



CITY OF LODI COUNCIL COMMUNICATION

AGENDATITLE: Receive a Report on the Response to Comments on the Draft Environmental Impact Report/Environmental Assessment for 15 Widening from Stockton to Southerly Limits of the White Slough Water Pollution Control Facility

MEETING DATE: April 21, 2010

PREPARED BY: Community Development Director

RECOMMENDED ACTION: Receive a report on the response to comments on the Draft Environmental Impact Report/Environmental Assessment for I-5 Widening from Stockton to southerly limits of the White Slough Water Pollution Control Facility and take appropriate action.

BACKGROUND INFORMATION: This item is being brought to the City Council as an informational item. The Council may want to discuss and provide direction for additional follow up action.

The City Council originally received a report regarding this topic on October 21, 2009. As a result of City Council direction, staff submitted a letter commenting on the Draft Environmental Impact Report (DEIR). As the City Council is aware, comments generated on a DEIR are required to be responded to by the Lead Agency preparing the document. In this case the Lead Agency is the State Department of Transportation (CalTrans).

The Draft Environmental Impact Report/Environmental Assessment analyzes a proposed project that will build freeway and interchange improvements from 0.2 mile south of Charter Way/Martin Luther King Jr. Boulevard to 1.8 miles north of Eight Mile Road in northwest Stockton. The document was prepared by CalTrans. The stated purpose of the project is as follows:

- Reduce traffic congestion and delay on Interstate 5
- Encourage High-Occupancy Vehicle use in the Interstate 5 corridor within the project area
- Improve regional mobility
- Provide a balanced circulation system and reduce out-of-direction travel

As stated in the document, "The project is needed because northwest Stockton has been and is expected to continue experiencing substantial traffic growth, both locally from new area development and regionally from nearby communities such as Sacramento, Lodi, Lathrop, Manteca, and Tracy." The portion of the project which staff is focused on with this review is the new interchange designated as North Gateway Boulevard. This interchange would occur

APPROVED: _____


Blair King, City Manager

approximately 1.8 miles north of Eight Mile Road. The proposed interchange is within the current Stockton General Plan, which abuts the City of Lodi's White Slough property. The document states that the new interchange "would improve local access to Interstate 5, reduce demands at existing interchanges, and connect a planned regional arterial with Interstate 5." The City of Stockton is proposing a new east-west expressway along Stockton's northerly boundary.

The response to the City's comments is attached and segmented into six sections. In the first section, the response basically suggests that inclusion of the interchange is prudent because of the Stockton General Plan, but actual construction will not be part of the project. Further, that the interchange will not be built until development in the area creates the need. Further, it is the position of CalTrans, San Joaquin COG and the City of Stockton that the interchange will "accommodate" growth, not induce it. Finally they suggest that delaying the improvement would be irresponsible and have significant adverse effects on traffic, air quality and quality of life.

The response to our second comment was appropriately dealt with by amending the document. That said, it does call to question the standard of significance that CalTrans uses when assessing impacts to farmlands. While this is the prerogative of the Lead Agency, it is not shared by the City of Lodi.

Staff believes that the response to our third comment is not correct. They contend that the City's White Slough Facility is about ½ mile away from the northernmost portion of the project area. In fact, the definition of the City's facility should include all of the property within the City boundary, not just the physical plant. Based on the description of the project and the exhibits contained in the document, our property abuts improvements contemplated by the project. We contend that there has not been any assessment of impacts that the project may have on our property or its functions. Simply stating that there no impacts are anticipated without providing some fact in the record does not make it so.

With regard to the fourth response, the area is known to be habitat for Giant Garter Snakes. The end result may be as suggested; we believe, however, that the prudent course of action is to follow the requirements of the San Joaquin Multi-Species Habitat Conservation and Open Space Plan and schedule a pre-ground disturbance survey, to be performed by a qualified biologist prior to any permit issuance.

For the response to our fifth comment we would refer to the DEIR Table 2.1 on page 25 which shows all of the approved development in the City of Stockton planning area. It is our understanding that the North Stockton Village and Gateway projects which account for 11,448 residential units on 3,010 acres are within the area of the proposed project. From our perspective this is representative of the future condition. Furthermore, we do not believe that the land use designations in the current San Joaquin County General Plan "accepts or approves" the anticipated project. It is our understanding that the County designation in the area is AG-40, which certainly does not anticipate nearly four dwelling units per acre.

The City appreciates the response to the sixth comment.

Staff is of the opinion that including this interchange within this document is premature. We are being told by CalTrans that the inclusion is warranted because it is in the Stockton 2035 General Plan, but there is no reason to draw the boundaries of the project past Eight Mile Road. We would further contend that the likely timing of this interchange improvement is so far into the future that by the time it is warranted to keep pace with growth, the environmental analysis will be stale and no longer valid. We are told by CalTrans that the development in the area is not approved, but their own document suggests otherwise. Finally, in staff's meeting with the landowner adjacent to the interchange, they contend that their plans have changed and an interchange will not be required.

CalTrans staff has told us that they intend to certify the Final EIR by the end of March. We have been told that we will be notified prior to any actions.

FISCAL IMPACT: Not Applicable

FUNDING AVAILABLE: Not Applicable



Konradt Bartlam
Community Development Director

KB/kjc

Attachment:
Response to Comments Letter

DEPARTMENT OF TRANSPORTATION**DISTRICT 6**

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FEB 16 2010

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

February 11, 2010

Mr. Konradt Bartlam
Community Development Director
City of Lodi
City Hall
221 West Pine Street
Lodi, CA 95241-1910

Dear Mr. Bartlam:

Thank you for your letter dated November 11, 2009 regarding the North Stockton Corridor Improvements project. We have responded to your comments from the letter sent and have enclosed both your comments and our responses.

If you have any further questions, please contact either myself or Scott Smith at (559) 243-8223.

Sincerely,

A handwritten signature in black ink, appearing to read "Zachary Parker".

Zachary Parker
Senior Environmental Planner

c: Scott Smith, File

Enclosure: City of Lodi Letter dated 11/11/09, Caltrans Response

CITY COUNCIL
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BLAIR KING, City Manager
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D. STEPHEN SCHWABAUER
City Attorney

November 11, 2009

Gail Miller
Branch Chief
Central Sierra Environmental Branch
California Department of Transportation
2015 E. Shields Avenue, Suite 100
Fresno, CA 93726

gail_miller@dot.ca.gov

Re: Interstate 5 North Stockton Corridor Improvements
DEIR SCH No. 2008102101

Dear Ms. Miller:

However, the EIR fails to ever even consider the potential that the projected development could not occur. A traffic study is necessary to determine whether the existing and planned infrastructure (absent the highway improvements) could support the growth this project is admittedly designed to serve before any conclusion can be

L-1

drawn that this project is not growth inducing. The EIR does suggest the logical outcome of such study. Figure 1.4 shows no Level of Service issues on the highway in the existing condition. Lodi staff can support that conclusion based on actual highway use. It is not until 2035 that Figure 1.5 finally shows traffic north of Hammer Lane and even farther north of Eight Mile Road reaching Level of Service F. Table 2.23 reflects the expected growth served by the project. According to the conclusions drawn by the EIR, this project will serve the development of over 7,500 acres of farmland with nearly 40,000 residential units.

L-1 cont.

There can be no debate about whether the improvements contemplated are necessary in order for the growth that has been approved as well as the growth contemplated in Stockton. To suggest otherwise would call into question the need for the project. As such, the EIR's failure to consider its potential to foster the growth of north Stockton is fatal to any test of its adequacy.

Section 2.1.3 Farmlands/Timberlands Construction of the project would convert approximately 58 acres of agricultural soils to urban (highway) uses. Most of that impact occurs within the existing right-of-way of Interstate 5 south of Eight Mile Road. According to the California Department of Conservation, approximately five acres of Prime and Unique Farmland is impacted by the project slated north of Eight Mile Road. The document states that the amount of agricultural land to be converted is "negligible" compared to the total amount of farmland in San Joaquin County or in California. We are not aware, nor does the DEIR state what the Department of Transportation's threshold of significance is with regard to this issue, but comparing this loss to the entire State of California is absurd. The fact is that the resulting loss is a significant and irreversible impact under CEQA. Even though mitigation cannot lessen the impact to a less than significant level, mitigation should be proposed which lessens this impact nonetheless. An additional concern related to this discussion is the missing Farmland Conversion Impact Rating form. The discussion within this section refers to Appendix H, which is not included in the document. Further, another part of the document indicates that Appendix G contains this information; however, it is not included there either.

L-2

Sections 2.1.1.2 and 2.1.4 Community Impacts The analysis of community impacts does a fine job in characterizing the urban community that is adjacent to the project boundaries, but fails to mention anything about the community that exists north of Eight Mile Road. Specifically, the document must address the environmental consequence the project may have on the agricultural area in question. Moreover, the document makes no mention of the City of Lodi's White Slough Water Pollution Control Facility which contains 1,014 acres immediately adjacent to the project. Section 2.1.1.2 details how the project is consistent with all surrounding general plans. Again it fails to even reference the City of Lodi General Plan or the proximity of the plan to Lodi's detached annexation a few hundred feet to the north of the North Gateway interchange.

L-3

Section 2.3.5 Threatened and Endangered Species Section 2.3.5 mentions impacts on a number of threatened species including the Giant Garter Snake (GGS). Although figure 2.2c reflects a large new interchange at the new North Gateway Interchange immediately adjacent to Telephone Cut. The GGS analysis fails to reference any loss of GGS habitat other than the .021 acres of aquatic habitat. An interchange cannot serve as GGS habitat given the multiple and compact roadway surfaces that would pose significant hazards to any snakes residing therein. As such at least 2 acres and more likely more acres of habitat will be permanently taken. The EIR proposes no mitigation for the loss of this habitat nor a Statement of Overriding Consideration.

L-4

The EIR's failure to seriously address loss of GGS habitat is compounded by the lack of consideration of cumulative impacts as discussed above. Figure 2.2c's top image shows the existing condition and the bottom condition shows the development fostered by the construction of the freeway interchange, representing hundreds of homes and commercial structures immediately adjacent to Telephone Cut. When combined there must be massive impact on GGS habitat that even the EIR is forced to "presume" is present "[d]ue to the proximity of a known population and availability of suitable habitat..." (p. 175)

L-4 cont.

Section 2.4 Cumulative Impacts As discussed above the EIR fails to consider cumulative impacts in any serious fashion because for every impact acknowledged, the EIR only studies them at the macro level. To say there is no impact to farmland or timberland (as the EIR does at page 189 with no explanation as to how that conclusion is reached) is a relatively simple thing. But to say it with regard to the 7,500 acres in growth it is necessary to make possible is quite another.

L-5

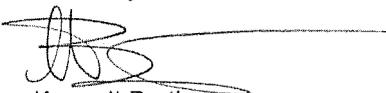
Section 2.4's discussion of Visual and Aesthetic impacts on page 189 is another example of the effort that went into this document. The EIR states that the only new landscape features are Otto Drive and North Gateway interchanges. However it concludes that the impact would be minor. A mere reference to figure 2.2c reveals just how facile that conclusion is. The before figure reveals acres of green space and farmland. The after reflects of the same acres subdivided for homes, mini storage and commercial strips. This same flaw flows through every reference in the cumulative impacts section. As such the EIR is defective.

Finally, I respectfully request timely notice of any and all hearings and staff reports as well as any revisions that may occur concerning this project. We believe that as an adjacent property owner to the project and adjacent Public Agency, we should have received the Notice of Preparation as well as a direct notice of the release and availability of this Draft EIR.

L-6

If you have any questions or would like to discuss these comments in more detail, please do not hesitate to contact me at 209-333-6711 or rbartlam@lodi.gov.

Sincerely,



Konradt Bartlam
Community Development Director
City of Lodi

Cc: City Manager
City Attorney

City of Lodi, Public Agency (November 11,2009)

Response L-1: The transportation demand for the proposed project is based on the land uses identified in the 2035 City of Stockton General Plan (dated 2006), and the San Joaquin Council of Governments 2007 Regional Transportation Plan. Please see the Interstate 5 North Stockton Interchanges and Mainline Widening Final Traffic Operations Report dated January 2008 which addresses both existing, design year, and final buildout year traffic operations.

Caltrans is doing the design for this interchange as part of the project because, since the interchange is called for in Stockton's general plan, it makes sense to include it with this design package. Actual construction of the proposed interchange will not be part of this project, and will not take place until development in the area creates the need. When that happens, the developers who are building in the area will fund the construction.

The City of Stockton General Plan Environmental Impact Report (dated 2007) provided a program level Environmental Impact Report that analyzed the environmental impacts of land uses and growth inducing impacts in the 2035 City of Stockton General Plan. The 2035 City of Stockton General Plan outlines the land use types, projected traffic demands, and directly references the need for interchanges north of Eight Mile Road, and widening along Interstate 5. The proposed project does not introduce new land uses beyond those discussed in the City of Stockton General Plan Environmental Impact Report, see section 2.1.2 Growth. The proposed project is responding to the future growth demand generated by the General Plan and forecast traffic volumes. Therefore, the proposed project anticipates timing for future development and growth based on regional projections as needed to avoid congestion and to promote better air quality. The proposed project will follow or keep pace with growth, but will not provide the impetus for growth.

It is the position of the City of Stockton, the San Joaquin COG and Caltrans that the proposed freeway widening and interchange improvements are growth accommodating. Recognizing that growth in the City of Stockton is likely to occur based on the projected land uses described in the City of Stockton General Plan Environmental Impact Report, and that a considerable amount of this growth is projected for North Stockton and West Stockton, the forward planning approach to accommodate this growth with planned roadway improvements is the responsibility of the local agencies. To delay these improvements until growth inundates the local and regional circulation network would be irresponsible and would have significant and adverse effects on traffic, air quality, and quality of life.

Response L-2: Correction made: The NRCS form is under Appendix G; references to the NRCS form in the Environmental Impact Report have been corrected and reflect Appendix G, and not Appendix H.

Table 2.2 of the Farmland section describes the project's impacts and compares that with farmland resources in the County. Impacts represent less than .0001 percent of the County's farmland resources. As explained in the text of the Farmland section under Environmental Consequences, a NRCS rating of above 160 would warrant further examination of alternatives to reduce farmland impacts and would require avoidance, minimization, and mitigation measures. Based on the fact that the amount of total acres converted to non-agricultural uses represents less than .0001 percent of the County's total farmland, and that the NRCS rating (83.6) was substantially less than 160, this is substantive evidence that the proposed project will not induce a significant affect on agricultural resources under the CEQA Guidelines. Additionally, any significant farmland impacts that would have been created by this project were addressed programmatically in the City of Stockton 2035 General Plan Environmental Impact Report (2007), which included this project in described land uses.

Response L-3: The Community Impact Assessment (dated March 2009), discusses the process of how community boundaries were delineated, including agricultural areas north of Eight Mile Road. The Environmental Impact Report section on Community Impacts primarily focuses on certain communities in the project area that are directly impacted by the proposed project and which specifically require relocation of residents in those neighborhoods. Agricultural impacts are discussed under Farmland; please see responses L1 and L2. The City of Lodi White Slough Water Pollution Control Facility is about 1/2 mile away from the northernmost portion of the project area. No impacts from the proposed project are anticipated to the Lodi White Slough Water Pollution Control Facility. Open space lands to the north of the Stockton Sphere of Influence for use in spraying or spreading effluent generated by the plant will remain unaffected by the proposed project. The proposed project is not within the boundaries of the City of Lodi, nor within its Sphere of Influence, and this is why no reference is made to the City of Lodi General Plan.

Response L-4: The proposed project has undergone rigorous review by the U.S Fish and Wildlife Service under Section 7 consultation with Caltrans. The project was reviewed under the *Programmatic Biological Opinion on the Effects of Small Highway projects on the Threatened Giant Garter Snake in Butte, Colusa, Glenn, Sacramento, San Joaquin, Solano, Sutter, Yolo and Yuba Counties, California* issued to the Federal Highway

Administration on January 24, 2005. The Programmatic Biological Opinion establishes thresholds for impacts to giant garter snakes as well as standards for habitat suitability as described below.

The biological opinion defines giant garter snake habitat to include appropriate uplands within 200 feet of aquatic habitat. Based on the project design, approximately 0.2 acre of upland habitat located within 200 feet of Telephone Cut may be affected by the project at the proposed North Gateway Interchange.

The biological opinion identifies agricultural areas supporting row crops, small grains other than rice, vineyards and orchards as unsuitable for giant garter snakes because they lack adequate cover and are subject to frequent disturbance. Other frequently disturbed areas are similarly excluded as upland habitat. The entire area of the proposed North Gateway Interchange consist either of row crops or farm access roads, neither of which is considered suitable upland areas for giant garter snakes.

For the reasons given above, no impacts to giant garter snake have been identified at the proposed North Gateway Interchange and no mitigation has been proposed. Similarly, no cumulative impacts have been identified. As stated above, this area is predominantly agricultural row crops and is generally considered unsuitable for giant garter snakes.

Response L-5: Cumulative Impacts consist of an evaluation of impacts which are created as a result of the combination of the project together with all other projects which cumulatively contribute to degradation of an environmental resource. By their very nature cumulative impacts are assessed on a macro level, while project specific impacts are assessed on a smaller scale. The purpose of a cumulative impacts analysis is to determine whether a project's contribution to an environmental resource will be rendered cumulatively considerable and thus significant or whether the project's contribution to an environmental resource will be rendered less than cumulatively considerable and thus less than significant.

Farmland impacts were deemed to not be cumulatively considerable because the project's contribution to farmland impacts was considered less than significant (see Farmland impacts section) and because the project is consistent with the City of Stockton 2035 General Plan and other relevant planning documents. Please see Response L-1 regarding discussion of Growth Inducing Impacts. It should be noted that since the proposed project accommodates and responds to future growth, but is not the impetus for growth. Therefore, conversion of farmlands has no direct association with the project. The proposed transportation facilities are provided as a result of growth where such farmland

conversions have already occurred or are anticipated to occur due to adopted plans and entitlements.

Regarding the Visual and Aesthetics' graphic Figure 2.2c, the subdivisions and roadway infrastructure shown outside the boundaries of the proposed project reflect projected 2035 land uses based on the City of Stockton General Plan and are consistent with projected land use activities envisioned in the build-out year. While the graphic presents the subdivision layout, it is not an approved project and is intended to be representative of the potential future condition. As mentioned in the Environmental Impact Report, the proposed Gateway Interchange will only be built when land use development occurs and provides the transportation demand for this project. The land use designations for the areas surrounding the project have been accepted and approved in the City and County General Plans. Development contribution from these land developments will be required for the completion of this phase of the project build-out.

Response L-6: The City of Stockton and Caltrans will include the City of Lodi in all required noticing and distributions.