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DELTA STEWARDSHIP COUNCIL

A California State Agency

September 2, 2016

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San Joaquin County, Community Development Department
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Members
Aja Brown
Frank C. Damrell, Jr.
Patrick Johnston
Mary Piepho
Susan Tatayon

Executive Officer
Jessica R. Pearson

RE: Draft San Joaquin County 2035 General Plan

Dear Ms. Sullivan:

The Delta Stewardship Council (Council) staff has appreciated working with you and your staff during the San Joaquin County (County) General Plan Update and hopes to further collaborate with the County on future efforts related to the Delta. This letter suggests a way to resolve the outstanding conflicts between the draft general plan and the Delta Plan.

In a Council comment letter to San Joaquin County dated December 5, 2014, staff noted several areas of inconsistency between the Delta Plan and the proposed County General Plan Update. These inconsistencies are detailed below. As we discussed in our phone conversation on August 29, 2016, a path forward to help expedite the general plan update would be for the County to retain existing agricultural and open space land designations for areas proposed for conversion to urban uses and to revise or eliminate the proposed draft general plan policy that would preclude the conversion of farmland to wetlands. If these changes were made, Council staff would consider the Draft San Joaquin County 2035 General Plan (draft general plan) consistent with the Delta Plan and would accept the San Joaquin Council of Governments (SJCOG) determination of consistency with its sustainable communities strategy, which would exempt the draft general plan from the Council's covered action process.

Council staff appreciates the County's efforts to promote economic vitality and increase jobs and wants to ensure that those goals can be achieved in a manner consistent with the Delta Plan. However, the Council must oppose actions that would not only conflict with Delta Plan regulations, but would also increase flood risk and hamper ecosystem restoration. We therefore urge you to make the changes we discussed.

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

– CA Water Code §85054

Incomplete Determination of Consistency with the 2014 RTP/SCS

The SJCOG letter to the County, dated August 22, 2016 (Attachment 1), implies an exclusion of the draft general plan from the Council's covered action process by making a determination that the land use designations in the draft general plan are "generally consistent" with SJCOG's 2014 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS), while excluding the five inconsistent areas¹ from the scope of the determination. The draft general plan is clearly inconsistent with the RTP/SCS, and will remain inconsistent and therefore subject to the Council's covered action process unless the changes we have requested are made.

As we have previously discussed, the Delta Reform Act establishes specific criteria and categories for excluding actions from the Council's regulatory authority. One of these exclusions is for actions within the Secondary Zone of the Delta that a metropolitan planning organization determines are consistent with its sustainable communities strategy (SCS). Such proposed actions are not "covered actions" regulated by the Council (Water Code section 85057.5(b)(4)). In making its determination of consistency, SJCOG must consider whether a plan, program, project, or activity within the Secondary Zone of the Delta is consistent with its sustainable communities strategy (SCS); consistency should be determined by comparing the draft general plan with the use designation, density, building intensity, transportation plan, and applicable policies specified for the area in the SCS. In our discussions with SJCOG staff, we agreed that the five areas proposed for land use conversion in the draft general plan are inconsistent with Appendix M of the RTP/SCS, which contains the maps and charts illustrating the general location, building intensity and density, and land use designations for the RTP/SCS.

Inconsistency with the Delta Plan

As stated in Council staff's comment letter dated December 5, 2014, the agricultural areas within the Secondary Zone of the Delta proposed for changes in land use designation from agriculture or open space to urban land uses are inconsistent with Delta Plan Policy DP P1 (23 CCR Section 5010), which restricts urban development to the areas depicted for such uses in city or county general plans as of May 16, 2013, the date of the Delta Plan's adoption. The agricultural areas proposed for land use conversion lie within the County and outside of Tracy city limits and its sphere of influence. Council staff acknowledges that since the 2014 letter, the six areas proposed for land use conversion have been reduced to five areas, all located within the Secondary Zone of the Delta.

The area boundaries, which are described in Delta Plan Policy DP P1, are intended to strengthen existing Delta communities while protecting farmland and open space, providing

¹ The five areas, described in the Final Land Use Designation Change Request Summary (Land Use Changes A-5, A-24, A-25, F-3, and F-12) of the County's 2035 General Plan Update, consists of five separate areas, each containing one to eight acres, totaling approximately 898 acres. The areas are also shown in the Figure LU-1 of the Draft 2035 General Plan Policy Document and in Figures 3-3 and 3-4 of the Draft 2035 General Plan Draft Environmental Impact Report.

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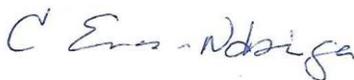
land for ecosystem restoration needs, and reducing flood risk. The urban boundaries identified in the draft general plan must be consistent with Delta Plan Policy DP P1.

In addition to being inconsistent with Delta Plan Policy DP P1, the land use conversions conflict with several of the County's proposed draft general plan policies, including LU-1.1, Compact Growth and Development, LU-7.1, Protect Agricultural Land, and LU-8.1, Open Space Preservation. Currently, those policies support Delta Plan Policy DP P1. To achieve consistency with the Delta Plan, the County should retain existing agricultural land designations for all five areas proposed for conversion to urban uses that are located in the Delta and outside city limits and spheres of influence.

One last area of conflict between the Delta Plan and the draft general plan that was also discussed in our 2014 comment letter related to farmland conversion. Council staff pointed out that proposed general plan policy D-4.9, Conversion of Delta Farmland to Wetlands, could undermine both draft general plan policy D-5.1, Protect Delta Ecosystem, which provides general support for restoration, and Delta Plan Policy ER P3 (CCR 23 Section 5007) by preventing restoration of wetland habitat needed to improve the health of the Delta ecosystem. Rather than "protecting opportunities to restore habitat" as required by Delta Plan Policy ER P3, this policy would severely restrict opportunities to restore habitat. Council staff recommends eliminating or revising this policy due to its inconsistency with Delta Plan Policy ER P3.

Council staff looks forward to working with the County to ensure that the San Joaquin County General Plan Update continues to move forward and is consistent with the Delta Plan. You are encouraged to contact Jeff Juarez at jeff.juarez@deltacouncil.ca.gov or (916) 445-5528 with your questions, comments, or concerns.

Sincerely,



Cassandra Enos-Nobriga
Deputy Executive Officer
Delta Stewardship Council

cc San Joaquin County Supervisor Kathy Miller
San Joaquin County Supervisor Chuck Winn
Andrew Chesley, Executive Director, San Joaquin Council of Governments