



SAN JOAQUIN COUNCIL OF GOVERNMENTS

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ESCALON,
LATHROP,
LODI,
MANTECA,
RIPON,
STOCKTON,
TRACY,
AND
THE COUNTY OF
SAN JOAQUIN

**RE: SAN JOAQUIN COUNCIL OF GOVERNMENTS COMMENTS ON THE
DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT FOR THE FIFTH
STAFF DRAFT DELTA PLAN**

The San Joaquin Council of Governments (SJCOG) appreciates the opportunity to review and comment on the Draft Program Environmental Impact Report (DEIR) for the Draft Delta Plan (Plan). This letter provides the SJCOG'S written comments on the Draft EIR in accordance with the provisions of the California Environmental Quality Act (CEQA) and CEQA Guidelines. In addition to this comment letter, SJCOG, in conjunction with other Delta Coalition stakeholders, is submitting a separately transmitted joint comment letter, which is incorporated by this reference.

SJCOG is a Joint Powers Authority (JPA) comprised of elected officials representing the County of San Joaquin and the Cities of Stockton, Lodi, Manteca, Tracy, Ripon, Escalon and Lathrop. SJCOG is the federally mandated Metropolitan Planning Organization (MPO), the state designated Regional Transportation Planning Agency (RTPA) and Congestion Management Agency (CMA), and the Airport Land Use Commission (ALUC) for San Joaquin County. Additionally, as the Local Transportation Authority for San Joaquin County, the voter approved Measure K program is administered by SJCOG. With this authority, SJCOG is authorized to collect and use the 1/2-cent sales tax to fund a specific list of transportation projects and programs as outlined in the Measure K Expenditure Plan.

With the above mention designations, SJCOG's overall role involves transportation planning, funding, and delivering a wide variety of multimodal transportation projects. However, SJCOG's role as a regional agency has been shaped over the years by the changing dynamics in federal, state and local government relations. These dynamics have directly expanded SJCOG's role to assume duties that target other transportation/land use, social, and environmental challenges through collaboration with local governments and community stakeholders.

SJCOG is concerned about the Plan's effect on these core functions and respectfully submit the following comments:

The Project Description and Plan language does not provide the reader with a complete understanding of what the Plan is intended to do and exactly what types of projects are considered "covered actions". The DEIR implies that development undertaken pursuant to adopted plans of local agencies would not be considered to be "covered actions." Also, the EIR's statements relating to covered actions seem to indicate that transportation projects are not considered to be covered actions. However, the Plan and DEIR fail to fully clarify this issue. For example, the types of projects that would be "covered actions" listed within the Executive Summary are water supply projects. Additionally, Appendix H of the DEIR does not list transportation improvement projects in the list of covered actions. The Plan should be amended to clarify the proposed regulatory provisions for "consistency determinations" as it directly relates to transportation projects planned and programmed within the Regional Transportation Plan (RTP) and Federal/State Transportation Improvement Plan (FSTIP) as well as other Regional Planning documents such as updates to the Congestion Management Program and Airport Land Use Compatibility Plans.

The implementation of the Delta Plan could adversely impact the financial viability of transportation projects through increased restrictions and by creating regulatory uncertainties, delays, and costly mitigations. The Draft EIR should address the Plan's potential to nullify the intent and implementation of the RTP and other important programs, such as Measure K, that were adopted as a result of years of planning and great expense. These Regional Plans also support each of SJCOG's partner agency's planning assumptions within their respective planning documents and Infrastructure Master Plans. As there are still discretionary approvals required for improvement projects contemplated by the RTP, the Delta Plan, as currently drafted, could invalidate otherwise lawfully adopted plans and should be revised to eliminate any potential conflicts. The Description of the Project should include a specific acknowledgement that any Regional Planning Documents prepared under the directive of SJCOG, as well as succeeding transportation projects contemplated within the said Plan shall be exempt from the "consistency determination" requirements for "covered actions".

If it is the Council's view that transportation improvement projects contemplated within the RTP or FSTIP and any other Regional Plan prepared by SJCOG, in its role as the county's MPO, RTPA, ALUC, and CMA, constitute "covered actions," then the EIR needs to plainly disclose this and evaluate the Delta Plan's effect, including fiscal on these adopted plans. SJCOG considers this as creating a contradiction with our ability to provide for planned transportation projects within the Primary and Secondary Zones.

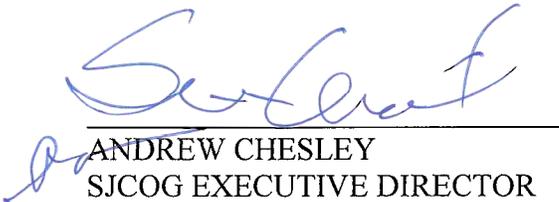
The Draft EIR should also discuss the potentially significant environmental effects that could occur regarding CEQA-exempt projects, such as the Regional Congestion Management Plan as a result of the Delta Plan consistency process.

To summarize, the Draft EIR fails to address the potential implications and any potential conflicts of the governance and regulatory provisions contained in the Draft Delta Plan on and with each of the applicable local planning and regulatory documents. Given this potential conflict, the operational integrity of San Joaquin County's regional transportation system may be hampered as a direct consequence of the Delta Plan, as currently written. The impacts from treating SJCOG's Regional Plans (or subsequent transportation improvement projects) as "covered actions" are not evaluated or disclosed within the DEIR. If it is the Council's view that

land use plans and projects implementing adopted plans constitute "covered actions," or subject to alternative review processes, then the EIR needs to plainly disclose this and evaluate the Plan's effect, including fiscal impacts on regional planning documents and development pursuant to those plans.

Based on the comments provided above, SJCOG believes that the current Draft EIR does not comply with the provisions of CEQA and the CEQA Guidelines. SJCOG respectfully requests that the Draft EIR be redrafted to adequately address our concerns and recirculated for another 90-day noticed public review and comment period.

SJCOG appreciates the opportunity to review and comment on the first Draft EIR for the current (Fifth) Draft Delta Plan and looks forward to the opportunity to review a subsequently revised and recirculated Draft EIR that acknowledges and addresses SJCOG's concerns. Should you have any questions or wish to discuss these comments, please contact Steve Dial, SJCOG Executive Deputy Director at (209) 235-0584 or email at Dial@sjcog.org.



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