments ("SJCCOG") for this opportunity to comment on the Initial Study and draft Negative Declaration proposed for approval of the Airport Land Use Compatibility Plan ("ALUCP") for the Stockton Metropolitan Airport.

5-1

To begin with, the draft ALUCP raises a number of questions, the answers to which may impact the appropriateness of the proposed finding in the draft Negative Declaration that "the proposed ALUCP does not reduce or inhibit the development beyond what is allowed in the 1993 Airport Land Use Plan (ALUP) or proposed in the current general plans for the Cities of Stockton, Manteca and Lathrop."

Many but not all of our questions relate to the extension of runway 11L-29R at the Stockton Metropolitan Airport ("SMA") in 2002, and its apparent effect on changes being proposed in the draft ALUCP compared with the 1993 ALUP, as they impact the Forward Landfill.

By way of background, here is our understanding of important differences between the current (1993) ALUP and the draft ALUCP, as they pertain to the various zones around the SMA that would affect the future development of the Forward Landfill:

5-2

Prohibition of Landfill Expansions and Movement of 10,000 Ft Radius Line Closer to Forward in the Draft ALUCP.

Under the Airport Land Use Plan, as amended in 1993, landfills (the ALUP does not

specifically refer to the expansion of existing landfills) within the 10,000-foot maximum distance Outer Approach Zone were prohibited. From what we can determine, the Outer Approach Zone in the 1993 ALUP extended to approximately 10,000 feet from the end of runway 11L-29R, as that runway was built out in 1993.

Beyond the 10,000-foot radius line in the 1993 ALUP, the ALUP provides that the "Conical Zone" begins. In the Conical Zone, new landfills were not prohibited and the ALUP stated, moreover, that "Proposed dumps, landfills and waterways should be evaluated to ensure that they will not present a bird hazard to aircraft." There was no discussion prohibiting the *expansion* of existing landfills or of infill projects or other development at existing landfills in the 1993 ALUP. 5-2

In contrast, the draft ALUCP appears to provide increased restrictions on the potential development of the Forward Landfill. The draft ALUCP creates new zones specific to the SMA, which do not seem to apply to other airports in the County. The SMA's new zones extend the 10,000-foot radius closer to the existing Forward Landfill, by about 1,000 feet, such that the radius covers significant portions of the existing Forward Landfill footprint. Furthermore, the draft ALUCP contains new land use restrictions applicable to Forward's property. For example, in SMA Zone 7(a), the draft ALUCP now prohibits any new *or expanded* landfill within Zone 7(a). This prohibition on any landfill *expansion*, including a project to infill portions of an existing, operating landfill, is new. There is no language in the draft ALUCP that would allow an existing landfill seeking an expansion, no matter how small, to show that it has not created a bird hazard in the past, and that it has adopted successful bird abatement measures. 5-3

In the draft ALUCP, in Zone 7(b), while there is no absolute prohibition on landfills, the wording is unclear as opposed to the wording in the 1993 ALUP. The 1993 ALUP stated that (new) landfills in the Conical Zone should be evaluated to ensure they do not increase a bird hazard to aircraft, whereas the language in footnote 6 on page 29 of the ALUCP is unclear as to whether the proponent of a landfill expansion in Zone 7(b), including an infill project, would be allowed to make a demonstration that the project would not present a bird hazard to aircraft. Nor is there any language in footnote 6 of Table 3A that describes the standard that must be met for a landfill to demonstrate that it would not constitute a bird hazard to aircraft. 5-4

Finally, the 10,000-foot boundary line in the 1993 ALUP between the Outer Approach Zone and the Conical Zone, and which would now separate Zones 7(a) and 7(b) in the draft ALUCP, has moved closer and onto the existing Forward Landfill. A comparison between Exhibit A (attached) and the diagram provided us by SJCCOG staff at a meeting on January 19th (Exhibit B) shows a significant encroachment of the 10,000-foot radius line in the draft ALUP on Forward property. This is particularly troubling because the new radius line appears to be based on a 2002 extension of the SMA main runway towards Forward's property, which to our knowledge may have been accomplished without public notice, environmental review, the filing 5-5

of a Form 7480-1 with the FAA, or FAA approval. 5-5

Expansion of SMA Runway 11L-29R in 2002.

In 2008, pursuant to a Freedom of Information Act (FOIA) request, the FAA produced all forms 7480-1 submitted to the FAA for activities at the SMA from 1990 to 2007. (See Exhibit C attached.) The FAA provided only one Form 7480-1, which was submitted by the SMA to the FAA in January 2000. This form requested FAA approval of a 1,350-foot extension of runway 11R-29L from 3050 feet to 4400 feet in length. The documents produced by the FAA further show the FAA wrote SMA on June 13, 2000, stating that "We therefore have no objection to the extension of RWY 11R-29L," provided that certain conditions were met, including the requirement of appropriate environmental review. This is the only application filed with the FAA by SMA that was produced by the FAA is response to the FOIA request. 5-6

Apparently without submitting a Form 7480-1 to the FAA (see 14 CFR §157.3 through 14 CFR §157.7) or to our knowledge obtaining any FAA consent, SMA runway 11L-29R was extended approximately 1,000 feet in 2002. (See the "before and after" Google Earth aerial photos in Exhibit D.) The runway extension brought the longer runway at SMA eastward towards the Forward Landfill. We do not know if this extension was used by SJCCOG in determining the boundary between Zones 7(a) and 7(b), but we know of no other reason, and none is stated in the draft ALUCP, as to why the 10,000 foot radius from the end of the SMA runway would have moved eastward to Forward's property other than the extension of the SMA 11L-29R runway in 2002.

Requests, Questions and Comments on Initial Study and Draft Negative Declaration.

Based on our concerns that the draft ALUCP may significantly reduce the potential for further development of the Forward Landfill, we request that the SJCCOG provide us with the documents described below as well as answers to our questions, that should enable us to further evaluate the Initial Study and Negative Declaration, the draft ALUCP and its potential impact on the Forward landfill. We also offer below our preliminary comments on the Initial Study and draft Negative Declaration based on our current knowledge.

Requests:

5-7

We would appreciate being provided with the following documents that would enable us to more fully understand and comment on the draft ALUP:

- We have asked SMA to provide us with a CAD drawing showing how the 10,000-foot radius in the draft ALUP was measured, and that would show the base point of

the 10,000-foot radius line. SMA informed us on February 1 that such a document was not then available, but it would be provided to us. We have not received that document to date. Therefore, we request that the SJCCOG provide us with all documents that show how the 10,000-foot radius line was determined in the draft ALUCP, including the location of the base of the radius line and the rationale for that location. This request would include any correspondence between SJCCOG and the SMA or other parties relating to the boundary line between Zones 7(a) and 7(b) 5-7

- Any documents not covered by the above request that would show how the boundary between Zones 7(a) and 7(b) was located.
- All Forms 7480-1 and 7460 relating to any extension of any SMA runways or airport operating areas, submitted to the FAA between the publication of the 1993 ALUP and the present. 5-8
- Any documents constituting or relating to FAA approval of the extension of SMA runway 11L-29R.
- Any safety, environmental or other studies or analyses used to support the establishment of the boundaries of Zones 7(a) and 7 (b) and the land use restrictions therein applicable to landfills. 5-9

Questions

- Is SJCCOG using any other prior environmental document prepared pursuant to CEQA as a tiered or program level environmental analysis? If so, please identify all such documents. 5-10
- Was any environmental analysis prepared by any agency for the extension of SMA runway 11L-29R? Has SJCCOG requested a copy of that document? Does SJCCOG have a copy of that document? 5-11
- Was any safety analysis or flight hazard study prepared by any agency for the extension of SMA runway 11L-29R? Has SJCCOG requested a copy of that document? Does SJCCOG have a copy of that document? 5-12
- Is the area of the 2002 extension of SMA runway 11L-29R available for aircraft landing, takeoff or taxiing? Are there any regulatory limits on the use of this extension area? If this extension could not be used for aircraft operations, how would that restriction affect the draft ALUCP? 5-13
- Did SJCCOG utilize the displaced threshold for SMA runway 11L-29R in drawing the boundaries for Zones 7(a) and 7(b)? 5-14
- Has any consideration been made in developing the ALUCP regarding activities such as agriculture, golf courses, etc. that are also listed by the FAA as having potential bird hazard impacts? If so, what? 5-15

Comments

- Because the draft ALUCP appears to place increased restrictions on the potential expansion of the Forward Landfill, there should be an environmental analysis conducted on the following issues:
    - The impact of the increased restrictions on the future availability of Forward Landfill as an important public service facility.
    - The inconsistency between the ALUCP restrictions on Forward Landfill property and the County general plan and zoning ordinance applicable to the property. For example, with respect to the Forward Landfill, the County general plan and zoning ordinance do not prohibit expansion of the Forward Landfill. This represents a significant conflict in land use policies, which should be analyzed. 5-16
    - There is no discussion of reasonable alternatives to the restrictions described in the draft ALUCP. One such alternative would be to allow the proponent of the expansion of an existing landfill to make a demonstration that the expansion would not cause any increased bird hazard to aircraft.
- There should be a discussion of potential inconsistencies between the draft ALUCP and the County General Plan and other land use policies. There should be an analysis of whether these inconsistencies could cause significant environmental impacts associated with future development of the County or, conversely, the displacement of future development due to land use restrictions in the ALUCP. What are the environmental impacts if the SJCCOG approves an ALUCP that it will find inconsistent with the existing County General Plan or the proposed new County General Plan? 5-17
- The draft ALUCP does not provide a safety analysis supporting the selection of the compatibility zones around SMA. 5-18
- To our knowledge, there was no environmental analysis for the approximately 1,000 foot extension of the SMA runway 11L-29R. If the ALUCP proposes to now treat that extension as being determinative in restricting future land uses around the airport, shouldn't this change be subject to environmental analysis, including an analysis of displaced or prohibited future development? 5-19
- If the Forward landfill is not allowed to expand, this will likely necessitate the expansion of County-owned landfills in other, more rural parts of the County. The expansion of these landfills could cause significant environmental impacts, including the impacts from increased traffic, traffic and operational noise, construction, leap frogging development due to the improvement of haul roads to these more distant and rural landfill sites; vehicle and landfill emissions; and regional air quality and greenhouse gas emissions due to longer haul roads. Site specific impacts would also include biological, geological, visual, groundwater and similar impacts that may be unique to each County landfill site. These impacts should be analyzed as part of the environmental analysis of the ALUCP, as the 5-20

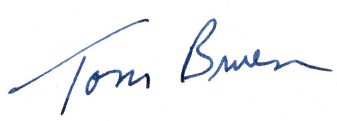
ALUCP would be the first discretionary decision subject to CEQA that would foreseeably results in such future impacts.

- The value of a landfill is the potential future airspace in which waste may be disposed. By moving the Zone 7(a) boundary closer and onto Forward's property, the ALUCP, by prohibiting expansion of the existing Forward Landfill in Zone 7(a), is taking Forward's airspace and property. The SJCCOG should prepare an environmental document that analyzes whether the draft ALUCP is consistent with state and local planning policies, including the need to accommodate local planning objectives and avoid the uncompensated taking of private property for public use, as recommended in sections 3.6.1 and 3.6.2 of the California Airport Land Use Planning Handbook. 5-20

Conclusion

We again thank you for the opportunity to comment on the Initial Study and draft Negative Declaration for the draft ALUCP. In doing so, we look forward to further discussion with SJCCOG counsel and staff to clarify the future impact of the draft ALUCP on the Forward Landfill. We also respectfully reserve our right to amend or augment our comments based on SJCCOG's responses to our requests for documents, and our questions and comments. 5-21

Sincerely,



Thomas M. Bruen

CALIFORNIA Water Boards

Central Valley Regional Water Quality Control Board

Edmund G. Brown Jr.
Governor

Matthew Rodriquez
Secretary for
Environmental Protection

RECEIVED
FEB 03 2016
San Joaquin
Council of Governments

29 January 2016

Kim Anderson
San Joaquin Council of Governments
555 East Weber Avenue
Stockton, CA 95202

CERTIFIED MAIL
91 7199 9991 7035 8364 3113

COMMENTS TO REQUEST FOR REVIEW FOR THE NEGATIVE DECLARATION, AIRPORT LAND USE COMPATIBILITY PLAN UPDATE PROJECT, SCH# 2015122072, SAN JOAQUIN COUNTY

Pursuant to the State Clearinghouse's 30 December 2015 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Negative Declaration* for the Airport Land Use Compatibility Plan Update Project, located in San Joaquin County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38. 6-1

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases,

the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues.

For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:
http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/.

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Policy is available on page IV-15.01 at:
http://www.waterboards.ca.gov/centralvalleywater_issues/basin_plans/sacsjr.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

6-1

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan

(SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml.

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits[1]

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/.

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

6-1

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml.

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water

[1] Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACOE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

Waste Discharge Requirements – Discharges to Waters of the State

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. 6-1

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/help/business_help/permit2.shtml.

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Risk General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Risk Waiver) R5-2013-0145. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Risk General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Risk Waiver and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2013-0145_res.pdf

Regulatory Compliance for Commercially Irrigated Agriculture

If the property will be used for commercial irrigated agricultural, the discharger will be required to obtain regulatory coverage under the Irrigated Lands Regulatory Program. There are two options to comply:

1. **Obtain Coverage Under a Coalition Group.** Join the local Coalition Group that supports land owners with the implementation of the Irrigated Lands Regulatory Program. The Coalition Group conducts water quality monitoring and reporting to the Central Valley Water Board on behalf of its growers. The Coalition Groups charge an annual membership fee, which varies by Coalition Group. To find the Coalition Group in your area, visit the Central Valley Water Board's website at: http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/app_approval/index.shtml; or contact water board staff at (916) 464-4611 or via email at IrrLands@waterboards.ca.gov.

2. **Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers, General Order R5-2013-0100**. Dischargers not participating in a third-party group (Coalition) are regulated individually. Depending on the specific site conditions, growers may be required to monitor runoff from their property, install monitoring wells, and submit a notice of intent, farm plan, and other action plans regarding their actions to comply with their General Order. Yearly costs would include State administrative fees (for example, annual fees for farm sizes from 10-100 acres are currently $1,084 + $6.70/Acre); the cost to prepare annual monitoring reports; and water quality monitoring costs. To enroll as an Individual Discharger under the Irrigated Lands Regulatory Program, call the Central Valley Water Board phone line at (916) 464-4611 or e-mail board staff at IrrLands@waterboards.ca.gov. 6-1

Low or Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Dewatering and Other Low Threat Discharges to Surface Waters* (Low Threat General Order) or the General Order for *Limited Threat Discharges of Treated/Untreated Groundwater from Cleanup Sites, Wastewater from Superchlorination Projects, and Other Limited Threat Wastewaters to Surface Water* (Limited Threat General Order). A complete application must be submitted to the Central Valley Water Board to obtain coverage under these General NPDES permits.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at: http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0074.pdf

For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at: http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0073.pdf

6-1

If you have questions regarding these comments, please contact me at (916) 464-4644 or Stephanie.Tadlock@waterboards.ca.gov.

Stephanie Tadlock

Stephanie Tadlock
Environmental Scientist

cc: State Clearinghouse unit, Governor's Office of Planning and Research, Sacramento

Letter 7

STATE OF CALIFORNIA

Governor's Office of Planning and Research

State Clearinghouse and Planning Unit

Edmund G. Brown Jr.
Governor

Ken Alex
Director

RECEIVED
FEB 18 2016
San Joaquin
Council of Governments

February 16, 2016

Kim Anderson
San Joaquin County Council of Governments
555 E. Weber Ave.
Stockton, CA 95202

Subject: Airport Land Use Compatability Plan (ALUCP) Update for the Environs of Stockton Metropolitan Airport (SCK)
SCH#: 2015122072

Dear Kim Anderson:

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on February 12, 2016, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

7-1

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL (916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Document Details Report
State Clearinghouse Data Base

SCH# 2015122072
Project Title Airport Land Use Compatability Plan (ALUCP) Update for the Environs of Stockton Metropolitan Airport (SCK)
Lead Agency San Joaquin County Council of Governments

Type Neg Negative Declaration
Description Note: Review Per Lead

The ALUCP provides policies for use by the San Joaquin County Airport Land Use Commission when evaluating the compatibility between proposals for land use development in the vicinity of Stockton Metropolitan Airport and the operations of these airports. The local agencies that have jurisdiction over land uses within the areas covered by this plan include San Joaquin County, and the cities of Stockton, Manteca, and Lathrop. The plan is prepared in accordance with the requirements of the CA State Aeronautics Act. The Draft Final ALUCP document can be downloaded at: http://stocktonalucp.airportstudy.com/

Lead Agency Contact

Name Kim Anderson
Agency San Joaquin County Council of Governments
Phone 209-235-0565 **Fax**
email
Address 555 E. Weber Ave.
City Stockton **State** CA **Zip** 95202

Project Location

County San Joaquin
City Stockton
Region
Lat / Long 37° 53' 32.89" N / 121° 15' 4.03" W
Cross Streets S. Airport Way and Arch Road
Parcel No. All within Airport Influence Area
Township Grant **Range** **Section** Land **Base**

Proximity to:

Highways 99
Airports Stockton Metropolitan
Railways
Waterways French Camp Slough, Lone Tree Creek
Schools Nightingale Charter
Land Use Summary of land use, zoning and general plan designations for Airport Influence Area included sections 5, 6, and 8.

Project Issues Noise; Landuse

Reviewing Agencies Resources Agency; Department of Fish and Wildlife, Region 2; Department of Water Resources; Department of Parks and Recreation; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 10; Air Resources Board; Regional Water Quality Control Bd., Region 5 (Sacramento); Native American Heritage Commission

Date Received 12/30/2015 **Start of Review** 12/30/2015 **End of Review** 02/12/2016

Note: Blanks in data fields result from insufficient information provided by lead agency.

Kory Lewis

From: Kim Anderson <anderson@sjcog.org>
Sent: Thursday, March 17, 2016 3:28 PM
To: Dave Fitz
Cc: Kory Lewis
Subject: Part 77 Surfaces Revisit

Hi Dave – I received a call from Sangeeta Lewis (Forward's Engineer) on the Part 77 surface exhibits (3-D) between the preliminary draft and the final draft. The drawings are not the same and I can't quite remember why. I know we got the CAD drawings prepared by Kimley-Horn in between the drafts to separate Zone 7 into 7a and 7b, but my recollection was that the safety zones didn't change except for splitting 7 – so I'm not sure what the part 77 surfaces would be different. Can you provide some clarification? She is going to send over a map overlaying everything, but one thing she noted was that the split of the 7a/7b doesn't seem to line up with either of the Part 77 drawings (prelim and final draft). She was going to send over an exhibit but I have yet to see it. I will forward when it arrives. 8-1

Kim

Kim Anderson
Senior Regional Planner
San Joaquin Council of Governments

555 E Weber Ave
Stockton, CA 95202
anderson@sjcog.org

Phone:
Direct: 209.235.0565
Main: 209.235.0600
Fax: 209.235-0438

Letter 9

SHUTE, MIHALY & WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

EDWARD T. SCHEXNAYDER
Attorney
schexnayder@smwlaw.com

February 11, 2016

Via E-Mail and U.S. Mail

Kim Anderson
Senior Regional Planner
San Joaquin Council of Governments
555 E. Weber Avenue
Stockton, CA 95202
E-Mail: anderson@sjcog.org

Re: Initial Study - Stockton Metropolitan Airport Land Use Compatibility Plan Update

Dear Ms. Anderson:

On behalf of Clean San Joaquin—a coalition of citizens, farmers, aviators, business leaders, and conservationists concerned about adverse environmental conditions in San Joaquin County—we submit these comments on the San Joaquin Council of Governments/Airport Land Use Commission's ("Commission") proposed update to the Airport Land Use Compatibility Plan for Stockton Metropolitan Airport ("Plan Update"). We appreciate the opportunity to comment on the Plan Update and the Commission's effort to amend Stockton Airport's current Airport Land Use Plan, which was adopted in 1993. While we understand the need to update the 1993 plan, we are concerned that there are deficiencies in the Plan Update and the associated Initial Study and Negative Declaration (collectively, "Initial Study") that must be remedied before the Commission can approve the Plan Update. 9-1

In particular, the Initial Study does not contain an adequate analysis of public safety hazards that wildlife pose to aircraft arriving at and departing from Stockton Metropolitan Airport. In fact, as discussed further below and in the report from Geoffrey Gosling of Aviation System Consulting, LLC,[1] the evidence before the Commission indicates that the Plan Update, as drafted, could lead to significant safety-related impacts. Consequently, unless the Commission amends the plan to reduce these safety impacts to 9-2

[1] This expert report is attached as Exhibit A and incorporated herein by reference.

less-than-significant levels, it must prepare an Environmental Impact Report ("EIR") for the Plan Update. Until the Commission corrects these deficiencies, it may not lawfully approve the Plan Update.

I. The Initial Study's Description of the Environmental Setting Is Inadequate.

The California Environmental Quality Act, Public Resources Code section 21000 et seq. ("CEQA"), requires that an initial study contain "[a]n identification of the environmental setting." Guidelines § 15063(d)(2).[2] Such "accurate and complete information pertaining to the setting of the project and surrounding uses" is essential to provide a baseline for evaluating project impacts. *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 729. As such, an adequate description of the environmental setting is a *prerequisite* to environmental review and cannot be added after the fact. 9-2

While the Plan Update's purpose includes establishing regulations to ensure public safety around Stockton Airport, the Initial Study completely omits information necessary to assess the current standard of aircraft safety within the Airport's influence area. There is no discussion of specific land uses in the influence area that currently create hazards to aircraft. *See* Initial Study at 3-7. This omission is particularly glaring here, where the nearby Forward Landfill is currently operating in close proximity to the Airport's main runway. *See* Maps of Forward Landfill, attached as Exhibit B. Landfills that handle putrescible waste, as the Forward Landfill does, attract large flocks of birds, which, in turn, pose hazards to aircraft operations. *See* Plan Update at 3-41. Without a complete description of the current hazards in the vicinity of the Airport, it is impossible for decisionmakers or the public to adequately assess the degree to which the Plan Update could permit these conditions to change or worsen. As a result, the Commission is precluded from fully determining whether the Plan Update will lead to significant aircraft hazards that require mitigation.

II. The Initial Study Fails to Adopt an Adequate Threshold for Determining Whether There Is a Significant Public Safety Impact.

CEQA's most basic purpose is to inform governmental decisionmakers and the public about the potential significant environmental effects of a proposed project. CEQA Guidelines § 15002(a)(1). Determining whether a project may result in a significant adverse environmental effect is one of the key aspects of CEQA. Guidelines 9-3

[2] The CEQA Guidelines, 14 Cal. Code Regs. § 15000 *et seq.*, are referred to as "Guidelines."

§ 15064(a) (determination of significant effects "plays a critical role in the CEQA process"). CEQA specifically anticipates that agencies will use thresholds of significance as an analytical tool for judging the significance of a project's impacts. *Id.* § 15064.7.

Thus, one of the first steps in any analysis of an environmental impact is to select a threshold of significance. Here, the Initial Study contains no thresholds of significance for the Plan Update's safety hazard impacts. This flaw leads to a cascade of other failures: without a threshold, the Initial Study cannot do its job. For example, although the Initial Study concludes that the Plan Update would result in *no* impact relating to the potential to cause a safety impact (Initial Study at 23), the document provides no standard by which to evaluate this impact's significance. The Initial Study must include these thresholds and evaluate the Plan Update's impacts against these thresholds. Specifically, the Initial Study must establish proper thresholds of significance for determining whether the proposed Plan Update would increase hazards to aircraft flights. 9-3

Notably, CEQA recognizes that protecting public safety is a critical element of airport land use planning. *See, e.g.*, CEQA Guidelines, Appendix G, VIII (e). The proposed Plan Update is likewise "intended to protect and promote [public] safety . . . and to ensure that no structures or activities encroach upon or adversely affect the use of navigable airspace." Initial Study at 6. But despite acknowledging that public safety, including protection from wildlife-induced aircraft hazards, is the core purpose of the Plan Update and airport land use plans in general, the Initial Study contains no tools through which it can evaluate the Plan Update's impact on public safety. Without adopting thresholds of significance related to safety, the Commission and the public are further prevented from determining whether the Plan Update will lead to improved or worsened public safety in the vicinity of the Airport. 9-4

III. There Is a Fair Argument that the Plan Update, as Drafted, Will Create a Significant Public Safety Impact.

It is well settled that CEQA establishes a "low threshold" for initial preparation of an EIR, especially in the face of conflicting assertions concerning the possible effects of a proposed project. *Pocket Protectors v. City of Sacramento* (2005) 124 Cal.App.4th 903, 928. CEQA provides that a lead agency may issue a negative declaration and avoid preparing an EIR only if "[t]here is no substantial evidence, in light of the whole record before the lead agency, that the Project may have a significant effect on the environment." CEQA § 21080(c)(1). A lead agency may adopt a negative declaration only when all potentially significant impacts of a project will be avoided or reduced to insignificance. CEQA § 21080(c)(2); Guidelines § 15070(b).

An initial study must provide the factual and analytic basis for an agency's determination that no significant impact will result from the project. Guidelines § 15063(d)(3). An agency must prepare an EIR whenever it is presented with a "fair argument" that a project may have a significant effect on the environment, even if there is also substantial evidence to indicate that the impact is not significant. *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75; Guidelines § 15064(f)(1). Where there are conflicting opinions regarding the significance of an impact, the agency must treat the impact as significant and prepare an EIR. Guidelines § 15064(f)(1); *Stanislaus Audubon Soc'y v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-51 .

Further, where the agency fails to study an entire area of environmental impacts, deficiencies in the record "enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences." *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311. In marginal cases, where it is not clear whether there is substantial evidence that a project may have a significant impact and there is a disagreement among experts over the significance of the effect on the environment, the agency "shall treat the effect as significant" and prepare an EIR. Guidelines § 15064(g); *City of Carmel-by-the-Sea v. Board of Supervisors* (1986) 183 Cal.App.3d 229, 245. 9-4

Here, the record before the Commission indicates that Forward Landfill creates a safety hazard for aircraft using Stockton Metropolitan Airport. At the same time, without revisions, the Plan Update would weaken safety standards in the existing Airport Land Use Plan meant to reduce risks to aircraft from bird strikes near the Airport. Additionally, alternative standards for reducing such hazards from wildlife further indicate that the Plan Update's proposed regulations regarding new or expanded landfills are too lax. Consequently, there is a fair argument that adopting the current version of the proposed Plan Update will cause significant safety impacts to aircraft.

As noted above, Forward Landfill, an active landfill that accepts putrescible solid waste, sits directly to the southeast of Stockton Metropolitan Airport's primary runway. As the Plan Update shows, aircraft utilizing the Airport often fly near or directly over this landfill. Plan Update, Appendix B at B4 through B7 (flight tracks of aircraft around Stockton Metropolitan Airport). The proximity of the Landfill to the Airport poses a significant risk as wildlife attracted to the Landfill are likely to travel through Stockton Airport airspace. *See* Wildlife Hazard Assessment Report – Stockton Metropolitan Airport, August 2015 at 87, excerpts attached as Exhibit C; *see also* Aviation System Consulting at 6 (observing that it is "likely that the birds attracted by Forward Landfill will move into or across the approach or departure airspace for SCK") 9-5

Moreover, Forward has submitted an application (currently pending before the County) that would expand and intensify its landfill operations near the Airport. *See* Excerpts of 2014 Forward Landfill Expansion, Draft Supplemental Environmental Impact Report, attached as Exhibit D. According to the Airport's Wildlife Hazard Assessment, these expanded operations could increase the risk of wildlife hazards to aircraft operations. Wildlife Hazard Assessment at 87, 94. Although the Landfill may promise to undertake experimental programs to control gulls and other birds, as the Wildlife Hazard Assessment makes clear, "to date, no such facility has been able to demonstrate an ability to reduce and sustain hazardous wildlife to levels that existed before the putrescible waste landfill began operating." *See* Wildlife Hazard Assessment at pdf page 200 (citing Federal Aviation Administration ("FAA") Advisory Circular 150/5200-33B, August 28, 2007). 9-5

Not surprisingly, Stockton Airport has also weighed in on the Landfill's proposed project and expressed strong concern that expanded landfill operations would be incompatible with the Airport's operations because they have the potential to increase the risk of wildlife hazards. *See* Letter from H. Mavrogenes, Airport Director to J. Funderburg, Principal Planner, San Joaquin County, January 22, 2014, attached as Exhibit E. In making this incompatibility determination, the Airport further explained that Forward's gull control program may not be sufficient to protect aircraft once Forward's project is implemented.

The federal government has established standards to minimize impacts to aircraft from land uses like landfills that attract hazardous wildlife. These standards show that the draft Plan Update does not adequately protect from wildlife-aircraft collisions and would create a significant safety impact. As the Plan Update recognizes and as mentioned above, the FAA has issued Advisory Circulars regarding the risk of wildlife attractants, such as landfills, near airports. These publications state that landfills within five miles of a public-use airport are incompatible with safe airport operations, especially where the landfills increase the likelihood that wildlife will move into or across approach or departure airspace. *See, e.g.*, FAA Advisory Circular No. 150/5200-33B, Hazardous Wildlife Attractants on or Near Airports (2007) at 1-2, attached as Exhibit F. According to the FAA, in order to successfully claim that a waste-handling facility does not attract hazardous wildlife and does not threaten aviation, a project must establish convincingly that the facility will not handle putrescible material other than inside an enclosed transfer stations. *Id.* at 16. 9-6

Importantly, while Forward intends to expand its putrescible waste operations well within five miles of the Stockton Airport, the Plan Update does not appear to prohibit or otherwise restrict such activity. The Zone 7b standards that apply in 9-7

Forward's proposed expansion area only generically regulate "Hazards to flight," which is further defined in Footnote 6 of Table 3A. Plan Update 3-29. That footnote's prohibition of development that, like Forward, "may cause the attraction of birds to increase," appears to be limited only to "***new*** landfills that receive putrescible waste." *Id.* Footnote 6 also references the FAA Advisory Circular 150/5200-33B, but does not explain whether, or how the standards in that circular regulate new land uses near Stockton Airport. Thus, Footnote 6 requires revision to clarify that expanded landfills may also increase the presence of wildlife that create "Hazards to flight."

Clarifying this Footnote text is critical because "New or expanded landfills or waterways within Zones 7b and 8 that attract large flocks of birds could significantly increase the risk of a bird strike to aircraft in flight." Aviation System Consulting at 4. But as Mr. Gosling notes, Footnote 6 as written only "adds uncertainty to the Zone 7b regulations." *Id.* at 6. Unless the Footnote 6 language is modified both to recognize that *any* approval or modification of a landfill that may increase the attraction of birds can cause safety hazards, and to restrict such modification or approval, the Zone 7b standards in the Plan Update are notably weaker that the five-mile buffer recommended by the FAA. 9-7

The Zone 7b regulations also appear to be weaker than the Commission's currently adopted land use plan. That plan governs the same expansion areas of the Forward site through regulations for the "horizontal zone" and "conical zone." Excerpts of San Joaquin County Council of Governments, Airport Land Use Plan (1993), attached as Exhibit G, at p. 24. According to the 1993 plan, "proposed dumps, landfills and waterways" in the conical and horizontal zones "should be evaluated [by the Commission] to ensure that they will not present a bird hazard." *Id.* at 23. By its own terms, the requirement to evaluate landfill proposals to protect against potential bird hazards is not limited to new (as opposed to expanded) landfills. In contrast, it is not clear that the Plan Update's prohibition of "Hazards to flight" apply to landfill expansions in Zone 7b at all. Thus, this footnote "should be revised to clarify that the prohibited uses that create hazards to flight in Zone 7b . . . referred to in Note 6 include new or expanded landfills handling municipal or other putrescible waste." Aviation System Consulting at 6. Without such revision, when compared to the 1993 plan, the current language in the Plan Update further relaxes standards for intensified landfill uses near Stockton Airport.

Other sections of the Plan Update also have the potential to reduce airport land use regulations around Stockton Airport. For instance, Section 3.2.4.3 states that if the Commission does not review land use applications, including permits, for plan consistency within 30 days of their submission to the Commission, those applications will be "deemed consistent with the compatibility plan." Plan Update at 3-22 through 3- 9-8

23; *see also* Plan Update Section 3.5.2.1 (creating a similar standard for consideration of revised land use permits). In contrast, state law allows the Commission 60 days for consistency determinations and also establishes public processes before a permit application may be deemed consistent with a plan. *See, e.g.,* Pub. Util. Code § 21675.2. Section 3.2.4.3 is especially concerning because 30 days affords the Commission little time to review complex projects. Moreover, local permitting agencies may rely on the Commission's non-action to find that a project is consistent with the Plan Update even if that project is clearly inconsistent with the Plan Update's regulations. Thus, at most, the Commission's non-action should lead to no affirmative or negative consistency determination. Without modifying the Plan Update in this way, Section 3.2.4.3 creates an inappropriately weak standard in which projects that create significant safety hazards or are otherwise inconsistent with the Plan Update could be "deemed consistent" if the Commission fails to act quickly on a consistency request.

9-8

Ultimately, sections in the Plan Update that create default consistency determinations or otherwise weaken the land use regulations that currently govern the airport influence area around Stockton Airport could hasten approval of additional landfill development near the Airport, despite the foreseeable safety impacts that such development would create. Numerous courts have recognized that loosening development regulations in this manner can create secondary environmental impacts that require evaluation in an EIR, even if later development is not certain. *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 409, 412-13; *Christward Ministry v. Super. Ct.* (1986) 184 Cal.App.3d 180, 194–95; *City of Carmel-by-the-Sea*, 183 Cal.App.3d at 235, 240-41. Consequently, unless the Commission strengthens or clarifies the Zone 7b regulations to be at least as strong as FAA standards and the 1993 plan, there is a fair argument that the Plan Update will create a significant public safety impact.

IV. Conclusion

For all of these reasons, the Initial Study fails as an informational document in contravention of CEQA's mandates. The Plan Update must be revised to adequately protect against bird hazards from landfill expansions near Stockton Airport. In particular, Footnote 6 of Table 3A needs clarification and should be revised to explicitly prohibit new or expanded landfills that may cause the attraction of birds to increase. Without revising the Plan Update to strengthen its safety standards, an EIR is required before the Commission can approve this plan. If the Commission decides to proceed with the Initial Study, but modifies the Plan Update or adopts mitigation measures to lessen significant safety impacts, the Commission must, at the very least, recirculate the Initial Study for further public review and comment. Guidelines § 15073.5.

9-9

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

Edward T. Schexnayder

cc: Michael and Jeannie LaForge, Clean San Joaquin
Ian Turner, Stockton Airport Operations Supervisor

Exhibit List
A – Aviation System Consulting, LLC Report
B – Maps of Forward Landfill
C – Wildlife Hazard Assessment Report – Stockton Metropolitan Airport, August 2015
D – Excerpts of 2014 Forward Landfill Expansion, Draft Supplemental Environmental Impact Report
E – Letter from H. Mavrogenes, Airport Director to J. Funderburg, Principal Planner, San Joaquin County, January 22, 2014
F – FAA Advisory Circular No. 150/5200-33B, Hazardous Wildlife Attractants on or Near Airports (2007)
G – Excerpts of San Joaquin County Council of Governments, Airport Land Use Plan (1993)

9-10

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EXHIBIT A

Aviation System Consulting, LLC
805 Colusa Avenue
Berkeley, CA 94707-1838
Tel: (510) 528-8741

February 10 2016

Laurel L. Impett, AICP
Urban Planner
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, CA 94102-4421

RE: Stockton Metropolitan Airport - Airport Land Use Compatibility Plan Update

Dear Laurel,

I have reviewed the December 23, 2015 draft Airport Land Use Compatibility Plan (ALUCP) for Stockton Metropolitan Airport (SCK) with regard to the aspects requested. Specifically, you have requested that I review the draft ALUCP to ensure: (1) that it is consistent with the California Airport Land Use Handbook and applicable FAA regulations; and (2) that it is not less protective than the 1993 ALUCP in protecting public safety especially regarding the zones near, and the policies potentially affecting, the Forward Landfill. This letter transmits my findings, comments, and recommendations.

9-11

Comparison of Draft ALUCP to Safety Standards in the FAA Regulations and Guidance, and the California Airport Land Use Planning Handbook

The safety criteria and considerations described in the draft ALUCP generally conform to the safety standards and recommendations in the relevant Federal Aviation Administration (FAA) regulations and guidance, and in the California Airport Land Use Planning Handbook ("California ALUP Handbook"), with a number of exceptions or omissions, discussed below.

Safety and Compatibility Zones

The draft ALUCP applies the safety and compatibility zones defined in the California ALUP Handbook, with a number of modifications, as discussed below. The safety and compatibility zones associated with Runway 11L/29R are those for a "Long General Aviation Runway" defined in Exhibit A1 of the California ALUP Handbook, while those associated with Runway 11R/29L are generally those for a "Medium General Aviation Runway" defined in Exhibit A1 of the Handbook, with the modifications noted below.

9-12

The modifications are:

1. Definition of an Airport Property Zone (numbered as Zone 6) to encompass all areas of the airport property not included in Zones 1 to 5.
2. Renumbering the California ALUP Handbook Traffic Pattern Zone as Zone 7a.
3. The expansion of the Traffic Pattern Zone to include the area under the Conical Surface and the Approach Surface for Runway 29R as defined in the Code of

Federal Regulations (CFR) in 14 CFR Chapter 1 Part 77, as discussed further below . This additional zone is numbered Zone 7b.

9-12

4. An additional zone covering the area within the Airport Influence Area (AIA) outside the Traffic Pattern Zone. This additional zone is numbered Zone 8.
5. The outer edge of the inner portion of the Traffic Pattern Zone (Zone 7a) corresponds to the outer edge of the Federal Aviation Regulations (FAR) Part 77 Horizontal Surface, defined by arcs of 10,000 feet radius centered on the mid-point of the ends of the Primary Surface for Runway 11L/29R. The Traffic Pattern Zone for a Long General Aviation Runway defined in the California ALUP Handbook is defined by arcs of 6,000 feet radius centered in a point on the extended centerline of the runway 1,000 feet beyond the end of the runway.

9-13

6. The Runway Protection Zones for Runway 11R/29L shown on Exhibit 3A appear to have the dimensions defined for a Short General Aviation Runway in the California ALUP Handbook rather than a Medium General Aviation Runway. These dimensions correspond to the Runway Protection Zone dimensions for visual runways in the 1993 Airport Land Use Plan for San Joaquin County.

9-14

7. The zones shown on Exhibit 3A are missing the Sideline Safety zone on the southwest side of Runway 11R/29L. Also, the Inner Approach/Departure Zones for Runway 11R/29L do not extend back to the Primary Surface (and the Sideline Safety Zone), as shown in the California ALUP Handbook.

9-15

The maximum residential densities, non-residential intensities, and required open land specified for each zone generally conforms to the California ALUP Handbook guidance for suburban areas, although the maximum non-residential intensity specified for the Inner Turning and Outer Approach/Departure Zones (Zones 3 and 4) fall within the range identified in the Handbook for urban areas, while that for the Sideline Safety Zone (Zone 5) is slightly higher than the range identified in the Handbook for urban areas (160 persons per acre, compared to a range of 100-150 persons per acre). The maximum non-residential intensity specified for the Traffic Pattern Zone (450 person per acre) is higher than the range identified in the Handbook for suburban areas (200-300 persons per acre), but the Handbook specifies no limit for urban areas. The list of prohibited uses for each zone is more detailed than the land use restrictions identified for each zone in the California ALUP Handbook. In particular, the list of prohibited uses for each zone in the Handbook does not mention landfills (although these are addressed elsewhere in the Handbook). The list of prohibited uses for each zone generally follows the list of prohibited uses in 1993 Airport Land Use Plan (ALUP) for San Joaquin County, which is the most recent approved ALUP for SCK. However, the definitions of the geographical extent of the land use restriction zones were different in the 1993 ALUP from those in the draft ALUCP, although the names of some of the zones are the same. In some cases the list of prohibited uses for some safety and compatibility zones in the draft ALUCP differ from those in the 1993 ALUP for the equivalent zone, as discussed further in the section below on Policy and Mapping Changes from the Airport Land Use Plan for San Joaquin County Airports.

9-16

Implications for Forward Landfill

The Forward Landfill Property occupies a largely rectangular site between Newcastle Road and Austin Road to the southeast of SCK. The southwest corner of the property lies directly under the approach path to Runway 29R, although this quadrant of the property is in agricultural use and the landfill activities occur on the other three quadrants of the property to the east and north. The outer edge of the inner portion of the Traffic Pattern Zone (Zone 7a) cuts across the eastern two quadrants of the property, as shown in Exhibit 3A of the draft ALUCP, although the full extents of the property is not shown on that figure. The part of the property that lies beyond the outer edge of Zone 7a lies completely within the outer portion of the Traffic Pattern Zone (Zone 7b), mostly below the 14 CFR Part 77 Conical Surface, with small areas on the southern boundary below the Approach Surface to Runway 29R or the Transition Surface on the north edge of the Approach Surface, as shown in Exhibit 3D of the draft ALUCP. 9-17

Therefore future development of the landfill on the property will be subject to the restrictions imposed in the ALUCP for Zones 7a and 7b. The prohibited uses within Zone 7a shown in Table 3A of the draft ALUCP specifically include expansion of existing landfills, other than those consisting entirely of earth and rock. The prohibited uses within Zone 7b are less clear, as discussed below in the section on Aspects or Policies of the Draft ALUCP that May Require Strengthening or Clarification.

Policy and Mapping Changes From the 1993 Airport Land Use Plan for San Joaquin County Airports

The draft ALUCP extends the AIA further to the southeast to the limits of the Part 77 Approach Surface and Outer Transition Surface for Runway 26R compared to the 1993 Airport Land Use Plan (ALUP). This adds a considerable area to the AIA. There is no discussion in the draft ALUCP why the AIA was expanded in this way, although presumably it was done to allow ALUC review of proposed objects of a height that could penetrate the imaginary surface. Over this additional area, the height of the Approach Surface is more than 200 feet above the airport elevation, rising to about 1,200 feet above the airport elevation at the outer edge (the limit of the AIA). The 100 feet AGL height criterion for ALUC review of objects in this area is thus well below the Approach Surface. 9-18

The draft ALUCP also largely adopts the safety and compatibility zones defined in the California ALUP Handbook. In contrast, the 1993 ALUP based the definition of geographical subareas of the AIA (the term "safety and compatibility zones" was not used) in a combination of the runway protection zone defined by FAA airport design standards, FAR Part 77 imaginary surfaces, and noise contours.

For each of the geographical subareas, the 1993 ALUP identified land uses that would be permitted with conditions, such as complying with specified ALUP zone densities. The draft ALUCP only identifies prohibited uses. In some cases the list of prohibited uses in Table 3A of the draft ALUCP has become more restrictive than the lists of prohibited uses in the 1993 ALUP, as discussed in more detail in Attachment A. 9-19

There are also significant differences in the allowable dwelling units per acre and maximum non-residential density permitted in the various zones between the 1993 ALUP and the draft ALUCP. 9-20

There is limited discussion in the 1993 ALUP about hazardous wildlife attractants, apart from prohibiting dumps or landfills that do not entirely consist of earth and rock, or waterways that create a bird hazard, in the subareas defined with respect to airport property, runway protection zones, and approach and departure surfaces. Elsewhere within the area under the FAR Part 77 horizontal and conical surfaces and within the 60 dB Community Noise Equivalent Level noise contour but outside the subareas mentioned above, dumps, landfills, and waterways would be permitted if evaluation indicates that they would not present a bird hazard to aircraft. The draft ALUCP explicitly prohibits new or expansion of existing dumps or landfills, other than those consisting entirely of earth and rock, and waterways that create a bird hazard, in Zones 1 to 5 and Zone 7a, which represents an expansion of the area within which these uses are explicitly prohibited. However, these uses are not explicitly prohibited in the Airport Property Zone (Zone 6), the outer portion of the Traffic Pattern Zone (Zone 7b), the remainder of the AIA (Zone 8), although uses that create "hazards to flight" are prohibited in these areas. Note 6 to Table 3A of the draft ALUCP describes hazards to flight and states that "[l]and use development that may cause the attraction of birds to increase is … prohibited." 9-21

New or expanded landfills or waterways within Zones 7b and 8 that attract large flocks of birds could significantly increase the risk of a bird strike to aircraft in flight, as discussed in Section 3.3.3.5 (Other Flight Hazards) of the draft ALUCP and FAA Advisory Circular 150/5200-33B *Hazardous Wildlife Attractants On or Near Airports* referenced in that section, depending on the location of the landfill or waterway. However, there is no discussion in the draft ALUCP of what evaluation would be required by the ALUC to demonstrate that a proposed new or expanded dump or landfill or waterway within Zones 7b or 8 would not create an unacceptable hazard to flight. It is recommended that language be added to Note 6 to Table 3A and/or Section 3.3.3.5 (Other Flight Hazards) to clarify the need for such evaluation and the circumstances under which it would be required.

Aspects or Policies of the Draft ALUCP that May Require Strengthening or Clarification

The use of the California ALUP Handbook safety and compatibility zones in Sections 3.3.3.2 and 3.3.3.3 to define the height criteria for ALUC review of objects that could present an obstruction to air navigation or create a hazard to flight, while perhaps intending to simplify the application of the height criteria defined by the FAR Part 77 imaginary surfaces, obscures the logic behind the criteria and may result in many cases being referred to the ALUC for review unnecessarily. In addition, there are areas where the Part 77 surfaces are below the height criteria specified for the safety and compatibility zones, as discussed in more detail in Attachment A. The Handbook safety and compatibility zones are primarily intended to protect the safety of persons in the ground from aircraft accidents and to a lesser extent survivability of aircraft occupants in an accident, not to address airspace protection and hazards to flight. The latter are addressed primarily by Federal FAR Part 77 and other FAA standards and guidelines, which are based on a very different set of geographical zones. It is my recommendation that the Commission consider defining a different set of zones to establish height criteria for ALUC 9-22

review that could be better tailored to the FAR Part 77 imaginary surfaces and other airspace considerations. Since an object's height is a completely different issue from land use and development density, the existence of two different systems of zones for addressing these two different considerations should not unduly complicate deciding whether a proposed development or modification requires ALUC review and may simplify the decision. In any case, there is already a different system of zones, based on aircraft noise exposure contours, that is used for land use restrictions to address aircraft noise, so there is clearly a precedent for using an appropriate system of zones to address each specific issue. 9-22

Another aspect that could benefit from clarification or modification is the definition of Runway Protection Zones (RPZs). These zones are defined in both the California ALUP Handbook and the FAA airport design standards (Advisory Circular 150/5200-13A, change 1). However, while the dimensions of the RPZs shown in the figures in the California ALUP Handbook correspond to the FAA airport design standards for specific types of aircraft and approach visibility minimums, the FAA airport design standards specify a much larger range of possible dimensions, depending on the critical design aircraft using a runway, the approach visibility minimums, and whether the RPZ is for an approach or departure end of a runway. In addition, the location of the RPZ relative to the runway end varies in the FAA airport design standards in the case of displaced thresholds or other non-standard runway configurations, whereas the location of the RPZ shown in the figures in the California ALUP Handbook assumes that the threshold is at the runway end. The California ALUP Handbook recognizes that adjustments to the size and location of the RPZ may be necessary, particularly in cases of a displaced threshold, and provides guidance on factors to consider in making such adjustments. However, the draft ALUCP does not appear to have incorporated any such adjustments. 9-23

This is an important issue in the case of SCK, which not only has displaced thresholds at both ends of Runway 11L/29R, but has a major highway (State Route 99) traversing the defined RPZ location at the approach end of Runway 29R and a local arterial street (Arch Airport Road) traversing the defined RPZ location at the approach end of Runway 11L. Having these roads traverse the RPZ violates FAA safety criteria for an RPZ, which is partly why the runway thresholds have been displaced, although the displacement is not enough to bring the RPZs into compliance with FAA safety criteria. Nonetheless, it makes little sense to restrict land uses within a zone designated as a Runway Protection Zone using unadjusted California ALUP Handbook location criteria in order to conform to FAA requirements for land uses within an RPZ when the FAA design criteria for the RPZs place them in a different location.

A third issue where I recommend that you request additional clarification is the treatment of hazards created by wildlife attractants and consideration of proposed expansion of existing municipal solid waste landfills or other activities that may attract birds or other wildlife to the vicinity of the airport. The safety and compatibility zones shown on Exhibit 3A and the associated restrictions described in Table 3A distinguish between the portion of the Traffic Pattern Zone defined by the FAR Part 77 Horizontal Surface (Zone 7a) and that defined by the FAR Part 77 Conical Surface (Zone 7b). The only difference in safety criteria between these two sub-zones given in Table 3A is that Zone 7a specifically prohibits new or expansion of existing dumps or landfills, other than those consisting entirely of earth and rock, or waterways that create a bird hazard, while Zone 7b does not. However, both zones prohibit uses that create 9-24

"hazards to flight," which are discussed in Note 6 to the table. This states that "[l]and use development that may cause the attraction of birds to increase is also prohibited." The note goes on to mention a prohibition on ***new*** landfills that receive putrescible waste within six miles of certain airports that is contained in U.S. Code Title 49. The ALUCP should clarify how this prohibition on new landfills relates to other statements in Note 6 that discuss restricting conditions that increase wildlife hazards to flights. 9-24

The final sentence of Note 6 to Table 3A is grammatically incorrect and appears to be missing one or more words. The intended wording of this sentence should be clarified. This sentence references FAA Advisory Circular 150/5200-33B *Hazardous Wildlife Attractants On or Near Airports*. This Advisory Circular recommends separation distances between an airport's air operations area (AOA) and a hazardous wildlife attractant within which the attractant should be avoided, eliminated, or mitigated (shown in Figure 1 of the Advisory Circular, and also reproduced in the California ALUP Handbook). For airports serving turbine-powered aircraft, this states that hazardous wildlife attractants must be 10,000 feet from the nearest AOA. In the case of SCK, this dimension corresponds approximately to the outer edge of the FAR Part 77 Horizontal Surface as discussed above. However, the Advisory Circular also recommends a distance of 5 statute miles between the farthest edge of an airport's AOA and a hazardous wildlife attractant if the attractant could cause hazardous wildlife movement into or across the approach or departure airspace. As shown in the figures on pages B-4 to B-7 of Appendix B of the draft ALUCP, flight tracks of some aircraft using SCK pass directly over the Forward Landfill property, while (as noted above) the property lies adjacent to or under the FAR Part 77 Approach Surface to Runway 29R. The Advisory Circular notes (in Section 2-2) that municipal solid waste landfills are known to attract large numbers of hazardous wildlife, particularly birds. It is therefore likely that the birds attracted by Forward Landfill will move into or across the approach or departure airspace for SCK. Omitting mention of dumps and landfills from the prohibited uses in Zone 7b while retaining the prohibition on uses that create a hazard to flight adds uncertainty to the Zone 7b regulations. Given the proximity of the Forward Landfill property to the approach and departure flight paths of aircraft using Runway 29R or Runway 11L, the ALUCP should be revised to clarify that the prohibited uses that create hazards to flight in Zone 7b or elsewhere in the AIA (Zone 8) referred to in Note 6 include new or expanded landfills handling municipal or other putrescible waste. If such uses would be permitted upon showing of adequate mitigation of any hazard, the ALUCP should describe the standards for making such a hazard mitigation determination. 9-25

More generally, Section 3.1.6.3 of the draft ALUCP lists major land use actions for which ALUC review may be warranted. Specifically, Section 3.1.6.3(a)(11) addresses projects "having the potential to create electrical or visual or hazards to aircraft in flight" and Section 3.1.6.3(a)(12) addresses projects "having the potential to cause attraction of birds or other wildlife that can be hazardous to aircraft operations to be increased within the vicinity of an airport." While the ALUC is certainly in a position to address both types of projects if they are referred to it for review, that is a different issue from a local jurisdiction knowing whether a project should be referred in the first place. Given the vagueness or generality of the criteria specified in Section 3.1.6.3(a)(11) and Section 3.1.6.3(a)(12), as well as the geographical extent 9-26

of the AIA, additional clarification giving examples of the types of project that may be of concern and the geographical areas where such projects may create a hazard would be helpful. 9-26

Other Comments

In the course of reviewing the draft ALUCP I noticed a number of inconsistencies, typographic errors, or aspects where additional clarification would be helpful or modification may be appropriate, described in Attachment A. 9-27

Please let me know if you have any questions regarding the issues discussed in this letter or require additional clarification.

Sincerely,

Geoffrey D. Gosling
Principal

ATTACHMENT A

Other Inconsistencies, Typographic Errors, or Aspects that Could Benefit from Additional Clarification or Modification in the Draft ALUCP

Inconsistencies

1. Section 3.1.6.3(a)(9) refers to the Extended Approach/Departure Zone, which is elsewhere referred to as the Outer Approach/Departure Zone (the term Extended Approach/Departure Zone is not used anywhere else in the draft ALUCP). This subsection also defines proposals for new development having a height of more than 150 feet above ground level (AGL) in Sideline Safety or Traffic Pattern Zones as actions affecting land uses within compatibility zones. Elsewhere in the draft ALUCP (Section 3.3.3.2), the height limit for objects requiring ALUC review is specified as 35 feet AGL for Zone 5 (Sideline Safety Zone) and 100 feet AGL for Zone 7 (Traffic Pattern Zone). 9-28

2. The heights of objects requiring ALUC review specified in Sections 3.3.3.2 and 3.3.3.3 for Zones 3 and 6 do not agree with the heights requiring airspace review shown in Table 3A for these zones. 9-29

3. Sections 3.3.3.2 and 3.3.3.3 state that within Zones 3 (Inner Turning Zone) and 4 (Outer Approach/Departure Zone) ALUC review is required for objects taller than 70 feet AGL while generally there is no concern with objects up to 70 feet AGL unless it is located on high ground or is a solitary object more than 35 feet taller than other nearby objects. However, within Zone 6 (Airport Property) ALUC review is required for objects taller than 35 feet AGL and objects up to 35 feet AGL tall are acceptable. But the limits of the safety zones shown on Exhibit 3A show that the portions of the Inner Turning Zones extend over areas of the airport property, that should be classified as Zone 6 (more restrictive) rather than Zone 3. 9-30

4. Appendix A of the draft ALUCP states (page A-3):

   > As discussed in Chapter Two, due to the parallel runways at the airport, each runway has a single-sided traffic pattern (to the west for Runway 11R-29L and to the east for Runway 11L-29R). Therefore, based on Handbook guidance, it is reasonable to include the Inner Turning Zone only over the areas where these turns occur.

   However, the safety zones shown in Exhibit 3A show Inner Turning Zones on both sides of Runway 11L/29R. 9-31

Typographic Errors

1. Section 3.1.6.3(a)(12) (page 12 of Chapter Three) repeats "accordance with" and appears to be missing one or more words. 9-32

2. Section 3.3.1.1 (page 23 of Chapter Three) states:

   There are *six* safety zones defined for each airport … *(italics added)*

   There are eight. Also, "each airport" should say "the airport." 9-33

3. The labels for Zone 5 in both legends in Exhibit 3A omit "Safety" in the zone name. The label for Zone 8 in the legend for the left-hand panel in Exhibit 3A omits "Area" from "Airport Influence Area." 9-34

   Although Section 3.3.1.1 defines Zone 5 as the Sideline Safety Zone, the California Airport Land Use Planning Handbook uses the term Sideline Zone.

Aspects that Could Benefit from Additional Clarification or Modification

1. <u>Height Restrictions and Airspace Protection</u>

   The draft ALUCP Section 3.3.3.1 states that "[t]he criteria for limiting the height of structures, trees, and other objects in the vicinity of [the] airport shall be based upon: Part 77, Subpart C, of the CFR [Code of Federal Regulations]; the United States Standard for Terminal Instrument Procedures (TERPS); and applicable airport design standards published by the Federal Aviation Administration." Exhibit 3D shows the geographical extent (but not the heights) of the imaginary surfaces for civil airports defined by Section 77.19 of 14 CFR Chapter 1 Part 77 that apply to SCK. Appendix D of the draft ALUCP provides the text of the full CFR Part 77, which includes the heights and slopes of the surfaces, from which it is possible to infer the height of the imaginary surfaces for SCK at any point relative to the established elevation of the airport and the elevations of the runway ends. These elevations, however, are not given in the text of the draft ALUCP. The elevations of the runway ends are shown on the Airport Layout Plan included as Exhibit 2A, but not the established airport elevation. The size of Exhibit 2A is such that the elevations are hard to read and difficult to locate for anyone not familiar with reading Airport Layout Plans. It would be helpful for the ALUCP to include a table showing the dimensions of the imaginary surfaces and the elevations of their inner and outer limits. 9-35

   Although Section 3.3.3.1 refers to height limitations established by TERPS and FAA airport design standards, there is no further discussion of these in the draft ALUCP, other than mentioning in Section 3.3.3.3(a) that they may apply. It is therefore unclear whether these are more or less restrictive than the Federal Aviation Regulations (FAR) Part 77 imaginary surfaces, and if more restrictive, what they are. It would be helpful for the draft ALUCP to clarify whether, and in what way, these surfaces and height restrictions apply to SCK.

   Sections 3.3.3.2 and 3.3.3.3 of the draft ALUCP specify heights of objects within the defined safety and compatibility zones that require ALUC review. Generally these heights are more limiting than the heights defined by the Part 77 imaginary surfaces. However, for the Part 77 Approach Surface to Runway 29R, which is wider than the

Inner Approach/Departure Zone, there is a small trapezoidal area on either side of the Inner Approach/Departure Zone (Zone 2) beyond the end of the Runway Protection Zone (Zone 1) and within the Inner Turning Zones (Zone 3) where the Part 77 Approach Surface is below the 70 feet AGL height criterion for the Inner Turning Zones. Further out, there are irregularly shaped areas on either side of the Inner Approach/Departure Zone beyond the end of the Inner Turning Zones (and outside the Outer Approach/ Departure Zone for Runway 29L) and within the Traffic Pattern Zone (Zone 7a) where the Part 77 Approach Surface is below the 100 feet AGL height criterion for the Traffic Pattern Zone. 9-35

Although the likelihood of an object being proposed within these areas that meets the height criteria defined for the safety and compatibility zones but penetrates the Part 77 Approach Surface is quite small, it may be worth defining trapezoidal height restriction zones on either side of the Inner Approach/Departure Zone extending out to the edge of the Part 77 Approach Surface with a height limit of 50 feet (the height of the Part 77 surface at the outer edge of the Runway Protection Zone).

Similarly, it should be noted that there are areas of airport property (normally Zone 6, where the height criterion requiring ALUC review according to Section 3.3.3.2 of the draft ALUCP is 35 feet AGL), that underlie parts of the Inner Turning Zones for Runway 11R/29L, where the height criterion requiring review according to Section 3.3.3.2 is 70 feet AGL. If the height criterion for ALUC review for Zone 6 is more stringent than for Zone 3, it may be worth showing those areas as Zone 6 rather than Zone 3.

2. Prohibited Uses

In some cases the prohibited uses for particular safety and compatibility zones listed in Table 3A of the draft ALUCP have become more restrictive than the lists of prohibited uses in the 1993 ALUP. For example, for the Inner Approach and Climbout Area in the 1993 ALUP, which corresponds approximately to the Inner Approach/Departure Zone (Zone 2) in the draft ALUCP, manufacturing and industrial uses that comply with specified zone densities were permitted with the exception of four specific manufacturing and industrial uses that were prohibited. The list of prohibited uses in Zone 2 in the draft ALUCP includes three of these four uses, but also "manufacturing and industrial uses" as a specific category It appears that uses that were included in the list of prohibited uses in the 1993 ALUP as general headings to group more specific uses (in some cases with a note "except those mentioned in permitted uses") were included in the list of prohibited uses in the draft ALUCP as specifically prohibited uses. Whether this reflects an intentional broadening of the prohibited uses or simply poor formatting of the list of prohibited uses in Table 3A is unclear. The inclusion of very broad categories of uses (e.g. "businesses and personal services" and "public and quasi-public services") that had been general headings to group more specific uses in the list of prohibited uses in the 1993 ALUP as specifically prohibited uses in Table 3A of the draft ALUCP suggests that this may have been an unintentional effect of the formatting of the list of prohibited uses in Table 3A. 9-36

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Geoffrey D. Gosling, Ph.D.

Principal
Aviation System Consulting, LLC
Berkeley, California

Geoffrey Gosling is an independent consultant providing aviation system planning, analysis and research expertise on a broad range of air transportation topics. From 1987 to March 2002 he was a member of the research staff of the Institute of Transportation Studies at the University of California, Berkeley, responsible for the management and conduct of research into air traffic control, airport planning, aviation technology, and airport operations. From 1996 to 2002 he managed a wide range of projects for the National Center of Excellence for Aviation Operations Research addressing aviation safety and security, airport policies to influence airline fleet mix, air traffic simulation models, measuring aviation system performance, and forecasting requirements for aviation system planning. In addition to his independent consulting practice, from 2003 to 2012 he served as a Research Associate with the Mineta Transportation Institute at San José State University and since December 2010 he has held a variable part-time position as a Principal Consultant with ICF International.

From 1979 to 1987 he was an Assistant Professor in the Civil Engineering Department at the University of California at Berkeley, responsible for teaching undergraduate courses in transportation planning and graduate courses in air transportation, airport planning, project feasibility evaluation, and computer applications. Since 1987 he has been responsible for organizing University of California Extension courses on Airport Systems Planning and Design, Airport Management, Civil Aviation Security and Airport Ground Transportation, including giving lectures on such topics as airport system planning, air traffic forecasting, airfield planning and design, airspace analysis, and airport access.

Dr. Gosling has a B.Sc. in civil engineering from the University of Birmingham and an M.S., M.Eng. and Ph.D. in transportation engineering from the University of California at Berkeley. He is a Member of both the British Institution of Civil Engineers and the American Society of Civil Engineers. He has served on several air transportation committees of the American Society of Civil Engineers and the Transportation Research Board (TRB) of the National Academies and from 1998 to 2004 served as chairman of the TRB Committee on Aviation System Planning. He was appointed an Emeritus Member of the TRB in 2007 and currently represents the TRB Aviation Group on the TRB Special Task Force on Data for Decisions and Performance Measures. From 2000 to 2006 he served as co-chair of the Working Group on Analytical Methods and Tools of the Global Aviation Information Network, a government/industry partnership organized by the Federal Aviation Administration to improve aviation safety through the voluntary collection and sharing of safety information.

He has served as a consultant and expert witness in the areas of airport planning, aviation system planning, and airline economics to a variety of clients, including the Port Authority of New York and New Jersey, the Metropolitan Washington Airports Authority, San Francisco International Airport, the RAND Corporation, the State of California, the Federal Aviation Administration, the Government of Canada, and the Inter American Development Bank. He has performed technical assistance missions to Brazil and Singapore for the International Civil Aviation Organization, and served as a member of an Independent Panel that reviewed the potential future contribution of air traffic management technology to the capacity of San Francisco International Airport.

Recent consulting projects have included technical support to the Metropolitan Transportation Commission (San Francisco Bay Area) on the planning and conduct of the 2006 MTC Airline Passenger Forecast, an update to the Regional Airport System Plan Analysis for the San Francisco Bay Area (as a member of the consultant team led by ICF SH&E), aviation technical support to the Southern California Association of Governments on the 2012-2035 Regional Transportation Plan/Sustainable Communities Strategy, development of a regional general aviation forecast for the Southern California Association of Governments, and analysis of airline data in the California Corridor in support of work by Cambridge Systematics for the California High-Speed Rail Authority.

Recent research projects have included two studies for the Mineta Transportation Institute at San José State University, one on *Applying Smart Growth Principles and Strategies to Resolving Land Use Conflicts Around Airports* and one on *Collaborative Funding to Facilitate Airport Ground Access*. From 2004 to 2013 he played a major role on a multi-phase research project by the Partners for Advanced Transportation Technology (PATH) program at the University of California at Berkeley to develop an Intermodal Airport Ground Access Planning Tool for the California Department of Transportation. He has also served on the research team for several projects for the Transportation Research Board Airport Cooperative Research Program (ACRP), including preparing a synthesis study on *Airport Ground Access Mode Choice Models*, a research study on *Enhancing Airport Land Use Compatibility*, and preparation of a *Guidebook for Conducting Airport User Surveys*. He subsequently served as part of the research team for two recently completed ACRP projects, one on *Passenger Value of Time, Benefit-Cost Analysis and Airport Capital Investment Decisions* and one on *The Role of U.S. Airports in the National Economy*. He is currently part of the research team on an ongoing project that is exploring the use of disaggregated socioeconomic data in air passenger demand studies. He has also served as the chair of the project panel for a recently completed ACRP project on integrating aviation and passenger rail planning.

Dr. Gosling has published over 150 technical reports, journal papers, and other articles in various areas of transportation, including airport planning, airport ground access, air traffic demand analysis, air traffic control, aviation system performance measures, and the use of aviation safety data. He is the co-author of *Strategic Airport Planning*, published by Elsevier in 1999.

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From: RJ Tutt Aviation [mailto:rjtuttaviation@comcast.net]
Sent: Sunday, February 14, 2016 5:01 PM
To: ANDREW WILSON III; Corl Leach (president@calpilots.org); Corl Leach (corl.leach@calpilots.org)
Cc: Rick Tutt / RJ Tutt Aviation (rjtuttaviation@comcast.net); Harry S. Mavrongenes (hmavrogenes@sjgov.org); Ronald Elliott (relliott@sjgov.org); Michael Thomas Rishwain (michaelt1000@sbcglobal.net)
Subject: Forward, Inc. / Republic Services - Stockton Metropolitan Airport

Mr. Wilson / Mr. Leach...

I'm writing to advise of my recent tour of the land fill near Stockton Metropolitan Airport (KSCK) operated by Forward, Inc. and owned by Republic Services.

I've been asked by Ron Scatena for more than one year to drive out and look at the facility. I was not resisting his invitation, I simply needed to coordinate schedules to do so.

I was able to see the entire facility, the ingress & egress of trucks, the dumping process and the field operation of distributing the refuse within a defined 'work area'.

This area was confined to approximately a one acre at a time spot and is completely covered at the end of each day, then reopened the next work day to continue.

10-1

I did not see any scavenger birds of any species and was provided a demonstration of their bird mitigation techniques using falcon birds to run off other birds.

The only birds I saw at the site were 'red tail' hawks working the immediate area. I see hawks in the traffic pattern at Livermore (KLVK) where I fly two days a week. I've also seen hawks on the approach to the other end of Stockton Metropolitan; runways 11L & 11R.

In the future, Forward will make application to continue their future efforts at that site. This is economic reality. This is big business and has existed for over 50 years at that location. It's not going away!

Mr. Scatena, their Municipal Services Manager, and Mr. Basso, their General Manager assure me they have no plans to 'expand' the facility. They did outline where they intent to 'infill' between the original site and a site they purchased from the City of Stockton some 15+ years ago.

This will provide Forward, Inc. with about 15-18 years of work before an expansion effort would have to be approved, then implemented on their part.

I feel 'infill' of that site will not have any adverse effect on the operation of the Stockton Metropolitan Airport and will not encroach on the 'glide slope/glide path' to KSCK Runway 29R. The infill is actually further North of that flight path.

I'm sure you are familiar that I operate out of KSCK two to three days a week and have since 1996.

I own and manage aircraft. I am vitally concerned with the safety of the flight crew, the passengers onboard and the overall safety of those flights. I no more want to hit a bird than any other aviator nor do I want a bird attractant that would increase that likelihood.

I want to emphasize this is not an 'expansion' effort. I've been assured on their part this was not a staged visit, nor is it a means to bypass the aviation communities' input in the process. This was their everyday operating practices. 10-1

I go on the record to say I approve of their 'infill' efforts. Anything beyond that I'd like to review those plans.

I strongly suggest you find the time to look at this facility yourselves.

We once discussed the 'co-generation' plant and the 'plume' that might be a concern. I believe you will find that a 'non' issue in this case.

Thank you for all you do and your continued work for the California Pilots Association and aviation groups in general!

I suspect Mr. Basso and Mr. Scatena can take it from here.

They have been copied to this message.

Rick Tutt
RJ Tutt Aviation
Stockton Metropolitan Airport
PO Box 691616
Stockton, CA 95269-1616
209.478.6075 phone/fax
rjtuttaviation@comcast.net
www.rjtuttaviation.com

https://www.linkedin.com/pub/rick-tutt/b/884/35

SHUTE, MIHALY & WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

EDWARD T. SCHEXNAYDER
Attorney
schexnayder@smwlaw.com

Letter 11

April 8, 2016

Via E-Mail and U.S. Mail

Kim Anderson
Senior Regional Planner
San Joaquin Council of Governments
555 E. Weber Avenue
Stockton, CA 95202
E-Mail: anderson@sjcog.org

Re: Forward Landfill Comments on Stockton Airport ALUCP

Dear Ms. Anderson:

On behalf of Clean San Joaquin, we are writing to respond to comments on the proposed update to the Airport Land Use Compatibility Plan for Stockton Metropolitan Airport ("Plan Update") that were submitted by Forward Landfill on February 11, 2016 ("Comments"). The San Joaquin Airport Land Use Commission is considering the Plan Update to replace the 1993 Airport Land Use Compatibility Plan that previously applied to land uses in the Stockton Metropolitan Airport's area of influence ("1993 Plan").

As you know, Clean San Joaquin has long been concerned with the numerous environmental and safety impacts from Forward Landfill's operations and proposed expansions. One of the most serious impacts associated with expansion of this landfill is the significant threat to public safety that would result from intensifying landfill operations near Stockton Metropolitan Airport. As is well-documented and as the Plan Update recognizes, landfill operations like Forward's can "attract birds or other wildlife that can be hazardous to aircraft operations" in the vicinity of airports. Plan Update at 3-12, 3-41.

11-1

Notably, the Plan Update responds to key changes in baseline conditions near Stockton Metropolitan Airport that have occurred since the 1993 Plan was adopted. Critical among these changes is the lengthening of Stockton Metropolitan Airport's Runway 11L-29R to 10,650 feet. *Id* at 2-2. The Plan Update establishes safety zones in

areas surrounding Runway 11L-29R, which contain land use compatibility criteria aimed at protecting public safety near the airport. *See id.* at 3-23 through 3-31. In particular, the Zone 7a regulations cover portions of the Forward Landfill property and prohibit "[n]ew or expansion of existing dumps or landfills, other than those consisting entirely of earth & rock" in order to protect against wildlife-related safety hazards. *Id.* at 3-28 through 3-29.

Forward's comments attack the land use restrictions in this safety zone, but fail to acknowledge the significant public safety hazard created by Forward's landfill and the fundamental purpose of airport land use planning—to reduce unsafe and incompatible land uses near airports in California. Instead, Forward's comments contain numerous misstatements of fact and law that are aimed at weakening regulations intended to protect the public from wildlife hazards like those created by Forward Landfill. As discussed further below, the Airport Land Use Commission should disregard Forward's unsupportable comments. Instead, the Commission should ensure that the Plan Update is crafted to reduce the significant safety hazards associated with bird strikes on aircraft arriving at and departing from Stockton Metropolitan Airport.

I. Land Use Restrictions in the 1993 ALUP Applied to Forward's Expansion Plans.

As an initial matter, Forward contends that the preexisting ALUP regulations for Stockton Metropolitan Airport applied only to construction of new landfills rather than expansion of existing landfills. *See* Comments at 2. This argument has no basis in the text of the 1993 Plan, or the Commission's implementation of that plan. The 1993 Plan expressly prohibits increased landfill operations in the outer approach zone, which covers a portion of Forward's property: "Dumps or landfills, other than those consisting entirely of rock, are not permitted." 1993 Plan at 20. The 1993 Plan further requires landfill proposals for the remainder of Forward's property to "be evaluated to ensure that they will not present a bird hazard to aircraft." *Id.* at 23. Contrary to Forward's claim, the 1993 Plan explicitly states that these land use restrictions apply both to new land uses and "additions and/or other modifications to existing land uses and facilities," like Forward's proposed landfill expansion. *Id.* at 2.

11-1

Indeed, in 2010, the Commission considered Forward's proposal to expand its operations in the outer approach zone for Stockton Metropolitan Airport. At that time, the Commission determined that the proposed expansion was inconsistent with the 1993 Plan's regulations. *See* Letter from D. Cowell, San Joaquin Council of Governments to J. Funderburg, San Joaquin County Community Development, dated February 18, 2010, attached as Exhibit A. As this letter demonstrates, there is no basis for Forward's claim

that the 1993 Plan's land use regulations do not apply to landfill expansions on Forward's property.

II. Forward's Claim that the Plan Update Would Be Inconsistent with County Land Use Designations Has No Basis in State Planning and Zoning Law.

Forward incorrectly suggests that the regulations contained within the Plan Update would create improper "inconsistencies" with the San Joaquin County General Plan and other land use regulations. This comment ignores the land-use hierarchy established by California's Planning and Zoning Law for areas governed by airport land use plans. In such areas, local agencies must ensure that applicable general plans and other land use plans are consistent with any airport land use plan "adopted *or amended* pursuant to [the State Aeronautics Act]." Government Code § 65302.3(a) (emphasis added). State law sets forth the process for local agencies to revise their land use plans as necessary to conform to an amended airport land use plan. *Id.* § 65302.3(b). As the Supreme Court has observed, the effect of this statutory hierarchy is that an airport land use plan "operate[s] 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 Co. v. Solano County Airport Land Use Com.* (2007) 41 Cal.4th 372, 385-86. In consequence, the Plan Update would not create an improper inconsistency with other local land use regulations. Instead, state law ensures that the County and other local agencies can revise their land use regulations to maintain consistency between those regulations and the Plan Update. 11-1

III. Applying the Plan Update's Zone 7a Regulations to Forward's Property Does Not Create a Significant Environmental Impact.

Dissatisfied with the Zone 7a regulations that are proposed to protect public safety, Forward contends that the Commission cannot adopt the Plan Update without additional environmental review of prohibiting landfill expansions near Stockton Metropolitan Airport. None of Forward's arguments are valid.

First, Forward wrongly contends that environmental analysis is required to evaluate the purported land use inconsistency between the Plan Update and the County General Plan and zoning even though, as discussed above, no such inconsistency exists. Even if Forward could point to a land use inconsistency created by the Plan Update, that alone is insufficient to require further evaluation under CEQA. Appendix G to the CEQA Guidelines clarifies that environmental review should consider whether a project conflicts "with an applicable land use plan . . . *adopted for the purpose of avoiding or mitigating an environmental effect*." CEQA Guidelines, Appendix G, § X(b); *see also Pocket*

Protectors v. City of Sacramento (2004) 124 Cal.App.4th 903, 929. While Forward argues that the County's existing General Plan and zoning do not prohibit Forward's expansion proposal, it points to no evidence that these land use designations were adopted to avoid or mitigate an environmental impact. *See* Comments at 5. Indeed, it is highly unlikely that such evidence exists because numerous environmental impacts accompany landfill operations like Forward's. Consequently, CEQA does not require an analysis of the asserted "inconsistency" between the Plan Update and County land use designations.

Second, Forward hypothesizes that restricting expansion of its landfill will create secondary impacts by necessitating landfill expansions in other "more rural parts of the County." Comments at 5-6. Forward's argument is pure speculation and lacks any evidence of where alternative landfill expansions might occur (if they would occur at all), much less what site-specific environmental impacts would accompany expansions at alternative sites. *See* CEQA Guidelines § 15064(f)(5) ("Argument, speculation, unsubstantiated opinion or narrative . . . shall not constitute substantial evidence."). Even if Forward had evidence of such impacts, it is unlikely that it could show that other landfill expansions would yield environmental impacts that are as numerous and as severe as those associated with Forward's proposed expansion. Indeed, the current Forward Landfill site is plagued by groundwater contamination and airport safety hazards, impacts to adjacent farmland from fugitive dust, vectors and litter contamination of crops, and burdens on nearby sensitive receptors from fugitive dust, odors and flies. Prohibiting landfill expansions on Forward's property would avoid these significant environmental impacts. Consequently, no substantial evidence supports the argument that the Zone 7a restrictions would yield secondary environmental impacts by limiting Forward's expansion proposals. Guidelines CEQA § 15064(a), (f). 11-1

Forward makes additional claims that further environmental review is required before the Zone 7a restrictions can be applied to its landfill. *See* Comments at 5. These claims are even more far-fetched:

Environmental Analysis of Runway Expansion – Forward suggests that the Commission should conduct environmental analysis of the extension of Runway 11L-29R, *which occurred in 2002*. As the owner of Stockton Metropolitan Airport, the County (not the Commission) is the lead agency responsible for CEQA review of projects at the airport. CEQA Guidelines § 15051. Moreover, the time for environmental analysis of the runway extension was roughly 15 years ago when that extension was approved, not now. *See* CEQA Guidelines § 15004(a) (environmental review must occur "[b]efore granting any approval of a project subject to CEQA"). The time for challenging the adequacy of that CEQA analysis has long since passed. *See* CEQA § 21167 (challenges to any

agency's compliance with CEQA must occur within 30 to 180 days after the agency's decision to carry out or approve a project).

Impact to Forward – Forward asserts that its landfill is "an important public service facility" that will be impacted by land use restrictions contained in the Zone 7a regulations. This is not a valid CEQA claim. CEQA requires analysis of physical changes to the environment that a project will create, not abstract social or economic effects. CEQA Guidelines § 15131(a); *see also* Appendix G, § XIV(a) (the applicable standard is whether a project would "result in substantial adverse physical impacts" associated with public service facilities). Because the Zone 7a restrictions affect Forward's expansion plans and not the existing physical conditions at the Forward site, they do not create a cognizable CEQA impact.

Alternatives to Zone 7a Restrictions – Forward argues that the Commission must evaluate feasible alternatives to the public safety restrictions in the Plan Update. But CEQA instructs that "the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening *any significant effects of the project* . . . ." CEQA Guidelines § 15126.6(b) (emphasis added). Forward has not demonstrated that the Zone 7a regulations will create a significant environmental impact that requires an alternatives evaluation.

11-1

IV. Restricting Landfill Operations in the Vicinity of Stockton Metropolitan Airport Would Not "Take" Forward's Property.

Forward's last-ditch strategy to weaken the Zone 7a regulations is to baldly claim that such regulations would somehow "take" Forward's property without just compensation. Comments at 6. This argument completely ignores that San Joaquin County, not the Commission, is the agency that ultimately decides whether to issue Forward a use permit for any landfill expansion. The Plan Update's land use restrictions do not fully eliminate Forward's ability to obtain an expansion permit. Instead, upon a two-thirds vote of the Board of Supervisors, the County can "override" an inconsistency between Forward's permit proposal and regulations in the Plan Update. *See* Gov. Code § 21675(a). With a permitting path available even after approval of the Plan Update, Forward cannot show that the plan has taken Forward's property interest.

Moreover, even if the Commission could entirely preclude Forward from obtaining a new use permit, Forward would not have a viable takings claim unless it could show that Plan Update eliminated virtually all economic use of its property. Courts have repeatedly rejected regulatory takings challenges to agency decisions, even where those decisions substantially reduce a property's value. *See Concrete Pipe and Products*

of California, Inc. v. Construction Laborers Pension Trust for Southern California (1993) 508 U.S. 602, 645 (noting under the first Penn Central prong that a 90% diminution in value might not amount to a taking); *Cormier v. County of San Luis Obispo*, 161 Cal.App.3d 850, 859 (1984) (75% or more diminution in value due to downzoning not a taking); *William C. Haas & Co. v. City and County of San Francisco* (9th Cir. 1979) 605 F.2d 1117 (reduction in value from $2 million to $100,000 was not a taking, even though owner could not recover initial $2 million investment). Forward, which continues to operate its landfill for profit, cannot come close to meeting the standard for showing a regulatory taking.

11-1

V. Conclusion

For all of these reasons, the Commission should disregard Forward's unsupportable legal arguments. As discussed in our February 11, 2016 letter regarding the Commission's Initial Study and draft Plan Update, Clean San Joaquin remains concerned that the current draft plan is insufficiently clear and will create foreseeable and significant public safety impacts. Accordingly, the Plan Update should be revised to ensure that it is more protective of public safety, not less so.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

Edward T. Schexnayder
Laurel L. Impett, AICP, Urban Planner

Attachment

cc: Michael and Jeannie LaForge, Clean San Joaquin

773208.4

EXHIBIT A

SAN JOAQUIN COUNCIL OF GOVERNMENTS

555 E. Weber Avenue • Stockton, California 95202

***209.468.3913** • 209.468.1084 (fax)*
www.sjcog.org

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ESCALON,
LATHROP,
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STOCKTON,
TRACY,
AND
THE COUNTY OF
SAN JOAQUIN

February 17, 2010

Mr. John Funderburg
San Joaquin County Community Development
1810 East Hazelton Ave.
Stockton, CA 95205

RE: ALUC REVIEW
FORWARD LANDFILL EXPANSION; PA-0800105ER

Dear Mr. Funderburg:

On behalf of the San Joaquin County Airport Land Use Commission (ALUC), I would like to thank the County for providing our agency with opportunity to comment on the proposed Forward Landfill expansion. The project is located within the Airport Influence Area for the Stockton Metropolitan Airport (SMA), and pursuant to the State Aeronautics Act (Public Utilities Code Section 21676), the project is subject to a Consistency Determination by the San Joaquin County ALUC.

This comment letter is comprised of two components, 1) Land Use Consistency Review; and, 2) Comments on the Draft Environmental Impact Report (DEIR).

CONSISTENCY REVIEW

ALUC staff has reviewed the project information for the proposed Forward Landfill Expansion Project with a request for comments from the ALUC by March 16, 2010. The project site is located south and west of the currently permitted landfill on a 184 acre parcel (APN 201-060-04). In April of 2008, the ALUC reviewed the initial project referral provided comments to County staff. As a reminder to County staff, a comprehensive update to the 1993 Airport Land Use Plan (ALUCP) was completed for the county's public use airports last year. The updated ALUCP was adopted on June 25, 2009 but did not include the SMA. This exclusion was due to unforeseen delays in the completion of the airport's Master Plan Update and, therefore, all projects within Stockton's influence area are subject to the policies and criteria within the 1993 ALUCP, not the 2009 ALUCP.

While the 2009 update did not include the SMA, a detailed GIS data layer for Stockton's existing zones was created. This product has enabled ALUC staff to perform a much more technical evaluation of the project site and its exact positioning relative to the airport/land use compatibility zones with the recently submitted project information.

Within the 1993 ALUCP, SMA's Area of Influence is divided into nine subareas. In each subarea, different land use standards, conditions, and restrictions apply. As shown on Exhibit A, the great majority of the site is located within the Outer Approach Zone. The following excerpt is taken from the list of prohibited uses outlined on page twenty-one of the 1993ALUCP pertaining to the Outer Approach Zone:

> *"Dumps or landfills other than those consisting entirely of earth and rock, are not permitted, as well as waterways which create a bird hazard (retention basins, artificial lakes, ponds, etc.)."*

Therefore, the land uses proposed for the Forward Landfill Expansion project, San Joaquin County EIR File # PA-00800105, are not consistent with the land uses adopted within the 1993 Airport Land Use Plan for Stockton Metropolitan Airport.

The following discussion summarizes the ALUC Overrule Process and has been included here at the request of County staff at a meeting with ALUC staff on February 9, 2010:

Various sections of the ALUC statutes provide for local agencies to overrule the ALUC decisions on land use matters. In general, the overruling process involves three mandatory steps:

I. The holding of a public hearing;

II. The making of specific findings that the action proposed is consistent with the purposes of the ALUC statute (see Substance of Findings below); and

III. Approval of the proposed action by a two-thirds vote of the agency's governing body.

Substance of Findings:

PUC Section 21670(a) indicates that five separate purposes for the legislation are:

- "...to provide for the orderly development of each public use airport in this state..."
- "...to provide for the orderly development of...the area surrounding these airports so as to promote the overall goals and

objectives of the California airport noise standards..."

- "...to provide for the orderly development of...the area surrounding these airports so as...to prevent the creation of new noise and safety problems."
- "...to protect the public health, safety, and welfare by ensuring the orderly expansion of airports..."
- "...to protect the public health, safety, and welfare by...the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses."

The purpose of the findings is to assure compliance with state law. A complete discussion of this process and the substance of findings can be found in the California Department of Transportation, Division of Aeronautics *2002 California Airport Land Use Planning Handbook*, Chapter 5 and the California Public Utilities Code, Section 21670. Although findings do not need to address each of these purposes point by point, it is essential that, collectively, all of the purposes be addressed.

DEIR COMMENTS

ALUC staff comments are as follows:

Concern #1

Background
CEQA Guidelines Section 15154 (a) and Public Resource Code, Section 21096, state the following:

When a lead agency prepares an EIR for a project within the boundaries of a comprehensive airport land use plan or, if a comprehensive airport land use plan has not been adopted for a project within two nautical miles of a public airport or public use airport, the agency shall utilize the Airport Land Use Planning Handbook published by Caltrans' Division of Aeronautics to assist in the preparation of the EIR relative to potential airport-related safety hazards and noise problems.

The project site falls within the boundaries of a comprehensive airport land use plan. In 2009, the ALUC adopted an update to the 1993Airport Land Use Plan. At the time that the update began in 2008, Stockton Metropolitan Airport was concurrently processing an update to the airport's Master Plan document. Unforeseen delays with the Master Plan's schedule caused the SMA to not be included within the 2009ALUCP. Therefore, all projects within SMA's area of influence are reviewed per the 1993 ALUCP. As mandated by the State Aeronautics Act, Section 21674.7, both the 1993 and 2009 ALUCPs were prepared using the guidelines and technical analysis contained within the *Airport Land Use Planning Handbook.*

Comment
The DEIR does not make mention of either of the State Planning Handbook or the 1993 ALUCP for San Joaquin County or the compatible land use zones that have been adopted. As noted in the consistency determination at the beginning of this letter, the site falls within the Outer Approach Zone of the Stockton Metropolitan Airport (Exhibit A). The proposed landfill operation is a prohibited use within this zone.

Concern #2

Background
For this project and the direct relation to ALUC authority, there are two relevant significance thresholds within the 2009 CEQA Guidelines:

1. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

2. Would the project conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect?

Comment
The ALUC considers the project to be a potentially significant impact as it relates to both of the above listed thresholds. Due to the DEIR's exclusion of the adopted Airport Land Use Plan and any analysis associated with the plan's policies and/or compatibility criteria, the ALUC is unable to determine the severity of the impact.

Concern #3

Background
The California Airport Land use Planning Handbook, Section 9-55, defines three basic categories considered as hazards to flights.

- Obstructions to the airspace required for flight to, from and around an airport;
- Wildlife hazards, particularly bird strikes; and
- Other forms of interference with safe flight, navigation, or communication.

The Federal Aviation Administration (FAA) is directly responsible for the protection of navigable airspace, which, for this project, is the hazard associated with bird strikes. The principle concern of the ALUC is with regard to the land use that is proposed and its potential effect to attract birds and other wildlife hazardous to aircraft operations, thus impacting FAA's navigable airspace.

With regard to bird strike hazards, the FAA specifically considers landfills to be incompatible land uses and guidelines set forth throughout FAA documents on this matter specify that no use of land or water anywhere within the boundaries encompassed by FAR Part 77 should be allowed if it could endanger or interfere with the landing, takeoff, or maneuvering of an aircraft.

The risk of bird strikes is most serious along the corridors required for takeoff and landings and the FAA strongly recommends that such uses be kept at least 10,000 feet from any runway used by turbine-powered aircraft.

Comment
The landfill expansion falls within the airport's Outer Approach Zone, which is less than 10,000 feet from SMA's runway and within the boundaries encompassed by FAR Part 77 (Exhibit B).

Concern #4

Background
The DEIR states that due to the final grades proposed being located outside of the FAA defined imaginary surface, the expansion would not have a significant safety effect on the airport's imaginary surface.

FAA Advisory Circular No: 150/5200-33B Hazardous Wildlife Attractants on or Near Airports gives direction for FAA notification and review practices within the vicinity of public-use airports. The DEIR states that, as part of the mitigation, the FAA will be notified and that the requirements of this Advisory Circular will be complied with.

Comments
This FAA defined imaginary surface should be clearly defined within the DEIR and its relevance to airspace hazard fully analyzed. Part 77 of the Federal Aviation Regulations (FAR) establishes standards for determining obstructions to navigable airspace and the effects of such obstructions on the safe use of airspace. While it is true that the project is not proposing any objects that would exceed the height guidelines with this imaginary surface, this height threshold is not related to the potentially significant impact associated with bird strike hazards.

It is unclear as to whether the project proponent has had any formal contact with the FAA. If so, the FAA Determination should be included as part of the supporting analysis for Impact A.3. If not, the mitigation proposed that the FAA will be notified is only deferring the FAA Determination and not addressing the actual impact.

Concern #5

Background
The DEIR infers that the project could create an increased bird-strike hazard to aircraft. It also states that the proposed mitigations would reduce the impact to a less than significant impact but the significance threshold used for this determination is not stated. The paragraph of discussion located on Page IV.A-1 of the DEIR gives a general discussion of the history of birdstrikes at the airport.

Comment
While the historic information on the frequency of bird-strikes is necessary for a baseline, there is not an adequate analysis or statistical forecasting of the landfill's potential to attract birds. This, coupled with the lack of a significance threshold, does not allow for the mitigating effects of the measures proposed in Section IV.A-17 to be determined.

Thank you again for the opportunity to comment. Please contact Laura Brunn, ALUC Staff if you have and questions or comments at (209) 235-0579, or by email at brunn@sjcog.org.

Sincerely,

Dana Cowell

Dana Cowell, Deputy Director
San Joaquin Council of Governments

cc: Terry Farris, Associate Transportation Planner, Caltrans Aeronautics
Laura Brunn, Associate Regional Planner, SJCOG

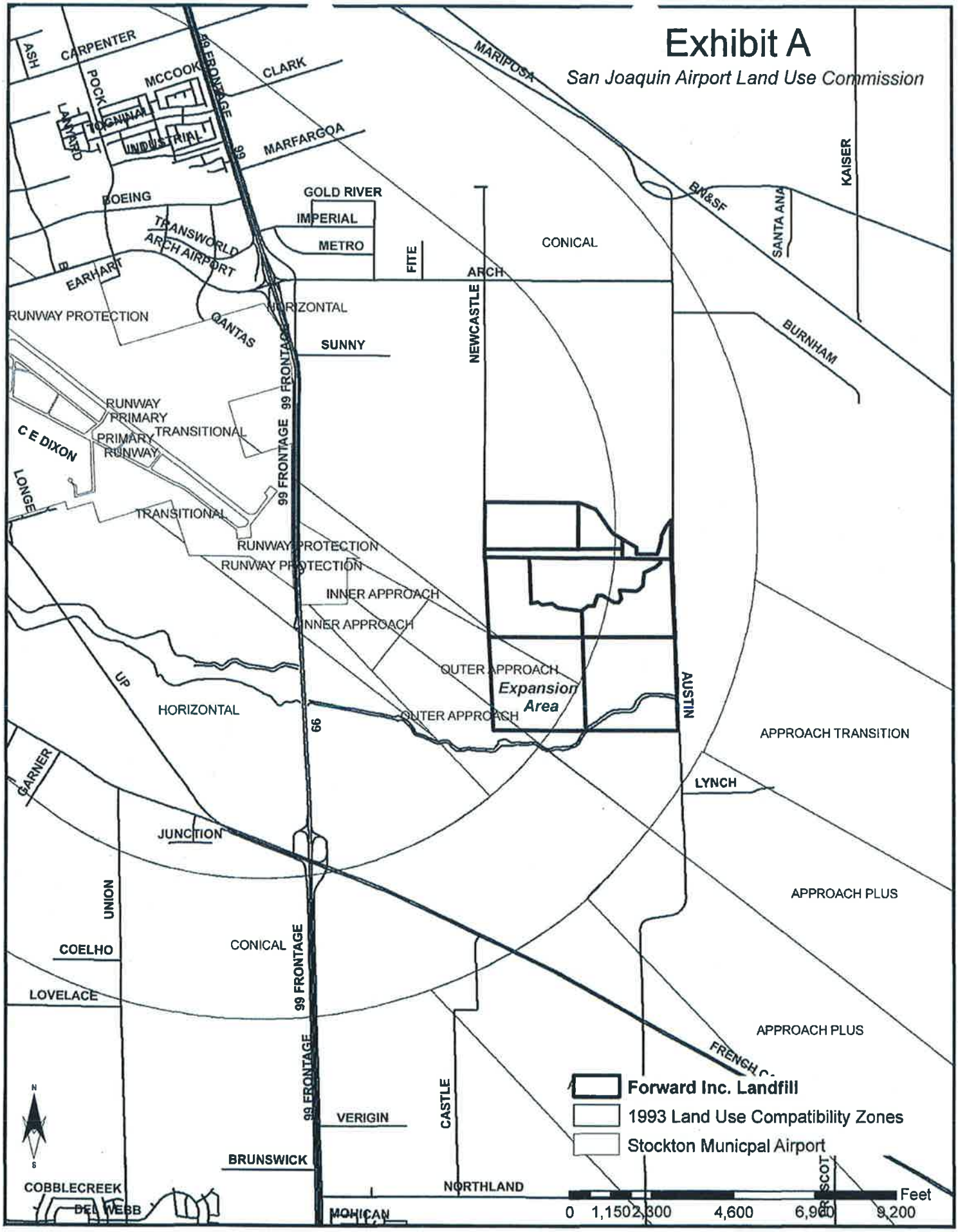
Exhibit A
San Joaquin Airport Land Use Commission
ASH
CARPENTER
POCK
LANYARD
MCCOOK
TOXICHIAL
INDUSTRIAL
99 FRONTAGE
CLARK
MARFARGOA
MARIPOSA
BOEING
EARHART
TRANSWORLD
ARCH AIRPORT
GOLD RIVER
IMPERIAL
METRO
FITE
ARCH
CONICAL
BN&SF
SANTA ANA
KAISER
RUNWAY PROTECTION
QANTAS
HORIZONTAL
SUNNY
NEWCASTLE
BURNHAM
RUNWAY
PRIMARY
TRANSITIONAL
PRIMARY
RUNWAY
C E DIXON
LONGE
99 FRONTAGE
TRANSITIONAL
RUNWAY PROTECTION
RUNWAY PROTECTION
INNER APPROACH
INNER APPROACH
OUTER APPROACH
Expansion Area
OUTER APPROACH
AUSTIN
UP
HORIZONTAL
66
APPROACH TRANSITION
GARNER
LYNCH
JUNCTION
UNION
APPROACH PLUS
COELHO
CONICAL
99 FRONTAGE
LOVELACE
APPROACH PLUS
FRENCH C
99 FRONTAGE
CASTLE
VERIGIN
BRUNSWICK
COBBLECREEK
DEL WEBB
NORTHLAND
MOHICAN
SCOT
Forward Inc. Landfill
1993 Land Use Compatibility Zones
Stockton Municpal Airport
0 1,150 2,300 4,600 6,900 9,200
Feet

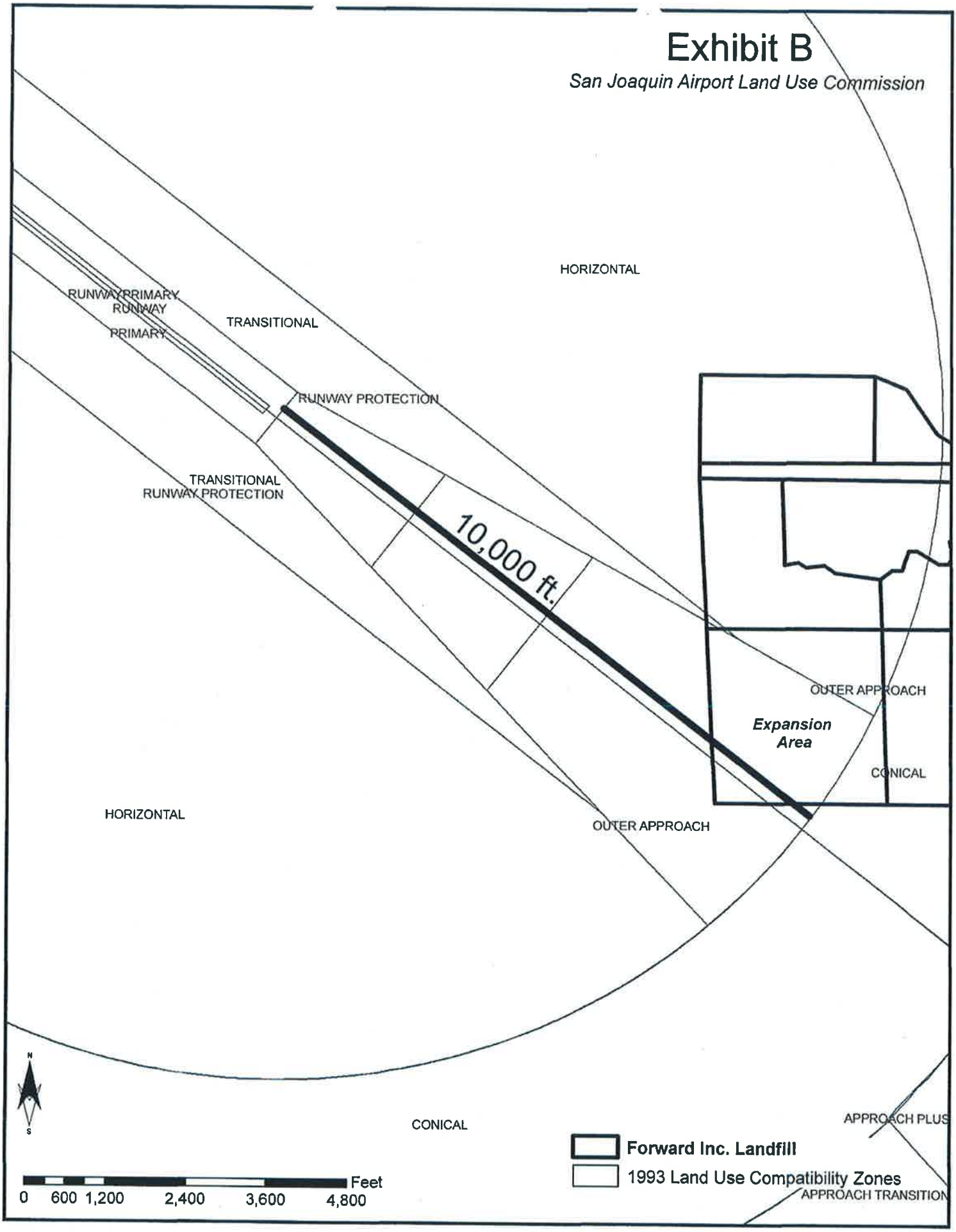
Exhibit B
San Joaquin Airport Land Use Commission
HORIZONTAL
RUNWAY PRIMARY RUNWAY
PRIMARY
TRANSITIONAL
RUNWAY PROTECTION
TRANSITIONAL RUNWAY PROTECTION
10,000 ft.
OUTER APPROACH
Expansion Area
CONICAL
HORIZONTAL
OUTER APPROACH
CONICAL
APPROACH PLUS
APPROACH TRANSITION
N
S
0 600 1,200 2,400 3,600 4,800 Feet
Forward Inc. Landfill
1993 Land Use Compatibility Zones

Filed Doc #: 39-05052016-134
5/5/16 10:58 AM
Steve J. Bestolarides
San Joaquin County Clerk

Notice of Determination

Appendix D

To:

☒ Office of Planning and Research

U.S. Mail: P.O. Box 3044, Sacramento, CA 95812-3044

Street Address: 1400 Tenth St., Rm 113, Sacramento, CA 95814

☒ County Clerk
County of: SAN JOAQUIN
Address: 44 NORTH SAN JOAQUIN ST, 2ND FLOOR SUITE 260, STOCKTON, CA 95202

From:

Public Agency: San Joaquin Council of Govts
Address: 555 E WEBER AVENUE STOCKTON, CA 95202
Contact: KIM ANDERSON
Phone: 209-235-0565

Lead Agency (if different from above): SAME AS ABOVE
Address:
Contact:
Phone:

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number (if submitted to State Clearinghouse): 2015122072

Project Title: Airport Land Use Compatibility Plan (ALUCP) Update for the Environs of Stockton Metro Airport (SCK)

Project Applicant: San Joaquin Council of Governments

Project Location (include county): San Joaquin County - Multiple Locations

Project Description:
The project includes all parcels within the Airport Influence Area (AIA) for Stockton Metropolitan Airport. The airport is located at the intersection of S. Airport Way and Arch Rd. in Stockton, CA. Refer to Figure 1 of the Initial Study for a depiction of the AIA. The ALUCP provides policies for use by the San Joaquin County Airport Land Use Commission when evaluating the compatibility between proposals for land use development in the vicinity of Stockton Metropolitan Airport and the operations of the airport. The local agencies that have jurisdiction over land uses within the areas covered by this plan include San Joaquin County, and the cities of Stockton, Manteca, and Lathrop.

This is to advise that the SAN JOAQUIN COUNCIL OF GOVERNMENTS (☒ Lead Agency or ☐ Responsible Agency) has approved the above

described project on APRIL 28, 2016 (date) and has made the following determinations regarding the above described project.

1. The project [☐ will ☒ will not] have a significant effect on the environment.
2. ☐ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
   ☒ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [☐ were ☒ were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [☐ was ☒ was not] adopted for this project.
5. A statement of Overriding Considerations [☐ was ☒ was not] adopted for this project.
6. Findings [☒ were ☐ were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:
SJCOG REGIONAL OFFICE, 555 E WEBER AVE., STOCKTON, CA 95202

Signature (Public Agency): Kim Anderson Title: Senior Regional Planner

Date: 5/5/16 Date Received for filing at OPR: MAY - 5 2016

Authority cited: Sections 21083, Public Resources Code.
Reference Section 21000-21174, Public Resources Code.

Revised 2011

www.coffmanassociates.com

KANSAS CITY
(816) 524-3500

237 N.W. Blue Parkway
Suite 100
Lee's Summit, MO 64063

PHOENIX
(602) 993-6999

4835 E. Cactus Road
Suite 235
Scottsdale, AZ 85254