



DELTA STEWARDSHIP COUNCIL
A California State Agency

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November 8, 2013

Raymond Hoo
San Joaquin County
Community Development Department
1810 East Hazelton Avenue
Stockton, CA 95205

Via Email: rhoo@sjgov.org

RE: San Joaquin County 2035 General Plan Update NOP, SCH# 2013102017

Dear Mr. Hoo:

This letter responds to your Notice of Preparation (NOP) for the San Joaquin County 2035 General Plan Update draft Environmental Impact Report (EIR) and its request for comments on specific issues to be included in the environmental analysis of the General Plan Update's Program EIR.

State law specifically directs the DSC to provide "advice to local and regional planning agencies regarding the consistency of local and regional planning documents with the Delta Plan" (Water Code sec 85212). The Delta Stewardship Council adopted the Delta Plan on May 16, 2013, and the Plan's regulatory policies became effective on September 1, 2013. The Delta Plan, including its policies and recommendations, should be acknowledged in the EIR's description of the project's environmental setting.

In addition, we recommend the following matters be discussed or included in the EIR:

- **Inconsistencies with the Delta Plan.** The EIR should discuss any inconsistencies between the project and the Delta Plan, as required by 15125(d) of the CEQA Guidelines. Note, too, that the CEQA Guidelines' Appendix G states that a project that is inconsistent with any applicable land use plan, policy, or regulation may result in a finding of significant impact on biological resources.
- **Agricultural Resources.** We note the concern about the continuing loss of agricultural lands in the Delta caused by conversion into urban development, expressed by the Delta Protection Commission (DPC) in its comment letters of September 11, 2012 and February 21, 2013 on the land use change request A-27. In the DPC staff's letters, they concluded that this land use change would not be consistent with its Land Use and Resource Management Plan (LURMP), especially as it relates to goals focused on development and conversion of agricultural lands and economic vitality and long term viability of agriculture in the Delta. The DSC consults with the DPC on land use issues in the Primary Zone of the Delta, where the two agencies have

"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

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concurrent jurisdiction (Public Resources Code section 29703.5(a)). We join in their concern and also note the increased flood risks that come from urbanization outside designated urban boundaries.

The NOP states that the EIR will describe the potential impact of the 2035 General Plan Update implementation on agricultural resources. Agricultural resources are protected by Delta Plan Policy DP P1 (23 CCR Section 5010), which is 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 existing city boundaries and spheres of influence, as well other areas designated for development such as the land within the Mountain House General Plan Community Boundary. In order to be consistent with Delta Plan Policy DP P1, new residential, commercial, or industrial development is permitted outside the urban boundaries only if it is consistent with the land use designated in the relevant county general plan as of the date of the Delta Plan's adoption (May 16, 2013).

We understand that the San Joaquin County Board of Supervisors has directed the staff to include analysis of several proposed land use changes in the draft EIR, some of which are located in the Delta. Some of these Delta land use changes would convert areas currently designated for agriculture in the San Joaquin General Plan to industrial or commercial land uses, which raises concerns about potential inconsistency with the Delta Plan. The EIR should include analysis of the following land use changes and their potential impacts on agricultural resources in the Delta:

1. **Land use change request A-27** is located in the area of the Port Gateway Industrial Park Proposal next to the Port of Stockton. Located in the Primary Zone of the Delta, the request involves changing approximately 600 acres of land from an agricultural to an industrial land use designation.
2. **Land use change request A-24** would enable conversion of the property from agricultural commercial uses to industrial uses.
3. **Land use change request F-12** is a request to change 10 acres of a larger parcel to commercial from agricultural use just east of the Tracy city limits.
4. **Land use change requests A-5 and F-3** involve proposals to change agricultural land use to industrial and commercial land uses on either side of a major highway interchange at I-5 and Kasson Roads. A-5 includes a total of 396 acres, while F-3 is 107 acres.

The analysis should include a summary of the total acreage affected, the types of farmland affected, including prime farmland, and the associated environmental impacts.

- **Biological Resources.** The NOP states that the Program EIR will identify any potential impacts of 2035 General Plan Update implementation on biological resources, including special-status plant and animal species, riparian habitats, wetlands, other sensitive natural communities, migratory movement, and protected trees.

The Delta Plan establishes six habitat restoration areas in the Delta, one of which, the Lower San Joaquin River Floodplain, is located in San Joaquin County. The boundaries of the priority habitat restoration areas are depicted in Appendix 5 of the Delta Plan regulations. Delta Plan Policy ER P3 (23 CCR Section 5007) calls for protecting opportunities to restore habitat in

these areas. The analysis should include the impact of any proposed changes in land use designations or policies on the protection of biological resources, with a particular focus on resources within the Lower San Joaquin River Floodplain priority habitat restoration area. The EIR should assess impacts to the opportunity to restore these areas for the habitat uses encouraged by the San Joaquin Multi-Species Habitat Conservation and Open Space Plan or the conservation measures recommended in the draft Bay Delta Conservation Plan.

Delta Plan Policy ER P3 provides that significant impacts to the opportunity to restore habitat in this area must be avoided or mitigated. Potential mitigation measures could include elevating facilities so that water can flow underneath to allow for future restoration of habitats dependent on tides or periodic flooding, or locating facilities at the edge of the restoration area, rather than in the middle, to improve opportunities for restoring habitat connectivity. The mitigation shall be determined, in consultation with the Department of Fish and Wildlife, considering the size of the project area and the type and value of habitat that could be restored in that area.

- **Hydrology and Water Quality.** The NOP states that the Program EIR will describe the effects of the 2035 General Plan Update implementation on storm drainage, water quality and the potential for flooding. The Delta Plan contains three policies that are most relevant to the County's consideration of this issue: Policy RR P2 requires flood protection for residential development in rural areas, Policy RR P3 restricts encroachment in floodways, and Policy RR P4 restricts encroachments in floodplains. In addition, the Delta Plan contains a recommendation (RR R4) supporting funding and implementation of the San Joaquin River Flood Bypass, and a recommendation (RR R6) encouraging the Central Valley Flood Protection Board to evaluate designating additional floodways. Flood risk reduction should be included as a factor when evaluating various land use scenarios. We recommend that the EIR include analysis of potential conflicts between proposed land uses in the General Plan Update and the implementation of the San Joaquin River Flood Bypass project.

We have the following additional recommendations regarding the inclusion of additional analyses.

- **Utilities and Service Systems.** The NOP states that the water supply will be analyzed in the EIR. There is strong evidence that compact growth reduces per capita water demand, as well as water supply infrastructure costs,¹ and we therefore request that the impacts of different land use scenarios on water supply be analyzed.
- **Historic and Cultural Resources.** The NOP states that potential impacts on historic and cultural resources will be analyzed in the EIR. The General Plan Update should contribute to protecting and enhancing the unique cultural and historical values of the Delta. The Delta Plan recommendation DP R1 recommends designation of the Delta as a National Heritage Area. The EIR should include analysis of any conflicts between proposed land uses in the General Plan Update and this proposed designation.

Other matters for your consideration

The Delta Reform Act specifically established a certification process for compliance with the Delta Plan's regulatory policies (See attachment on Covered Actions for details). According to Delta Reform Act, it is the

¹ U.S. Environmental Protection Agency. 2006. *Growing Toward More Efficient Water Use: Linking Development, Infrastructure, and Drinking Water Policies*. EPA 230-R-06-001. Downloaded on March 5, 2013 from http://www.epa.gov/smartgrowth/pdf/growing_water_use_efficiency.pdf.

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state or local agency approving, funding, or carrying out the project that must certify consistency with the Delta Plan. This certification is subject to appeal to the DSC. Should you determine the General Plan Update is a covered action, a way to streamline the process and make full use of the EIR is to include the information and analysis needed to support the certification of Delta Plan consistency within the EIR, including potentially including a draft certification as an appendix to the EIR.

Please also note that the final EIR for the Delta Plan includes a Mitigation Monitoring and Reporting Plan that describes the mitigation required for covered actions. If you should determine the General Plan Update is a covered action, it may be affected by the Delta Plan's Policy G P1 (23 CCR Section 5002(b)(2)), which states, "Covered actions not exempt from CEQA must include applicable feasible mitigation measures identified in the Delta Plan's Program EIR or substitute mitigation measures that the proposing agency finds are equally or more effective."

I encourage you to contact Jessica Davenport at jdavenport@deltacouncil.ca.gov or (916) 445-2168 with your questions, comments, or concerns. We would like to work with you to ensure the consistency of San Joaquin's General Plan Update with the Delta Plan while also avoiding, minimizing or mitigating potential environmental impacts and we look forward to continued coordination between our agencies to further our related efforts. We are available to continue discussions about how to ensure that your project is consistent with the Delta Plan.

Sincerely,



Cindy Messer
Deputy Executive Officer

cc: Erik Vink, Delta Protection Commission
Carl Wilcox, Department of Fish and Wildlife
Steve Mayo, San Joaquin Council of Governments