DELTA STEWARDSHIP COUNCIL
A California State Agency

980 NINTH STREET, SUITE 1500
SACRAMENTO, CALIFORNIA 95814
WWW.DELTACOUNCIL.CA.GOV
(916) 445-5511

April 23, 2014

Chair
Randy Fiorini

Members
Frank C. Damrell, Jr.
Gloria Gray
Phil Isenberg
Patrick Johnston
Hank Nordhoff
Frank L. Ruhstaller

Executive Officer
Christopher M. Knopp

Diane Nguyen
San Joaquin Council of Governments
555 East Weber Avenue
Stockton, CA 95202
Email: nguyen@sjcog.org

RE: Draft 2014-2040 RTP/SCS for San Joaquin County and Draft Program EIR, SCH# 2013022012

Dear Ms. Nguyen:

Thank you for the opportunity to comment on the Draft 2014-2040 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) for San Joaquin County and the associated Draft Program Environmental Impact Report (Draft PEIR). The Delta Stewardship Council (Council) is required to review the San Joaquin Council of Governments' (SJCOG's) RTP/SCS for consistency with Delta Plan, pursuant to the Delta Reform Act (Water Code Section 85212), and is required the review the Draft PEIR, pursuant to the California Environmental Quality Act. Coordinating our plans' consistency can help avoid unnecessary conflicts and facilitate cooperation.

Council staff has enjoyed a collaborative relationship with SJCOG staff during the scoping and review periods for the RTP/SCS and its environmental documents. Council staff sent a comment letter on the Notice of Preparation (NOP) of the Draft PEIR on March 6, 2013, while the Delta Plan was still in draft form, and SJCOG staff used those comments as the basis of a presentation to the Council on March 27, 2014. Council staff looks forward to seeing the RTP/SCS move forward to help reduce the region's greenhouse gas emissions by increasing density and transit in already developed areas so that natural lands, including agriculture, can be better preserved.

SCS Consistency with the Delta Plan

As previously mentioned in Council staff's NOP comment letter, 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 SCS. Such proposed actions are *not* "covered actions" regulated by the DSC (Water Code Section 85057.5(b)(4)).

The rationale for this exemption from the Council's covered action process is the presumption that metropolitan planning organizations will design their SCS's to be consistent with the Delta Plan. Council

staff has evaluated the RTP/SCS's consistency based on the three Delta Plan policy areas identified in the NOP comment letter: urban boundaries, habitat restoration areas and flood risk reduction. We have also included suggestions regarding consistency with Delta Plan recommendations.

- **Urban boundaries.** The urban boundaries identified in the RTP/SCS should be consistent with the Delta Plan for the areas in which the Council has jurisdiction. The urban boundaries are described in **Delta Plan Policy DP P1** (23 CCR Section 5010), Locate New Urban Development Wisely. They are intended to strengthen existing Delta communities while protecting farmland and open space, providing land for ecosystem restoration needs, and reducing flood risk. DP P1 is based on city boundaries and spheres of influence effective as of the date of the Delta Plan's adoption (May 16, 2013).

  Neither the RTP/SCS nor the Draft PEIR contains a map of proposed growth areas. In order to help Council staff determine whether the growth patterns that form the basis of the policies and analyses in the RTP/SCS are consistent with the Delta Plan, SJCOG staff prepared a land use map showing the growth assumptions underlying the RTP/SCS and an overlay of the areas designated for development in Delta Plan Policy DP P1. Council staff appreciates the time and effort that SJCOG staff put into the preparation of this map, which was presented to the Council on March 27, 2014. Members of the Council found the map very useful, and Council staff recommends including the map in the final RTP/SCS.

  Based on this map, Council staff determined that the SCS growth areas fall within the areas designated for development in DP P1, with two minor exceptions in the sphere of influence of the City of Tracy. The two areas are located both east and west of the City of Tracy on land designated as "Urban Reserve" in the Tracy General Plan, which was adopted in 2011. Since the Urban Reserve areas are not designated for specific residential, commercial or industrial uses, they are not included among the "areas designated for development" in Figure 7-11, the map including the City of Tracy found in Appendix 7 of the Delta Plan regulations. As noted on the map's legend, in cases where cities have not proposed land uses within their spheres of influence, the map shows land uses designated by county general plans. In this case, the San Joaquin County General Plan designates this area as Agriculture. Urban development in this area would therefore be inconsistent with the Delta Plan and the San Joaquin County General Plan. Consequently, Council staff finds that the RTP/SCS is not consistent with the Delta Plan in this regard.

  In addition, the Delta Reform Act (Water Code Section 85057.5(b)(4)) only allows exemptions to the covered action process for a "plan, program, project or activity within the secondary zone of the Delta that a metropolitan planning organization...has determined is consistent with either a sustainable communities strategy or an alternative planning strategy..." The statute goes on to state, "For purposes of this paragraph, 'consistent with' means consistent with the use designation, density, building intensity, transportation plan, and applicable policies specified for the area in sustainable communities strategy..." The RTP/SCS does not contain any use designations, densities or building intensities, and therefore does not appear to provide a basis for exemptions to the covered action process.

- **Habitat restoration areas.** The Delta Reform Act (Water Code Section 85212) requires the Council to review the consistency of the SCS with the ecosystem restoration needs of the Delta. Lands should be set aside for natural resource protection, including the San Joaquin Multi Species Conservation Plan, consistent with the priority habitat restoration areas in the Delta Plan. **Delta Plan Policy ER P3** (23 CCR 5007), calls for protecting opportunities to restore habitat in these areas, which are depicted in Figure 5-1, located in Appendix 5 of the Delta Plan regulations. Based on the map you provided, the RTP/SCS growth areas are all located outside the boundary of the San Joaquin River Floodplain, the only priority habitat restoration area located in San Joaquin County, and the RTP/SCS is therefore consistent with that policy.
- **Flood risk reduction.** Land use planning for the RTP/SCS should reduce flood risk in accordance with the following Delta Plan policies.
  - **Delta Plan Policy RR P2** (23 CCR Section 5013) requires flood protection that addresses risks due to sea level rise for residential development in rural areas, i.e., outside the urban boundaries, which are identical to the boundaries described in Delta Plan Policy DP P1. Council staff has looked at the projected flood risk due to sea level rise by 2100 for the growth areas mentioned above that are located in the City of Tracy's sphere of influence, and the city appears to be at low risk.[1] However, at such time that the City of Tracy proposes annexing these areas, the city should address these risks.
  - **Delta Plan Policy RR P3** (23 CCR Section 5014) restricts encroachments in floodways. The information provided does not support an analysis of consistency with this policy.
  - **Delta Plan Policy RR P4** (23 CCR Section 5015) restricts encroachments in specified floodplains. The RTP/SCS growth areas are located outside the Lower San Joaquin River Floodplain bypass area, the only floodplain in San Joaquin County designated by Delta Plan Policy RR P4, and the RTP/SCS is therefore consistent with that policy.
- **General.** On a more general note, Council staff acknowledges the role that the RTP/SCS will play in helping to achieve the Delta Plan's coequal goals of water supply reliability and ecosystem restoration, while protecting and enhancing the Delta as an evolving place. We commend SJCOG for including the policy entitled *Enhance the Environment for Existing and Future Generations and Conserve Energy* in the SCS. The two strategies under this policy that are most relevant to the Delta Plan are "Strategy #1: Encourage Efficient Development Patterns that Maintain Agricultural Viability and Natural Resources" and "Strategy #2: Enhance the Connection between Land Use and Transportation Choices through Projects Supporting Energy and Water Efficiency." Council staff appreciates the inclusion of preservation of prime farmland and water conservation among the performance indicators that will be used to measure the RTP/SCS's progress toward these goals. Council staff also appreciates the RTP/SCS policies that

---

[1] Flood risk due to sea level rise by 2100 for the City of Tracy was estimated using the following website: http://sealevel.climatecentral.org/surgingseas/place/cities/CA/Tracy?lookup=37.738534%2C-121.421127#center=12/37.8177/-121.4218&show=cities&surge=7.

support the following Delta Plan recommendations related to the economic vitality of the Delta:

- **Delta Plan Recommendation DP R5** recommends providing adequate infrastructure to meet development needs, consistent with sustainable communities strategies and other relevant plans.
- **Delta Plan Recommendation DP R8** calls for promoting value-added crop processing.
- **Delta Plan Recommendation DP R9** calls for promoting agritourism.
- **Delta Plan Recommendation DP R17** calls for enhancing opportunities for visitor-serving businesses.
- **Delta Plan Recommendation DP R18** calls for the Ports of Stockton and West Sacramento to encourage carefully designed and sited development of port facilities.

Comments on the Draft PEIR

In addition to the comments on the RTP/SCS itself, Council staff offers the following comments on the Draft PEIR. The Final PEIR should discuss any inconsistencies between the proposed project and the Delta Plan, as required by 15125(d) of the CEQA Guidelines.

- **Agricultural Resources.** Council staff appreciates the inclusion of mitigation measures to offset potential impacts to Agricultural Resources. We also recommend adding the following mitigation measures, which are drawn from the Delta Plan's Final Programmatic EIR, to ensure that farmlands are protected to the greatest extent possible:
  - "Design proposed projects to minimize, to the greatest extent feasible, the loss of the highest valued agricultural land. For projects that will result in permanent conversion of farmland, preserve in perpetuity other farmland through acquisition of an agricultural conservation easement, or contributing funds to a land trust or other entity qualified to preserve farmland in perpetuity (at a target ratio of 1:1, depending on the nature of the conversion and the characteristics of the farmland to be converted, to compensate for permanent loss).
  - Redesign project features to minimize fragmenting or isolating farmland. Where a project involves acquiring land or easements, ensure that the remaining non-project area is of a size sufficient to allow viable farming operations. The project proponents shall be responsible for acquiring easements, making lot line adjustments, and merging affected land parcels into units suitable for continued commercial agricultural management.
  - Reconnect utilities or infrastructure that serve agricultural uses if these are disturbed by project construction. If a project temporarily or permanently cuts off roadway access or removes utility lines, irrigation features, or other infrastructure, the project proponents shall be responsible for restoring access as necessary to ensure that economically viable farming operations are not interrupted.

- Manage project operations to minimize the introduction of invasive species or weeds that may affect agricultural production on adjacent agricultural land."

- **Biological Resources.** Please consider adding the regulatory policies and recommendations of the Delta Plan to the Biological Resources Regulatory Setting section of the Final PEIR. **Delta Plan Policy ER P3** calls for protecting opportunities to restore habitat. In the Final PEIR, please cite Delta Plan Policy ER P3 and describe how any potential conflicts with the policy, such as road construction, can be avoided or mitigated. Figure 4-7 of the Delta Plan depicts three examples of how projects can comply with ER P3, two of which may be relevant to the proposed projects:
    - Locate structures at the edge of a habitat restoration area, rather than in the middle, to improve opportunities for restoring habitat connectivity.
    - Elevate structures so that water can flow underneath to allow for restoration of aquatic habitat dependent on tides or periodic flooding.
- **Land Use and Population.** The Final PEIR should acknowledge the regulatory policies and recommendations of the Delta Plan within the Land Use and Population Regulatory Setting section. In the Final PEIR, please cite **Delta Plan Policy DP P1**, provide an analysis of potential conflict with the policy due to the urbanization of agricultural land and open space within the Secondary Zone, and describe how any conflicts with the policy could be avoided or mitigated.

Conclusion

The RTP/SCS contains much common ground with the Delta Plan, and contains only minor inconsistencies. We look forward to your detailed response to this notice of inconsistency, as required by the Delta Reform Act (Water Code Section 85212).

Thank you for your collaborative approach to ensuring that our two plans are complementary and serve to protect the Delta while promoting sustainable growth and economic vitality in the broader region. I encourage you to contact Jessica Davenport at jdavenport@deltacouncil.ca.gov or (916) 445-2168 with your questions, comments, or concerns.

Sincerely,

Cindy Messer
Deputy Executive Officer

cc: Tanisha Taylor, SJCOG
Chris Ganson, Governor's Office of Planning and Research
Garth Hopkins, California Department of Transportation
Jonathan Taylor, California Air Resources Board