



CITY OF STOCKTON

COMMUNITY DEVELOPMENT DEPARTMENT

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March 27, 2013

Phil Isenberg
Chair, Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

LETTER OF CONCERN REGARDING INADEQUACY OF EIR FOR DELTA PLAN

Dear Mr. Isenberg:

This letter supplements and supports the public comments presented by the City of Stockton to the Delta Stewardship Council in a letter to the Council dated January 14, 2013. In particular this letter offers additional data, information and inferences from this information, and expert opinion supported by facts concerning Major Concerns and Comments number 3 and Detailed Comments Number 15.

To start with, I have been actively involved as a local government official in all aspects of land use, environmental protection and economic development during the past thirty eight years. In offering these comments, I rely upon my educational studies, my review of academic literature and actual and personal experiences in this field. For further information please refer to my resume which is attached to this letter.

In my opinion the Council's EIR fatally omits relevant data, information and analysis regarding the secondary physical effects derived from the direct economic consequences of the proposed regulation to Central Valley communities affected by the Delta Stewardship Council jurisdiction. Doubts about whether indirect adverse environmental effects resulting from a chain of events produced in part by direct economic effects must be considered by an environmental impact report was unambiguously answered in *Bakersfield Citizens for Local Control v. City of Bakersfield*, 124 Cal.App.4th 1184 (2004).

Due to this omission of data and analysis, the DSC EIR fails to satisfy minimum requirements and the purpose for CEQA.

As the City's comment letter explains, Stockton faces a severe and chronic rate of unemployment and underemployment. This situation is also true of each Central Valley community subject to Council's regulation. (Importantly, it is not true for Central Valley communities that compete against Stockton for job creating businesses but are outside DSC jurisdiction.) The direct and indirect socio-economic pain and problems flowing from a lack of economic and employment opportunities are acute and serious and produce indirect adverse physical impacts.

The startling statistics are uncontested. In the past, policy makers have not dealt in depth with the importance of creating family wage jobs for Central Valley residents. This omission allows a recent United State Congressional report to declare the Central Valley as the "New Appalachia" (California's San Joaquin Valley: A Region in Transition", CRS Report to Congress (December 2005).)

Pertinent statistics put a finer point on this problem. An important study by the San Jose Mercury News (San Jose Mercury News July 28, 2001 A-1) described the area as a "hidden ghetto" and if the region broke off from California, "its population would be larger than that of 21 other states, but it would be the second poorest, after Mississippi." The report reveals that the "San Joaquin Valley's annual per capita income reached a milestone in its two-decade-long drop, falling to half of the Bay area's income. It is now the poorest region in the State." For instance in Modesto the local school district no longer qualifies students for the free hot meal program. Instead, so many children qualified for free lunch that it was easier to provide all children with a lunch instead of preparing the eligibility paper work.

Education remains a significant challenge to the area. Only 13 percent of San Joaquin Valley workers have a college degree, compared to 31 percent in the Bay area. Indeed, the Central Valley transports its educated workers out of the area due to a lack of jobs appropriate for many workers' education and training. The Altamonte Commuter Express, a commuter train that connects Stockton to San Jose on weekdays, is generally full of workers heading to the East Bay. A key feature of these workers, according to a recent survey, is that each commuter earns an average of \$100,000 per year, or approximately four times more than the average Central Valley family.

Furthermore, infant mortality and education levels approach those commonly experienced by third world countries. Crime rates are higher in communities with higher levels of under and unemployment.

This negative economic picture produces adverse socio-economic conditions which, in turn, produce adverse physical changes in the form of residential, commercial and retail vacancies, substantially higher rates of foreclosures, other factors contributing to the decline in the urban environment and resulting urban decay. This represents the exact type of chain of events emphasized in the *Bakersfield* opinion and typically employed when analyzing indirect environmental effects in environmental impact reports ("experts are now warning about land use decisions that cause a chain reaction of store closures and long-term vacancies, ultimately destroying existing neighborhoods and leaving decaying shells in their wake" (*Bakersfield* at 1204).

In my opinion three separate chains of events, resulting in a secondary adverse environmental effect, cascade from the proposed DSC regulation.

First, proposed DSC regulation may partially or totally nullify or substantially impede Stockton's municipal infrastructure utility master plans. (However, these plans still require some degree of revision to match changing circumstances or actions to implement aspects of the plans in order to provide intended municipal infrastructure. These revisions may constitute Covered Actions.) Employment and economic growth projects depend upon the certainty and stability of these master plans for purposes of preparing, financing and developing in Stockton. Simply stated, development cannot proceed without sufficient infrastructure to support the proposed development and the master plans represent the certainty and stability of sufficient infrastructure. Yet, revisions to current plans or action to implement current plans would be subject to the DSC jurisdiction and rules and these existing master plans were prepared without affording the highest priority to the DSC co-equal goals. As a result, subordinate decisions could be reviewed and rejected by the DSC because such subordinate decisions implement a pre-existing master plan that was not designed or planned with the DSC co-equal goals as the major emphasis.

In my opinion uncertainty over implementing infrastructure and utility master plans has a substantial chilling effect over forming capital to fund new job creation and economic growth projects and would discourage retail, office and commercial developers from considering Stockton as a potential location for development. Suppressing employment and economic opportunities would lead to various factors responsible for urban decay: crime, foreclosures, vacancies and a suppression of economic growth and vitality. This EIR fails to disclose and analyze this secondary environmental effect produced by a chain of events, starting with the chilling effect the new regulation will have on forming capital in Stockton for economic and employment growth development.

Second, Stockton's long term planning and development policies contained in the General Plan and Development Code approved by the Stockton City Council, as

well as the Planning Area approved by the Local Agency Formation Commission, are correlated to the infrastructure master plans in order to attain orderly and logical growth through the efficient and economic extension of public services (*Government Code §§65300, 65302.2, and 65401*). If aspects of an infrastructure master plan are impeded or prevented because of alleged disconnection to the DSC co-equal goals, then the planned pattern of urban development this disrupts would affect the intended orderly, logical and efficient development pattern of the City and its environs, thereby creating impacts that are different or more intense than planned (*City of Redlands. City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398). The EIR does not disclose or discuss a different pattern of urban development that causes new or substantially more severe environmental impacts from development patterns that are less logical; nor does the EIR disclose and discuss an environmental superior alternative in these regards, one that is correlated to available infrastructure.

Third, the proposed regulation would have a chilling effect on business expansion or location decisions. From my experience in economic development decisions by the public and private sectors, the certainty that an expansion or relocation of a job generating business can be accomplished is a pivotal factor in the decision making process. Uncertainty in the finality or time a government decision is final is a critical factor in location decisions. Certainly the current debate about reforming CEQA focuses centrally on the instability caused by CEQA to job creation and business location decisions. This situation is no different.

Business and industrial owners making expansion or relocation decisions will need to consider that Stockton's approval is not the final word on the land use request. Instead, Stockton's decision is suspended (indeed a legislative *de facto* injunction is immediately in place) during the time available to file an appeal to the DSC. If an appeal is filed, then Stockton's approvals continue to be suspended (that is, enjoined) until a final DSC decision rejecting the appeal. Moreover, in earlier DSC workshops with local government officials, the DSC executive officer disclosed that he does not expect the agency to have sufficient personnel to process appeals within the time set forth in the statute and DSC plan.

Competing communities, such as Modesto, Merced, Fresno or Bakersfield, are not subject to DSC jurisdiction. From my experience I have learned that capital is fungible and abhors uncertainty and, as a result, will avoid Stockton as a location for investing capital, especially if competing communities are free and clear of this additional layer of regulatory uncertainty and delay.

Thus, these three factors contribute substantially to suppress or chill employment creation and economic growth decisions requiring new capital investments. Based upon my years of experience as a professional planning and community development director, a robust local economy is vital to prevent the interconnected factors of increased crime, an erosion of property values and urban decay. Furthermore, the absence of significant new capital invested in the community coupled with the introduction of urban decay functions to alter logically planned patterns of growth. These significant indirect physical changes to the environment were omitted from the EIR and need to be identified

Independently, the uncertainty and chilling effect of this additional layer of regulation will harm Stockton's efforts to attain state objectives to revive Stockton's downtown and reduce greenhouse gas emissions. Specifically, in my opinion the draft DSC plan substantially impedes Stockton's ability to conduct good faith efforts to comply with a Settlement Agreement entered into between the City and the State Attorney General. On its face, Policy DP P1 extends DSC jurisdiction to Stockton actions regarding downtown revitalization and concentric and concentrated population densities. While a subsequent letter from the DSC staff suggests that Policy DP P1 should not be interpreted in this manner, there is no controlling legal authority that a staff interpretation of a proposed policy supersedes the draft policy's actual language. Until Policy DP P1 is revised to reflect the subsequent staff interpretation, the offending Policy results in an indirect significant effect to the physical environment in the form of less efficient development patterns, increased GHG emissions, more vehicular miles traveled and increased air pollution. None of these foreseeable effects are evaluated in the EIR.

Also, I have reviewed the letter submitted by Mel Lytle, Stockton's Director of Municipal Utilities. Based on my knowledge and experience, I concur in the conclusions and analysis he presented. Relocating public infrastructure or constructing parallel infrastructure facilities away from the area subject to DSC jurisdiction will inevitably change the planned growth pattern for the City of Stockton. Previously, when adopting the General Plan, the City rejected alternative growth patterns because these alternative patterns were not environmental superior. Based upon education, training and experience, growth follows the location of public infrastructure. This is because it reduces off-site development costs by making it more efficient, effective and affordable to extend these required municipal services to the proposed urban development.

Accordingly, the DSC plan will induce or force Stockton to relocate existing or construct parallel public works facilities in areas not presently planned for growth during the current General Plan period. This will radically alter the pattern of urban development away from the path set forth in the General Plan and will

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increase the intensity of various environmental effects, including air pollution; global warming, traffic, noise, and the cost of providing municipal services.

For the reasons stated, the draft DSC plan causes indirect significant effects to the environment that are not disclosed and evaluated in the EIR. This omission of data and information prevents the EIR from satisfying the statutory obligation to serve as an informational document to decision makers and the public.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Chase", with a large, sweeping flourish above the name.

STEVE CHASE, DIRECTOR
COMMUNITY DEVELOPMENT DEPARTMENT

Attachment: Resume of Steve Chase

emc: Bob Deis, City Manager
John Luebberke, City Attorney

RESUME OF STEVE CHASE

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Residences: 5222 Cosumnes Drive, Unit 127, Stockton, CA 95219
9833 Halifax Street, Ventura, CA 93004

EDUCATION:

Masters in Public Administration, Cal State Northridge (2000)
Bachelor of Arts in Environmental Studies, UCSB (1975)

EMPLOYMENT:

City of Stockton

I serve as **Director of Community Development**. The department operates the City Permit Center, providing customer outreach and permitting in the functional areas of planning, building & life safety, engineering, encroachments, municipal utilities, and fire prevention. The department provides operational support to the Planning Commission, Development Oversight Commission, Cultural Heritage Board, Architectural Review Committee, Climate Action Plan Advisory Committee, Building & Housing Board of Appeals, and the handicapped Access Board of Appeals.

The department is comprised of 29 FTE staff members that operate under an annual budget plan of approximately \$7 million.

I began service to the City in July 2012. Further background information is provided at www.stocktongov.com.

City of Goleta

I served as **Director of Planning & Environmental Services**. The department provides long range planning, development permitting, energy plant permitting, telecommunication permitting, building & safety permitting, resource conservation services, and operational support to the Planning Commission, Design Review Board, Zoning Administrator, Environmental Hearing Officer, as well as the Town n' Gown Committee and Energy-Green Issues Committee of the City Council.

The department is comprised of 12 FTE staff members that operate under an annual budget plan of approximately \$2 million.

I began service to the City in September 2006. Further background information is provided at www.cityofgoleta.org.

County of Santa Barbara

I served as **Deputy Director of Planning & Development** from December 2000 to September 2006. I served in the following roles:

- Manager of the Energy Division (December 2000 – April 2005)
- Manager of Development Review (May 2005 – September 2006)
- Secretary of the County Planning Commission
- Secretary of the Montecito Planning Commission
- Environmental Hearing Officer
- Zoning Administrator.

Over a 4 year period, I managed policy-making, permitting and inspection of offshore oil and gas tracts/platforms and their onshore processing and pipeline systems for Santa Barbara County. The position was one of a handful of our nation's most prominent roles in energy policy and regulation during the early 2000's. I managed a staff of 17 FTE, under an annual operating budget of approximately \$3 million.

In 2005, I was asked to guide Development Review through a period of changing leadership and process improvements. I managed a staff of 23 FTE, under an annual operating budget of \$4 million.

I managed permitting, permit compliance and environmental assessment of land use projects within a 165 square mile area of the south coast, located between Vandenberg Air Force Base and the Ventura County line.

I also served on the Management Team of the Planning & Development Department, sharing in the oversight of operations, strategic planning, human resources and budget administration (135 FTE, \$23 million).

County of Ventura

I served as a **Board Aide** to County Supervisor Susan Lacey and as an **Advisor** to County Supervisor Kathy Long from August 1999 until December 2000. While finishing graduate school during this period, I assisted these Board members in their work to implement Proposition 10 Children & Families - First Five Commissions throughout California.

City of San Buenaventura

I served as **Deputy City Manager** from July 1997 to July 1999 and as **Assistant to the City Manager/Environmental Coordinator** from November 1990 to June 1997. I served in several roles, including:

- Director of Community Development
- Secretary to the Planning Commission, Architectural Review Committee and Historic Preservation Committee
- Chair of the Subdivision Review Committee
- Chair of the Environmental Impact Report Committee
- Emergency Operations Center Liaison to State and County Government
- Manager of the Pacific View Regional Mall Development Project
- Manager of the Surfers Point Beach Sand Nourishment Project
- Manager of the Pierpont Beach Dunes Restoration Project

- Manager of the Porto Bella Keys Dredging Project
- Co-Developer of the City's AB939 Integrated Waste Management System
- Manager of the City Recycling Office.

County of Ventura

I was recruited back to the County to serve as **Board Aide** to County Supervisor Susan Lacey from 1986 to 1990 and, in that capacity, served as the Executive Officer of the Ojai Valley Municipal Advisory Council and as the Executive Officer of the Del Norte Municipal Advisory Council.

City of Camarillo

I served in a design/architecture apprenticeship in the Community Development Department between 1985 and 1986.

County of Ventura

I came up through the ranks of the Planning Division of the County Resource Management Agency from 1977 to 1985, serving in various roles including **Assistant Planner, Associate Planner and Special Assistant to the Director.**

From 1983 to 1985, I served as a legislative advocate and point person at the State Capitol and hearings across California on all matters concerning offshore oil and gas development in the Santa Barbara Channel.

County of Santa Barbara

I began my career as a UCSB student intern and, eventually, paid extra-help staff with the County Office of Environmental Quality from 1974 to 1977. I prepared CEQA documents that helped guide the 130,000 acre agricultural down-zoning of the Santa Ynez Valley, the incorporation of the City of Solvang, as well as project decisions for the La Purisma-Santa Rita Hills rural area.

APPOINTMENTS:

Catholic Archdiocese of Los Angeles

I served a one-year term on the Los Angeles Catholic Archdiocese School Board in 2000-01, representing the Ventura-Santa Barbara sub-region.

County of Ventura

At various times, I serve at the behest of the Board of Supervisors in program development roles, most notably as a member of the County Child Care Planning Task Force, and the County Children & Families/First Five Commission – Policy & Research Committee.