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350
sacramento



**SIERRA
CLUB**

October 31, 2019

Attention:

Environmental Coordinator

Sacramento County, Office of Planning and Environmental Review

827 7th Street, Room 225, Sacramento, CA 95814

Sent via email to: CEQA@saccounty.net

Re: Comments on Jackson Township Specific Plan Draft Environmental Impact Report (DEIR)

Dear Sacramento County,

The Environmental Council of Sacramento (ECOS a 501(c)(3) nonprofit organization, is a coalition dedicated to protecting the natural resources of the greater Sacramento region while building healthier, more equitable, economically thriving communities. ECOS member organizations include: 350 Sacramento, Breathe California Sacramento Region, Friends of Stone Lakes National Wildlife Refuge, International Dark-Sky Association, Physicians for Social Responsibility Sacramento Chapter, Sacramento Citizens' Climate Lobby, Sacramento Electric Vehicle Association, Environmental Democrats of Sacramento County, Sacramento Housing Alliance, Sacramento Natural Foods Coop, Sacramento Audubon Society, Sacramento Valley Chapter of the California Native Plant Society, Sacramento Vegetarian Society, Save Our Sandhill Cranes, Save the American River Association, Service Employees International Union (SEIU) Local 1000 and the Sierra Club Sacramento Group. Members of Habitat 2020, a committee of ECOS, include: Friends of Stone Lakes National Wildlife Refuge, Friends of Swainson's Hawk, International Dark-Sky Association Sacramento Chapter, Sacramento Area Creeks Council, Sacramento Audubon Society, Sacramento Valley Chapter California Native Plant Society, Save Our Sandhill Cranes, Save the American River Association, Sierra Club Sacramento Group and Sacramento Heron and Egret Rescue.

350 Sacramento is a local grassroots organization committed to equitable solutions that accelerate the transition to a sustainable future, with atmospheric carbon dioxide levels below 350 ppm. 350 Sacramento believes in a world with a safe climate, where nature is respected and protected, and our social, political, and economic systems work for all people and the planet.

The Sierra Club's mission is to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives.

Agricultural Resources

There is insufficient mitigation for farmland lost in the Jackson Township Specific Plan DEIR. By converting all this farmland to urban/suburban uses, the GHG emissions will increase due to the increased number of motor vehicle trips (more vehicle miles traveled). Moreover, loss of agricultural resources will reduce the potential for carbon sequestration in the soil by application of compost or regenerative agriculture methods, in addition to the natural processes of plant growth and soil microbial action from farming. There needs to be better mitigation measures to ensure carbon soil sequestration occurs at least as much as it would if the agricultural resources were preserved.

Biological Resources

Use of the South Sacramento Habitat Conservation Plan (SSHCP) was offered as one of the options for dealing with California Endangered Species Act (CESA) and Federal Endangered Species Act (FESA) impacts, and it was clearly stated that the hardline preserves identified in the SSHCP conservation strategy would be provided. Since the SSHCP now has its permits and is in the implementation phase, we are assuming that the Jackson Township will be affected by and compliant with the SSHCP.

The Sacramento Chapter of the California Native Plant Society (CNPS), in coordination with State CNPS, ECOS and Habitat 2020, has embarked upon an ambitious regional campaign to promote the preferential use of California native plants in home and civic landscaping. It is called Homegrown Habitat, which contains a list of appropriate plants for our region. These nonprofits are currently building the capacity to ensure that these landscaping options are available locally. While utilizing these plants would not provide any avoidance or minimization or mitigation credits, it would go a long way to reducing water consumption and would provide carbon sequestration benefits (even during a drought when many non-local native plants and trees would perish), as well as resources for local insect and bird populations.

The use of these native California plants appropriate for our region in Jackson Township development will assist in creating pathways through the urban region in Sacramento between the agricultural, conservation lands and foothills on its eastern borders to the farmlands and delta to the west. Wide use of these plants reduces the “edge” effects of development near existing wild pathways (e. g. the American River parkway) through the Sacramento region. We strongly urge Jackson Township to adopt the use of California native plants appropriate for this region that was prepared by CNPS and require it for all landscaping within the project.

Residential landscaping accounts for more than 50% of the average daily water usage per household (Regional Water Authority Waterwise data). Additionally, during the summer when landscaping water demands are at their highest, 30% of this water is lost to evaporation from turf lawns (Regional Water Authority Waterwise data). Unfortunately, in long periods of drought such as the Sacramento region experienced in 2012-15, homeowners, HOAs and developers can lose significant landscaping investments

because plant colonies and turf typically in use cannot withstand the valley's high temperatures coupled with reduced water availability. Both individual homeowners and the region are hit with a double impact in these situations: (1) homeowners lose landscaping functionality (shade and privacy) as well as beauty and health benefits; and (2) the cost of time and money to replace non-native California landscaping when milder weather returns.

As a result, the Sacramento region loses landscape habitat and carbon sequestration. In addition, abandoned, dead landscapes can pose fire protection issues and lead to further air quality degradation if they become part of local fires. Finally, the associated loss of local insects, including pollinators, local and migratory birds, and animal populations that depend on local native plants directly contribute to the region's loss of biodiversity. Unfortunately, climate change is promising more frequent and severe regional droughts, and this means the potential exists for a continuing cycle of boom and bust for residential landscaping. This cycle is broken when developers, HOAs, and homeowners landscape with local native plants found on the Homegrown Habitat plant list instead of turf lawns and non-local, higher water use plants.

A traditionally landscaped home can save up to 60% or more of its watering costs and a significant amount of landscape maintenance cost by converting to a landscape of Homegrown Habitat plants (Sacramento Valley Chapter, California Native Plant Society). These local native plants typically require low or very low amounts of water to thrive and have adapted to grow and thrive in the native soils and climate of the Sacramento region for thousands of years. Gardening and maintenance costs are significantly lower with these plants because they do not require fertilizer, pesticides or special soil amendments. Plant pallets can be selected for any shade or sun condition and can provide blooms and color throughout the year. Local insects, birds and animals thrive on these plants, so the uses of these plants contribute to the carbon sequestration and biodiversity in our region. The ability of local native plants to withstand climate change will contribute to homeowner shade, prosperity, and overall improved quality of life.

Carbon sequestration is achieved and maintained throughout the built environment in the Sacramento region through the broad use of the local native plants on the Homegrown Habitat plant list. Many of the trees and shrubs found on the list are long lived and woody which translates into sustained carbon sequestration. These plants are equipped to survive prolonged periods of low, very low or even no supplemental irrigation and, therefore, continue to sequester carbon when other non-drought tolerant plantings often perish, thus reducing the regional built environment's ability to sequester carbon.

The Homegrown Habitat plant list provides pallets of local native plants that achieve the above benefits. Experts in biology, entomology, conservation, education, and landscape design joined with the California Native Plant Society (CNPS), Sacramento Valley Chapter, to develop the list for the Sacramento region. The listed plants support hundreds of butterflies, moths, native bees, and other pollinators. They are homes for other beneficial insects, which in turn support local and migratory birds and animal populations. Year-round habitat for pollinators supports residential agricultural activity. These plants

already survive without human attention along the American river parkway and are celebrated for their beauty and resilience. They are equally at home in front and back yards, HOA and developer common spaces, commercial landscapes, public and institutional spaces, and medians and agricultural hedgerows. A copy of the list of plants in the above-mentioned Homegrown Habitat is attached. We are requesting that you participate in the Homegrown Habitat advocated by CNPS.

Climate Change

We appreciate the opportunity to comment on Chapter 9, “Climate Change”, of the County’s *Jackson Township Specific Plan Draft Environmental Impact Report* (DEIR). Our greenhouse gas (GHG)-related comments are presented in the following seven sections. We first discuss the County’s past GHG-reduction commitments, because the DEIR:

- I. does not accurately describe County climate planning;
- II. uses inappropriate baseline data based on past planning;
- III. applies inappropriate thresholds of significance; and
- IV. is inconsistent with the County’s 2011 General Plan Update, associated Final Environmental Report (GP/FEIR),¹ and Phase 1 CAP.²

We also present,

- V. other DEIR-related concerns.

We conclude:

- VI. the DEIR is legally insufficient
- VII. the County’s failure to provide promised mitigation is contrary to the General Plan.

I. THE DEIR DOES NOT ACCURATELY DESCRIBE COUNTY CLIMATE PLANNING

The DEIR does not properly report the County’s multi-phase CAP Planning Process, the role of the first-phase CAP, the inconsistencies between the proposed project and the GP, and areas of controversy known to the County.

We discuss this topic below, explaining the nexus between the present DEIR and the County’s previous GHG commitments and existing Climate Action Plan (Phase 1 CAP). We begin with a brief introductory overview of the regulatory significance of a CAP.

A. The Role of Climate Action Plans (CAPs)

California has determined that climate change is a serious and immediate threat. Climate-forcing GHG emissions are one type of impact that lead agencies must

¹ Sacramento County, Department of Environmental Review and Assessment. Final Environmental Impact Report, Sacramento County General Plan Update. April 2010, adopted November 9, 2011.

² Sacramento County. Department of Environmental Review and Assessment. Climate Action Plan, Strategy and Framework Document. October 2011, adopted November 9, 2011 (CAP).

consider under the California Environmental Quality Act (CEQA). An agency may do so either on a project-specific basis, or at a programmatic level via a “Climate Action Plan” (CAP).³ CAPs themselves also require CEQA review.⁴ If there is substantial evidence (i.e., a “fair argument”) that approving a project or plan such as a CAP may have a significant impact, an Environmental Impact Report is prepared.⁵

Correctly done, CAPs can provide more comprehensive and detailed GHG-reduction than is practical on a project-specific basis; can ensure analysis of cumulative impacts; and allow consideration of broad policy and program-wide alternatives and mitigation not feasible during project-level review.⁶ CAPs can also provide co-benefits such as better air quality and health outcomes, habitat protection, more livable communities, and economic savings through energy and mobility efficiencies.

CAP “Streamlining” Function. If a jurisdiction adopts a CAP compliant with CEQA, future projects consistent with the CAP’s provisions may tier their GHG analysis from the CAP’s environmental document and are relieved of further GHG mitigation. This “streamlining” is efficient for lead agencies and project proponents. However, a weak CAP can be more troublesome than none, because inadequate measures may be (incorrectly) asserted as sufficient mitigation for future projects. A fully CEQA-compliant CAP from which future GHG analysis may be legitimately tiered is commonly referred to as being “qualified”.

CEQA’s Enforceability Requirements. A fundamental prerequisite of CEQA mitigation is that it be certain, i.e., “*fully enforceable through permit conditions, agreements, or other legally binding instruments.*”⁷ Enforceable and otherwise credible GHG-reduction mitigation is incumbent on lead agencies and project proponents, whether CEQA-compliance is tiered or project-specific, and lead agencies are prohibited from approving projects if feasible mitigation measures would reduce impacts.⁸ If CAP measures are not fully enforceable, they must be made so at the project level, and if there is substantial evidence that the measures would be inadequate, GHG impacts must be analyzed in the project EIR.⁹ A CAP proposing non-enforceable or ineffective measures thus fails its streamlining function. Arguably “non-qualified” CAPs create process uncertainty, ill-serving the lead agency, project proponents, and the general public.

³ California Code of Regulations, Title 14 (14 CCR) §15183.5 (b). CEQA regulations use the term “greenhouse gas reduction plans”; “CAP” is the common designation.

⁴ Golden Door et al v. County of San Diego (2018), Cal. Ct. App., 4th.

⁵ 14 CCR §15064

⁶ 14 CCR §15168(b)

⁷ 14 CCR §15126.4(a)(2)

⁸ 14 CCR §15021(a)(2); §15096(g)(2)

⁹ 14 CCR §15183.5(b)(2)

B. The DEIR DOES NOT PROPERLY DESCRIBE THE COUNTY'S MULTI-PHASE CAP PLANNING PROCESS

The DEIR's, "Sacramento County Climate Action Planning" section states,

*The Sacramento County Climate Action Plan ... includes a GHG inventory for ... 2005, a GHG emission reduction target, and goals and implementation measures ... Sacramento County has developed thresholds of significance based on the 2005 GHG inventory developed for its CAP ... meeting these per capita thresholds of significance would demonstrate consistency with Sacramento County's CAP.*¹⁰

This wording is problematic, because without further context a reader might incorrectly infer that the County had adopted a "qualified" CEQA-compliant CAP which includes thresholds of significance and actionable implementation measures; and that consistency with the CAP would confer *prima facie* legitimacy on the DEIR's proposed *per capita* thresholds. Such a reader would be mis-lead.

At the outset, the DEIR's above reference to "The" CAP is confusing, because the County has adopted in its GP a multi-phase CAP strategy. The existing first-phase CAP adopted with the GP/FEIR in November 2011 is not, and was never intended or claimed to be, a "qualified" CEQA document from which subsequent environmental documents could be tiered. As designated in its sub-title, it is a concept-level, "*Framework and Strategy Document*", meant to be the first component of, "*A tiered approach to the climate action plan ... the foundation for the CAP components which follow*".¹¹

Similarly, the statement, "*Sacramento County has developed thresholds of significance based on the 2005 GHG inventory developed for its CAP*" could be misinterpreted. The adopted Phase 1 CAP does not include thresholds of significance applicable to particular projects; it presents only countywide mass GHG reduction targets, stating, "*The underlying inventory and the 2020 reduction targets will be refined during development of subsequent components of the Sacramento County CAP*".¹²

Consistent with its strategic orientation, the Phase 1 CAP lists goals and potential mitigation measures, but lacks any implementation commitments whatsoever.

The 2011 FEIR explains further,

Comprehensive plans to address climate change are being adopted by many jurisdictions, and they have come to be called Climate Action Plans. Part of the mitigation for significant impacts related to GHG emissions included in this EIR requires adoption of a Sacramento County Climate Action Plan ... intended to be completed in two phases, with the first phase being the strategy document to be adopted concurrently with the General

¹⁰ DEIR, p. 9-9, 9-10, 9-11; and passim, e.g., pp. 9-16, 9-19.

¹¹ CAP p. 18.

¹² CAP p. 28

*Plan. The second phase will flesh out the strategies outlined in the phase I plan, and will include ... community outreach/information sharing, timelines, and detailed performance measures. ... Phasing the Climate Action Plan allows the County to consider and adopt the overall strategies and goals as a first step, rather than delaying County action until the more lengthy and detailed part of the process is complete. Mitigation in this EIR recognizes this two-step process.*¹³

The ‘comprehensive’ Phase 2 CAP to be subsequently developed is meant to be a “qualified” CEQA-compliant document. As explained during an effort to initiate development of the second-phase CAP, staff advised the County Board of Supervisors at a 2017 Board workshop,

*... a primary benefit for completing the [Phase 2] Communitywide CAP is the streamlining of CEQA analysis. The Communitywide CAP will be a qualified GHG emission reduction plan in accordance with criteria identified in Section 15183.5 of the California Environmental Quality Act (CEQA) Guidelines. As such, new projects that are in compliance with the requirements of the Communitywide CAP will not be required to do a separate GHG analysis.*¹⁴

The County’s website likewise states that the pending Phase 2 Plan will,

*1) update the unincorporated County’s GHG inventory and forecasts, 2) determine the GHG reduction targets which are required, and 3) propose measures to achieve the required GHG reductions for the entire County”*¹⁵.

Unfortunately, as we review in section III below, development of the second-phase Climate Action Plan is among the GP/FEIR mitigation commitments yet to be accomplished.

C. The DEIR Does Not Properly Characterize the Role of the Phase 1 CAP

As noted above, the Phase 1 CAP is a strategic planning document which does not present thresholds of significance or actionable mitigation measures, explicitly deferring those to subsequent planning,

The thresholds presented in the DEIR are not, as might be inferred, included in the Phase 1 CAP and were not adopted with it. Rather, the thresholds are presented in the County’s FEIR, which includes a link to the underlying 2005 inventory, making reference to the CAP superfluous. For these reasons we believe that the DEIR’s repeated assertions of consistency with the Phase 1 CAP are immaterial; and in fact, we below demonstrate that the DEIR is *not* consistent with the CAP.

¹³ FEIR pp.12-32, 12-33

¹⁴ Board of Supervisor’s Meeting Agenda, Staff report, “PLNP2016-00063, Climate Action Plan – Communitywide Greenhouse Gas Reduction and Climate Change Adaptation Workshop”, May 24, 2017.

¹⁵ Online: <https://planning.saccounty.net/PlansandProjectsIn-Progress/Pages/CAP.aspx>. Retrieved October 11, 2019.

D. The DEIR Does Not Discuss Inconsistencies Between the Proposed Project and the GP

CEQA requires that lead agencies discuss inconsistencies between the proposed project and the GP.¹⁶ Such inconsistencies are alluded to above and will be reviewed further in section IV of these comments. They are not discussed in the DEIR as required.

E. The DEIR Does Not Identify Areas of Controversy Known to the County

CEQA requires that lead agencies identify known areas of controversy raised by the public.¹⁷ Our concerns have been made known. Representatives of our organizations have expressed them in writing to County staff and to the Board of Supervisors, and provided copies of a table displaying the inconsistencies between GHG-reduction measures presented in the FEIR and the GP, and documenting the failures of the County to implement the GP/FEIR commitments (Attachment 4 to these comments).

An initial letter to County staff observed,

*Most mitigation measures included in the County's 2011 General Plan 2030 and the associated FEIR have not been implemented (see attached table, "Sacramento County GP 2030 – GHG Mitigation Status"). This is a concern because time is of the essence in reducing GHG emissions, and because the public needs confidence in the County's ability to implement measures to be presented in the Phase II CAP.*¹⁸

Our subsequent letter to the Board of Supervisors noted,

*A number of greenhouse gas mitigation measures, including the above [relating to funding CAP implementation], were included in the County's November 2011 General Plan 2030 update and associated Environmental Impact Report. The adopted/certified measures have not been implemented (please see Attachment); nor has the County stated a reason supported by substantial evidence for the failure. We believe it is an environmental and legal necessity to begin the promised work without further delay.*¹⁹

In addition, representatives of our organizations have raised these concerns to County staff in numerous personal conversations and during several formal meetings.²⁰ This area of controversy is not identified in the DEIR.

¹⁶ 14 CCR §15125 (d)

¹⁷ 14 CCR §15123 (b)(2)

¹⁸ Oscar Balaguer, letter to Todd Taylor, Associate County Planner; "County Climate Action Plan: Comment", July 2, 2017

¹⁹ 350 Sacramento/ECOS/Sierra Club, letter to Sacramento County Board of Supervisors, "FY 2019-2020 Budget: Climate Action Plan", June 11, 2019.

²⁰ Meetings between 350 Sacramento, ECOS, and Sierra Club representatives and County Planning staff; County Planning and Environmental Review Division offices; October 29, 2018, August 20, 2019

II. THE DEIR USES INAPPROPRIATE BASELINE DATA BASED ON PAST PLANNING

The DEIR's use of its 2005 Inventory is inconsistent with the FEIR's commitment to regularly update the inventory, and the Inventory has been superseded.

A. The DEIR's Reliance on a 2005 GHG Inventory is Inconsistent with the GP/FEIR

The County committed in its 2011 GP/FEIR adoption to update the GHG Inventory at three-year intervals. Frequent updates are necessary because time is of the essence in implementing GHG-reduction measures: climate change is a function of mass atmospheric loading of GHGs, so reaching a given target sooner is more effective than doing so later. If proposed reduction measures are not having their intended effect, it is essential that this be discovered and remedied promptly.

Per the County's commitment, the Inventory should have been updated in 2011, 2014, and 2017. These updates have not been undertaken. As a result, the current DEIR relies on old data, inconsistent with the GP/FEIR's promises.

B. The County's Baseline 2005 GHG Inventory Has Been Superseded

Although the County's 2005 GHG Inventory was not regularly updated as promised, the Inventory was once updated to baseline year 2015, and presented to County Supervisors at the above-mentioned 2017 Board workshop.²¹ At that Workshop, staff presented draft GHG targets congruent with then-proposed State guidance (since adopted),²² and noted the GHG-reductions the County would have to make to achieve those targets.

Notably, the 2015 Inventory documents a 1.5 percent *increase* in County GHG emissions since 2005,²³ signaling a possible adverse trend at odds with the State's goal of steadily *reducing* GHG emissions through 2050. The absence of the promised triennial updates makes it impossible to characterize the significance of this troubling signal.

The EIR should explain the use of 2005 data instead of the 2015 Inventory; and should also include a comparison of the DEIR's thresholds, based on the 2005 data, to the State-suggested thresholds based on more recent statewide data.

²¹ Board of Supervisor's Meeting Agenda, op. cit., Attachment 1, "Task 1 Technical Memorandum: 2015 Greenhouse Gas Emissions Inventory and Forecasts". Ascent Environmental, November 15, 2016. Online, linked from: <https://planning.sacounty.net/PlansandProjectsIn-Progress/Pages/CAP.aspx>. Retrieved October 11, 2019.

²² California Air Resources Control Board (CARB), The 2017 Climate Change Scoping Plan Update, January 20, 2017.

²³ Ibid., p. 3/28 (un-paginated document).

III. THE DEIR APPLIES INAPPROPRIATE THRESHOLDS OF SIGNIFICANCE

The DEIR applies thresholds for 2020, 2030, and 2035 without having properly adopted them; does not identify a threshold for 2050; and does not justify the project-level use of statewide targets.

A. The County Applies Thresholds of General Use.

Comparison of three prior County EIRs adopted 2017-2018 and the current DEIR indicates that all four use identical thresholds for 2020 and 2030, as tabulated and displayed in Attachment 3 to these comments.

B. The DEIR's Thresholds for 2020 are Improper Because Not Adopted as Required

CEQA requires that thresholds of general application be adopted by ordinance, resolution, rule, or regulation; be developed through a public review process; and be supported by substantial evidence.²⁴

In its 2011 adoption of the GP FEIR, the County committed to,

Adopt a first-phase Climate Action Plan ... that contains the following elements and policies: enact a Climate Change Program that includes ... Reduction targets that apply to new development (Table CC-9).²⁵

As we note elsewhere, the Phase 1 Plan does not actually contain any such Climate Change Program, much less any reduction targets applying to new development, and its two envisioned elements²⁶ appear to have simply been dropped without justification or process.

In any case, in directing that the Table CC-9 targets be included in a Climate Change program to be “enacted” at a future time, the County chose to not adopt the targets at the time of FEIR adoption. We are unaware that the specified Climate Change Program, including reduction targets and supported by substantial evidence, has been enacted through a public process. If there was such a process, it should be referenced; otherwise the resultant status of the 2020 thresholds should be explained.

B. The DEIR's 2020 Thresholds are Also Improper Because Inconsistent with the FEIR

Even were the FEIR'S Table CC-9 thresholds adopted concurrent with FEIR adoption, their application in the current DEIR is improper, because they have been substantially modified, as displayed in Attachment 3 (Table 6) to these comments. Any such modification, to be valid, would have had to comply with above-referenced CEQA requirements, including public process. If there was such a process, it

²⁴ 14 CCR § 15064.7.

²⁵ FEIR, p. 12-39

²⁶ The other was a fee on development to fund the County's climate activities.

should be referenced; otherwise the resultant status of the 2020 thresholds should be explained.

C. The DEIR's 2030 Thresholds are Improper Because Not Adopted

Executive Order (EO) B-30-15 and SB 32 set a State GHG-reduction goal of 40 percent below State levels by 2030. As acknowledged in the column headings of DEIR Table CC-2 and in a footnote, "*...the 2030 thresholds have not been formally adopted by Sacramento County at the time of writing this Draft EIR*".²⁷ They are therefore not compliant with CEQA requirements for thresholds of general use and cannot be used to demonstrate compliance with State GHG-reduction goals.

D. The DEIR does not include a 2050 Target, Contravening Legal Requirements and the FEIR

The DEIR does not identify a 2050 goal or threshold, stating,

*The buildout year for the Project is 2035. To evaluate the Project in light of the 2050 statewide GHG reduction goal ..., the draft 2030 thresholds were extrapolated using a 17 percent reduction, as shown below in Table CC-2.*²⁸

DEIR Table CC-2 includes a column labeled "2035 (Project- Specific Derived) Thresholds". A footnote adds,

"2035 thresholds are not adopted by Sacramento County but are interpolated based on 2030 thresholds and keeping the county aligned with greenhouse gas (GHG) reduction goal of 80 percent below 1990 levels by 2050 per Executive Order B-30-15".

To review the regulatory setting, the above-quoted 2050 target was established by Executive Order (EO) S-3-05. Subsequently, EO B-30-15 established an interim 2030 goal, later codified by SB 32. Judicial guidance has directed that CEQA GHG determinations be consistent with all statewide goals, including the 2050 target.²⁹

The County GP was adopted before enactment of the 2030 target and the above-cited judicial guidance re the 2050 goal. However, the FEIR properly states,

*Currently only the 2020 target has been adopted by the state through legislation ... As a result, all of the impact discussions, mitigation, and strategies are based on meeting the 2020 target, not the longer-term 2050 target. If the 2050 target is adopted during the life of the General Plan, amendments to the General Plan strategies outlined in the sections to follow will become necessary.*³⁰

²⁷ DEIR, p. 9-11. The 2030 Thresholds of Significance were also not adopted at the time of approval of the three earlier EIRs identified in GHG-Attachment 2 to these comments.

²⁸ DEIR, p. 9-11

²⁹ Center for Biological Diversity v. California Dept. of Fish and Wildlife (2015) 62 Cal.4th 204, 229–230

³⁰ FEIR, pp. 12-6 - 12-7

The interim 2030 target was not envisioned when the GP was adopted; however, the same logic applies and, as the FEIR indicates, amending the GP's GHG strategies to recognize both the 2030 and 2050 targets is now necessary.

The DEIR's approach to the 2050 targets raises several concerns:

1. No 2050 Goal is Stated. The DEIR has not stated a countywide 2050 goal, or a threshold of significance applicable to this project that would support attainment of the countywide goal.
2. The 2035 Thresholds are Not Adopted. As the DEIR acknowledges, the proposed 2035 thresholds have not been adopted. The DEIR should explain how they can be used to demonstrate compliance with State GHG goals.
3. The 2005 Inventory is Outdated. As previously noted, the 2005 Inventory from which the DEIR derives its 2035 projections is outdated. The County's 2015 GHG Inventory presents more recent data *and projects County GHG emissions to 2050*. The 2015 Inventory is available online on the County's website. The DEIR should explain its use of the superseded 2005 data and projections.
4. The DEIR's "Project-Specific" Thresholds Conflicts with County Commitments. The 2035 Thresholds are identified as being "Project Specific". As mentioned previously and discussed further in section IV of these comments, this conflicts with the strategy presented in the Phase 1 CAP and with the mitigation commitments presented in the GP/FEIR to adopt "performance measures" through a comprehensive Phase 2 CAP planning process.
5. The GP's GHG strategies appear outdated, as do the FEIR's GHG impact discussions, mitigation, and strategies which inform them, because they have not been amended to recognize current regulatory requirements. It appears the DEIR suffers from related inadequacies.
6. The DEIR's mitigation is questionable re: complying with the State's 2050 goal, as discussed in section V of these comments.

E. The DEIR GHG Thresholds are Piecemealed Because Inconsistent with GP/FEIR Commitments

As detailed later in these comments, the County has not fulfilled its FEIR/GP GHG-reduction commitments. Implementation of the commitments would have yielded thresholds based on:

1. A series of updated GHG Inventories on which to base the thresholds in consideration of actual GHG emission trends.
2. A Phase 2 CAP presenting "*detailed program and performance measures including timelines and the estimated amount of reduction expected from each measure*" and conferring the benefits of comprehensive planning identified in section I.A above. Using thresholds developed without reference to the promised comprehensive Phase 2 CAP constitutes piecemealed mitigation.

F. The County has not Justified Project-Level Use of Statewide Targets

Conformance with statewide GHG-reduction goals requires that countywide emissions achieve parity with, 40 percent below, and 80 percent below 1990 GHG-emission levels by 2020, 2030, and 2050 respectively. The County's thresholds are derived by applying these reductions to the 2005 Inventory, disaggregated to a projected County per capita basis, and applied to individual projects (we set aside for the moment our concerns regarding the County's outdated base data).

However, it is a mathematical impossibility for Sacramento County to achieve the statewide goals on a countywide basis by applying them only to new development. Reductions required for an individual project may not be the same as for the statewide population.³¹ A greater degree of reduction may be needed from new developments, because designing new buildings and infrastructure for energy efficiency and renewable energy use is likely to be easier and more likely to occur than by retrofitting older structures and systems.³²

The DEIR should explain how the DEIR's thresholds will support achieving the State's 2030 and 2050 goals on a countywide basis.

IV. THE DEIR IS INCONSISTENT WITH THE COUNTY'S GP/FEIR AND PHASE I CAP

The County modified and weakened the FEIR's GHG-reduction measures for inclusion in the GP without required justification and public process, so the measures as adopted in the FEIR are governing. The DEIR's GHG mitigation measures are inconsistent with both the FEIR and GP's versions of the measures.

To contrast the DEIR's provisions with the County's prior GHG-reduction commitments, we must first explain that the County did not fully or accurately reflect the FEIR's mitigation measures in the GP, substantially weakening them. The County's modifications were not supported by reasoned analysis or public process as required. We believe the FEIR's formulations are therefore governing. In any case, the current DEIR is inconsistent with both the FEIR and the GP's versions of the County's GHG-reduction commitments.

A. CEQA Mitigation Requirements

CEQA requires that mitigation measures be fully enforceable, and that if the CEQA "project" is adoption of a plan, mitigation measures can be incorporated into the plan.³³

The plain meaning is that CEQA mitigation measures must be enforceable in their entirety, and that if a jurisdiction chooses to ensure and demonstrate enforceability

³¹ Golden Door Properties v. County of San Diego, Cal. Ct. App., 4th, September 28, 2018

³² Center for Biological Diversity v. California Department of Fish and Wildlife, 62 Cal. 4th, November 30, 2015

³³ 14 CCR § 15126.4 (a)(2)

of the measures by including them in the adopted underlying plan, it is obliged to do so fully and accurately.

California courts have also determined that CEQA mitigation measures must be implemented; that measures are not mere expressions of hope; that adopted measures can only be deleted or changed with a legitimate reason through public process; and that measures cannot be defeated by ignoring them.³⁴

B. The County Did Not Fully or Accurately Include FEIR Measures in the GP and Phase 1 CAP as Specified

Sacramento County adopted its GP, associated FEIR, and its Phase 1 CAP together on November 9, 2011. The substantial discrepancies between the mitigation measures as presented in the FEIR and the GP respectively are displayed side-by-side in Attachment 2 to these comments, along with notes on the implementation status of the measures. The promised Phase 1 CAP measures are not displayed because they don't actually exist in that document, but their absence is noted in Attachment 2.

C. The County's Modifications Substantially Weaken the FEIR's Measures

As displayed in Attachment 2, few of the referenced FEIR measures are fully and accurately included in the GP, and the modifications substantially weaken the FEIR's measures, e.g.:

1. Phase 1 CAP Measures. FEIR mitigation measure CC-2.A specifies that the Phase 1 CAP shall provide for a green building program, a fee to support the CAP, and targets for new development. It does not.³⁵
2. Schedule and Commitment to Phase 2 CAP. The schedule and action for the Phase 2 CAP was changed from the FEIR's "*adopt...within one year*", to "*prepare for...consideration*", within *three* years;
4. Enforceability. Of the ten categorical "*shall*" statements in the FEIR, only one survives in the GP.

D. The County's Modifications Were Not Justified and are Not Reported

The FEIR's "Findings" section lists the FEIR measures verbatim³⁶, stating they, "*...have been incorporated into the Project to reduce this impact.*"

Then follows without explanation, "*Actual text in the draft Land Use Element that complies with [the FEIR measures]*", listing the measures as modified and adopted in the GP.

³⁴ Lincoln Place Tenants Association v. City of Los Angeles, 130 Cal.App.4th Sierra Club v. County of San Diego, Cal. Ct. App. 4th, 2014

³⁵ Other FEIR-required measures were also not included in the Phase 1 CAP as specified, but were adopted in the GP in modified form, so are not listed here.

³⁶ FEIR, "Findings of Fact and Statement of Overriding Considerations" ("Findings"), pp. 25-26.

The Findings then conclude, without discussion, that “*Modified versions of Mitigation Measures CC-1 and CC-2 have been incorporated into the Project to reduce impacts, but not to a less than significant level*”.

The equivalency claimed between the measures as adopted in the FEIR and in the GP is patently false. The FEIR’s measures were hardly “adopted into the project” because, as listed above and displayed in Attachment 2, a number were entirely excluded and others vitiated; and since the “modified” mitigation measures presented in the GP are different and substantially weaker than FEIR measure CC-2, it cannot be fairly said they “comply” with the FEIR measures.

No explanation or justification is offered in the Findings or elsewhere re the significant weakening of the FEIR’s measures.³⁷

E. The County’s Modifications Were Not Subject to Public Process

Staff’s written and oral reports and Board of Supervisor’s discussion,³⁸ at the November 9, 2011 adoption meeting for the GP/FEIR/Phase 1 CAP, do not mention the “modification” of the FEIR’s measures. A member of the public, reading the FEIR’s peremptory “shall” mitigation language would naturally (but incorrectly) believe it was faithfully reproduced in the GP.

F. The Adopted FEIR’s Conditions are Therefore Governing

Absent supporting substantial evidence and public review as required by CEQA and case law, the County’s modifications to the FEIR’s mitigation measures are ineffective. The FEIR’s adopted measures govern, and are the standard against which subsequent documents should be compared. We again note, however, that the current DEIR complies with *neither* the FEIR’s measures nor the weaker, incomplete GP version.

G. The DEIR Thresholds and Mitigation Measures are Inconsistent with the Phase 1 CAP and GP/FEIR Commitments

The GP’s GHG-reduction measures are shown in Attachment 2 to these comments. Although the GP’s measures are weaker than the FEIR’s and incomplete, both versions require triennial GHG Inventory updates, and development of,

“a second-phase Climate Action Plan ... that includes ... detailed programs and performance measures, including timelines and the estimated amount of reduction expected from each measure”.

³⁷ The FEIR’s “Findings” similarly modify and weaken for inclusion in the GP the FEIR’s mitigation relating to “Traffic and Circulation - Transit” (“Findings”, p. 21)

³⁸ County Planning and Community Development Department, ‘2030 General Plan Update – Adoption Hearing #22’, For the Agenda of: November 9, 2011 Online: <http://www.agendanet.saccounty.net/sirepub/cache/2/emepcnorglw2cee14jq2z1uy/560924310232019060119351.PDF>

Fulfillment of these commitments would have yielded:

1. performance measures (thresholds) based on a series of relatively recent GHG Inventories, as discussed above;
2. detailed program measures (GHG-reduction measures) and estimated GHG reductions, developed in the context of and conferring the benefits associated with the comprehensive planning cited in section I.A above.

Both the current DEIR's thresholds and mitigation measures were developed outside of the multi-phase strategic framework declared in the adopted Phase 1 CAP and further described in the adopted FEIR/GP provisions quoted above. With no basis in promised comprehensive, countywide Phase 2 CAP planning, the DEIR's thresholds and mitigation measures constitute piecemealed mitigation.

V. OTHER DEIR-RELATED CONCERNS

The DEIR's mitigation measures are inadequate or impermissible, and the DEIR does not adequately fulfill its informational function

A. Proposed CC-1A Mitigation is Problematic

1. Organization is Unclear. CC-1A is broken into two subsections, "Transportation" and "Energy". The Transportation section includes three bulleted, untitled items proposing transit and EV-related measures. The Energy section includes four bulleted, untitled items proposing efficiency requirements for high density residences and commercial structures, domestic appliances, and outdoor lighting. To improve clarity and facilitate referencing during review and subsequent mitigation monitoring, we suggest that the DEIR group and categorize the measures, e.g., as in the preceding two sentences, and assign alpha-numeric designations and/or short titles to each sub-measure, rather than or in addition to bullets.
2. Transit Measures are Unclear and Unenforceable. Please see our separate comments regarding Transportation.
3. EV Support Measures are Incomplete. Mitigation Measure CC-1A, under "Transportation", presents two measures relating to electrical vehicle (EV) charging. There is no explanation of how the measures relate to California's Title 24 CalGreen 2019 building codes affecting all new construction effective January 1, 2020,³⁹ specifically the 2019 codes' detailed requirements and specifications for EV parking/charging infrastructure. The DEIR's proposed EV measures are much less comprehensive, and it's unclear how or whether they are consistent with the 2019 codes.

³⁹ California Energy Commission (CEC). 2019 Building Energy Efficiency Standards (Title 24 Codes).

The DEIR “Regulatory Setting ... State”⁴⁰ section should discuss the 2019 CalGreen requirements, and the DEIR should explain how proposed measures relate to them.

CalGreen also includes optional Tier 1 and Tier 2 requirements conferring additional GHG-reduction benefits. A number of other California jurisdictions have adopted such measures. The DEIR should determine through reasoned analysis whether Tier 1 and 2 EV measures would be feasible and effective in reducing the project’s GHG-reduction impacts and should therefor be adopted.

4. Building Energy Measures are Incomplete. Building energy is a major source of GHG loading, along with on-road tailpipe emissions. Mitigation Measure CC-1A, under “Energy”, presents four assorted measures relating to building energy efficiency.

There is no explanation of how the measures relate to California Title 24 CalGreen building codes, specifically the 2019 Zero Net Energy requirements affecting all new construction effective January 1, 2020.⁴¹ The 2019 codes require *inter alia* installation of residential rooftop photovoltaics, high efficiency building thermal envelopes, and advanced mechanical system air filters. They encourage demand-responsive technologies such as battery storage, and heat-pump water heaters. The DEIR’s proposed measures are much less comprehensive, and It’s unclear how or whether they are consistent with the 2019 codes.

The DEIR “Regulatory Setting ... State”⁴² section should discuss the 2019 CalGreen requirements, and the DEIR should explain how proposed measures relate to them.

CalGreen also includes optional Tier 1 and Tier 2 requirements conferring additional GHG-reduction benefits. A number of other California jurisdictions have adopted such measures. The DEIR should determine through reasoned analysis whether CalGreen’s Tier 1 and 2 building measures would be feasible and effective in reducing the project’s GHG-reduction impacts and should therefor be adopted.

B. Proposed CC-1b GHGRP Impermissibly Defers Mitigation

As noted above, the DEIR does not present a countywide GHG goal or thresholds of significance for 2050. DEIR Mitigation Measure CC-1b proposes that the project proponent instead develop a “Green House Gas Reduction Plan” (GHGRP) to *inter alia* demonstrate compliance with the 2050 goals:

“CC-1b - the Project Applicant shall prepare a GHGRP or implement all feasible... measures to meet ... GHG thresholds The per capita thresholds shall be developed based on [the] County’s GHG inventory [and] statewide GHG reduction targets [for] ... 2030 and ... 2050. The GHGRP, or on-site mitigation measures, shall demonstrate ... emissions would not exceed the

⁴⁰ DEIR, p. 9-5 ff.

⁴¹ CEC, op cit.

⁴² DEIR, p. 9-5 ff.

*applicable thresholds....*⁴³

CEQA requires that formulation of mitigation measures not be deferred, but specific details may be developed after project approval when it is impractical or infeasible to include them during environmental review, provided the lead agency (1) commits itself to the mitigation, (2) adopts specific performance standards to be achieved, and (3) identifies the potential action(s) that can achieve the standard and that will be considered, analyzed, and potentially incorporated in the measure.⁴⁴

DEIR measure CC-1b appears to be an example of impermissible deferred mitigation. We have the following concerns:

1. The term “GHGRP” has a specific CEQA regulatory meaning⁴⁵. The DEIR, which is a CEQA document, confusingly uses the term here to denote a different, *ad hoc* planning process. This undermines the informational obligation of the DEIR, to clearly inform decision-making
2. The DEIR does not explain why it is impractical or infeasible to identify specific mitigation measures in the DEIR.
3. It’s unclear how the County has committed to implementation of this measure, or exactly what implementation would entail.
4. The DEIR does not identify specific performance standards to be achieved.
5. The DEIR does not identify potential actions that can achieve the (unstated) standard.
6. The regulatory logic of the measure is circular in that it requires the project proponent to both develop thresholds for 2030 and 2050, and to demonstrate compliance with those thresholds free of public review. Adopting thresholds is normally the function of a lead agency. Delegating this critical task to the prospective permittee requires reasoned justification.
7. The potential conflict between the proponent’s 2030 thresholds, and the 2030 thresholds already promulgated by the County in this and other DEIRs, is not explained.
8. The proposed applicant-produced thresholds would be based on “the County’s GHG inventory [and] statewide GHG reduction targets.” How these two disparate approaches using two different sets of base data would be reconciled, is not explained.
9. The enforceability of the measure is questionable because the language is ambivalent, i.e., (1) requiring either a GHGRP or “other feasible measures” or “*on-site mitigation*” and (2) not identifying criteria for “feasibility”; the process through which feasibility would be determined; and what if any public review

⁴³ DEIR, p. 9-21

⁴⁴ 14 CCR § 15126.4 (a)(1)(B)

⁴⁵ 14 CCR § 15183.5

would be involved.

10. If the thresholds to be developed in the GHGRP are of general applicability, they would require public process and formal adoption as discussed in section III above. If they are project-specific, they would be inconsistent with the GP/FEIR, as discussed in section IV above.

C. The DEIR Does Not Provide a Monitoring and Reporting Plan

Pursuant to CEQA,⁴⁶ the DEIR should describe a monitoring and reporting protocol to ensure that mitigation is implemented as required.

D. The DEIR Does Not Adequately Fulfill its Informational Purpose

A key purpose of CEQA is to provide information to decision-makers and the public regarding proposed projects and their environmental impacts. The DEIR suffers from a number of information deficiencies, as previously noted (items 1-5 below) and here raised *de novo* (items 6 and 7)

1. The Phase 1 CAP is not accurately characterized (these comments, section I.C).
2. Previous mitigation commitments are not faithfully described (comments, section IV.D).
3. Areas of controversy known to the County are not described (comments, section I.E).
4. Inconsistencies between the proposed project and the GP are not described (Comments, section I.D).
5. The State's strong emphasis on local climate action to address climate change is not mentioned in the DEIR's "Statewide GHG Emission Targets and the Climate Change Scoping Plan" section.⁴⁷ The DEIR should reflect the Scoping Plan's advice that,

*"The State must accommodate population growth and economic growth in a far more sustainable manner ... local governments ... are uniquely positioned to influence the future of the built environment and its associated GHG emissions. ... longer-term targets cannot be achieved without land use decisions that allows more efficient use and management of land and infrastructure."*⁴⁸

6. Effects of GHG-induced warming are not meaningfully characterized.

The DEIR expresses prospective temperature increases as numeric changes to annual averages.⁴⁹ However, the impacts the DEIR identifies to transportation and energy infrastructure, crop production, forests and

⁴⁶ CCR § 15097

⁴⁷ DEIR, p. 9-5, ff.

⁴⁸ CARB, *op cit, passim* pp. 133-134

⁴⁹ DEIR, p. 9-4

rangelands, natural habitats, and especially public health, are sensitive not to annual averages, but to the frequency, duration, and severity of extreme events, e.g., hottest daytime summer temperatures, nighttime minima, and duration of extreme heat (“heat waves”). These can be expressed, e.g., as the change from historical baseline of days per year over a given maximum, nights over a given minimum, and increase in the numbers of heat waves of given durations. Projected health impacts associated with such extreme heat events should be identified, and there is now a considerable literature available on this subject.⁵⁰

CEQA requires that EIRs inform the public how bare numbers translate to potential health effects, or explain what the agency *does* know and why, given existing scientific constraints, it cannot translate potential health impacts further.⁵¹

7. Language Is Unclear. The following DEIR statement,

“CC-1A - The Project Applicant shall apply ... (GHG) mitigation measures as contained in the GHGRP into Alternative 2 to reduce operational emissions to Sacramento County’s extrapolated per capita GHG thresholds of significance”⁵²

is not readily comprehensible on several counts, e.g., its confusing reference to a GHGRP which is an element of a separate, unrelated mitigation measure, CC-1b. It therefore fails the DEIR’s informational purpose and should be clarified.

VI. THE DEIR IS LEGALLY INSUFFICIENT

Based on the preceding analyses we conclude the DEIR is legally impaired in several areas.

Our conclusion does not address the adequacy of any preceding document, such as the FEIR, whose mitigation measures we encourage the County to implement.

The DEIR is legally insufficient because it:

1. does not properly describe County climate action planning;
2. uses inappropriate baseline data;
3. applies inappropriate thresholds;
4. is inconsistent with the GP/FEIR and Phase 1 CAP;
5. presents piecemealed mitigation;

⁵⁰ E.g.: Schneider, Alexandra and Breitner, S., “Temperature effects on health - current findings and future implications”, *EBioMedicine*, 2016 Apr; 6: 29–30. Online: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4856774/>

United States Environmental Protection Agency, “Climate Impacts on Human Health”. Online: https://19january2017snapshot.epa.gov/climate-impacts/climate-impacts-human-health_.html

⁵¹ Sierra Club v. County of Fresno (Friant Ranch) (2018) 6 Cal.5th 502

⁵² DEIR, p. 9-20

6. does not adequately detail transportation mitigation measures;
7. does not adequately consider energy alternatives;
8. proposes to impermissibly defer mitigation;
9. does not include a monitoring and reporting plan; and
10. fails its informational purpose.

VII. THE COUNTY'S FAILURE TO PROVIDE PROMISED MITIGATION IMPUGNS THE GP

Based on the its failure to meet its GHG mitigation commitments and to demonstrate compliance with State GHG-reduction goals, we question whether the County has substantially lessened the environmental impact of adopting its GP

As previously noted, the FEIR's unsubstantiated finding that, "*The following [FEIR] mitigation measures have been incorporated into the Project to reduce this impact*", is without substance. The measures incorporated into the project through inclusion in the GP are substantially different from and weaker than those in the certified FEIR.

We have also observed that even the weaker measures promised in the GP have not been implemented. These un-realized measures, include,

- triennial GHG inventory updates,
- development of a funding source to support ongoing climate change activities,
- preparation of a Phase 2 CAP, to include
 - economic analysis
 - detailed programs
 - detailed performance measures
 - timelines
 - GHG reductions expected
- ongoing climate program oversight, monitoring, and maintenance.

Further measures, promised in the FEIR but unreported in the GP, also remain un-delivered:

- a Green Building Program
- 2020 reduction targets to replace interim FEIR Table CC-9 targets.

We have also shown that the 2011 GP adoption did not also adopt the FEIR's proposed 2020 target, nor do we know that the 2020 target was separately adopted later. There was naturally no reference in the GP to the later 2030 and 2050 GHG targets; and the GP has not been updated to recognize them, notwithstanding the FEIR's clear direction that such update would be necessary. Since the County has not adopted 2020, 2030, or 2050 targets, it is not possible to say that the Jackson Township DEIR complies with California's GHG-reduction goals.

Based on these observations we also question the County’s “Finding” that the County has “substantially lessened” the GHG impacts of adopting its *General Plan 2030*.⁵³

“In 2011 the County found that implementation of the [mitigation measures] ... were part of the mitigation imposed to mitigate the climate change impacts of the general plan update. It cannot be said that failing to comply with [mitigation measures and State mandates] does not change the environmental conclusions in the general plan”⁵⁴

A WORD ABOUT CLIMATE CHANGE

There is no longer any rational doubt that climate change is adversely affecting the livability of our planet now; that physical environmental effects will grow increasingly serious in coming decades; and that without major, timely GHG-reductions, they will cause grave public health impacts and severe economic and social disruptions in the lifetimes of people alive today.⁵⁵

During the eight years over which the County has delayed providing its promised GHG-reduction, the world has increasingly experienced unprecedented heat waves, droughts, floods, storms, and fires. California has not escaped some of these disasters. The world’s scientists tell us these are the predicted preliminary effects of a warming climate. The extent of the future change depends on our efforts to reduce GHG emissions.

Because climate change is a function of mass GHG emissions over time, mitigation deferred is mitigation denied. We appreciate the difficulties of transitioning from the long-accustomed land use and building models that have contributed to climate change to sustainable ones, and doing it quickly. But the exigencies of climate change, as reflected in State law, require broad and decisive change in how we think about energy efficiency. Fortunately, the required adjustments will bring many co-benefits. But we no longer have the luxury of delayed or token efforts.

Our organizations are committed to working with the County in every productive way we can. We look forward to ongoing engagement in the County’s administrative process and are always available to discuss our comments and County plans for effective climate action.

⁵³ FEIR, “Findings”, pp. 5, 26.

⁵⁴ *Sierra Club v. County of San Diego*, Cal. Ct. App. 4th, October 29, 2014

⁵⁵ Literature on climate change effects is vast. We list here a few recent, authoritative syntheses of current knowledge. All emphasize the need for prompt, dramatic reductions in GHG emissions to avoid catastrophic impacts pertaining to their particular research focus:

California Resources Agency. *California’s Fourth Climate Change Assessment* (2018).

U.S. Global Change Research Program. *Fourth National Climate Assessment* (November 2018).

Intergovernmental Panel on Climate Change, (IPCC). *Special Report on Global Warming of 1.5°C* (October 2018).

Intergovernmental Science Policy Platform on Biodiversity and Ecosystem Services. *Global Assessment Report on Biodiversity and Ecosystem Services* (May 2019).

IPCC. *Special Report on Climate Change and Land Use* (August 2019).

IPCC. *Special Report on the Ocean and Cryosphere1 in a Changing Climate* (September 2019).

Land Use, Population and Housing

Adherence to General Plan

During the most recent General Plan update the Environmental Council of Sacramento (ECOS) supported the Jackson Corridor north of Jackson Road as a future urban growth area. However, it was always envisioned that growth would occur from west to east. What is happening now is just the opposite and just another example of leap-frog development.

In fact, mitigation measure LU-1 of the Final Environmental Impact Report states:

Growth within the Jackson Highway Corridor and Grant Line East New Growth Areas shall be phased through master planning processes. The phases shall be defined by a specific geographic area, with the earliest phases closest into the existing urban areas, and the later phases farthest outward. Each phase shall represent a geographic area that will accommodate no more than 10 years of growth, based on the latest SACOG projections. Development within the phases shall occur sequentially, and residential or commercial development in each subsequent phase shall be prohibited until the prior phase is developed to at least 50% of holding capacity.

Additionally, General Plan policy LU-119 calls for logical, comprehensive, and cohesive planning boundaries under point number four, as follows:

The County shall only accept applications to expand the UPA or initiate an expansion of the UPA or any Master Plan processes outside of the existing UPA if the Board finds that the proposal meets the following:

- *Parallel processes to expand UPA and prepare Master Plans: Proposed additions to the UPA will only be considered when accompanied by a request to initiate a Master Plan process for all land encompassed by the proposed UPA expansion boundary. Likewise, requests to initiate a Master Plan process outside the UPA will only be considered when accompanied by a request to expand the UPA to include all land encompassed by the proposed Master Plan.²⁶*

- *Project Justification Statement and Outreach Plan: Proposed UPA expansions/Master Plan processes must be accompanied by both a "Justification Statement" and an "Outreach Plan". The Justification Statement shall be a comprehensive explanation of the proposed request and the development it would allow. It must include background information, reasoning, and the goal(s) and benefits of the proposed project. The Outreach Plan shall describe how the project proponent plans to inform and engage neighbors and members of the general public about the proposed UPA expansion and project. ²⁶ A "Master Plan" is defined as a plan that meets the requirements and intent of the Specific Plan statutes contained in Government Code §65450-65457, which requires a land use plan, a circulation plan, an infrastructure plan, and implementation measures. The requirement for a "Master Plan" might be fulfilled by a variety of planning tools, including a Specific Plan, a Community Plan, a Special Planning Area, a development*

agreement, or any combination thereof. County of Sacramento General Plan Land Use Element Amended December 13, 2017 131

- *Proximity to existing urbanized areas: Proposed UPA expansions/Master Plan processes must have significant borders that are adjacent to the existing UPA or a city boundary. As a guideline, “significant borders” generally means that the length of the boundary between the existing UPA or city boundary and the proposed UPA expansion/Master Plan should be 25 percent of the length of the boundary of the UPA expansion area.*

- *Logical, comprehensive, and cohesive planning boundaries: Proposed UPA expansions/Master Plan processes must consist of a contiguous set of parcels that have a regular outside boundary consistent with the logical planning boundary illustrations below. All parcels within this boundary must be included in both the proposed UPA expansion and proposed Master Plan area. LU-120 The County shall only consider approval of a proposed*

The proposed project boundaries, due to all the non-participating properties, looks very similar to the example of illogical planning boundaries shown in the third example. (attachment 1) and is therefore inconsistent with the fourth point above: Logical, comprehensive, and cohesive planning boundaries. The Jackson Township Specific Plan based upon the General Plan FEIR mitigation measure and the above stated General Plan policy is therefore inconsistent with the General Plan.

Growth Inducement

The DEIR on Page 22-3 states:

The Project would extend the UPA, which currently follows the northern border of the Plan Area, to include the Plan Area (see Plate PD-8 in Chapter 2, “Project Description”). As a result, the properties south of Jackson Road (also referred to as Jackson Highway), which are also currently zoned and used for agriculture, would be adjacent to the UPA. This area is within the USB and could be subject to increased development pressure following Project implementation because it would be adjacent to the UPA. However, it is worth noting that a large portion of the area south of Jackson Road directly adjacent to the Plan Area is part of the South Sacramento Habitat Conservation Plan preserve area, so development pressure to the south may be reduced.

In the DEIR it is noted that the area south of Jackson Road will be subject to increased development pressure, but indicates that the South Sacramento Habitat Conservation Plan would reduce that pressure. Until title or conservation easements are secured south of Jackson Road, that development pressure outside the UPA cannot be negated. Growth Inducement should be considered significant and mitigation included.

Transit Mitigation

Providing adequate transit service to this project, and other projects in the Jackson Corridor, must be a critical component of this Jackson Township Specific Plan to achieve

the objectives of the General Plan. Only through the provision of a robust public transit system can vehicle miles traveled be reduced and greenhouse gas reductions be achieved.

When ECOS last met with County staff and representatives of the projects in the Jackson Corridor we were assured that a Transportation Services District (County Service Area) would be established for all the projects in the Jackson Corridor. In fact, we were provided with a draft document which indicated the annual assessment per dwelling unit for each project (Attachment 4).

In reviewing the DEIR, what we find is a very vague and, in our view, unenforceable mitigation measure TR-7:

The Project applicant shall coordinate with Sacramento County and Sacramento Regional Transit District (or other transit operators) to provide the additional transit facilities and services assumed in the transportation analysis, or a cost-effective equivalent level of transit facilities and services. Ultimate transit service consists of 15-minute headways during peak hours and 30-minute headways during non-peak hours on weekdays. The implementation of the transit routes and service frequency must be phased with development of the Project and the ultimate service will be required at full development of the Project.

The operative word in this mitigation measure appears to be “coordinate”. There is no assurance that adequate transit service will be provided or, most importantly, how it will be funded. Therefore, based upon our previous assurances from the County and the project proponents in the Jackson Corridor, the mitigation measure must be revised to read:

MITIGATION MEASURE TR-7: TRANSIT IMPROVEMENTS - Prior to the recordation of any final subdivision map for the New Bridge Project, a Transportation Services District shall be formed. This can be accomplished through the annexation to County Service Area 10 or through the establishment of a new County Service Area. Prior to annexation to County Service Area 10 or the establishment of a new County Service Area, an engineering study shall be undertaken to determine the annual dwelling unit equivalent assessment for the projects in the Jackson Corridor to provide the additional transit facilities and services assumed in the transportation analysis. Ultimate transit service consists of 15- minute headways during peak hours and 30-minute headways during non-peak hours on weekdays. The implementation of the transit routes and service frequency must be phased with development of the Project and the ultimate service will be required at full development of the Project.

Only a clearly stated mitigation measure, as we have stated here, can withstand legal challenge. While ECOS has supported development in the Jackson Corridor, that support was predicated upon the assurance that adequate transit service would be provided to significantly reduce environmental impacts. This approach has been applied to other projects in the southeast County area in the past and there is no reason to change the approach now.

Sincerely,



Ralph Propper, President
Environmental Council of Sacramento



Sean Wirth, Co-Chair
Habitat 2020



Laurie Litman, President
350 Sacramento



Barbara Leary, Chairperson
Sierra Club Sacramento Group

Attachments

- Attachment 1 - Homegrown Habitat Plant List Handout
- Attachment 2 – Sacramento County GP 2030 Greenhouse Gas (GHG) Mitigation Status
- Attachment 3 - Jackson Township DEIR -- GHG Thresholds
- Attachment 4 - Land Use Element of Sacramento County General Plan regarding proposed development outside the existing Urban Planning Area (UPA)
- Attachment 5 – Cost estimates of additional transit to area included in Jackson Township Specific Plan

Cc: Jessica Lynch, Senior Planner, Sacramento County, Office of Planning and Environmental Review, via email to lynchje@saccounty.net