



Dear San Joaquin Railroad Commission Staff,

Thank you for the opportunity to present a public comment for the Stockton Diamond grade separation project's CEQA-mandated Environmental Impact Report. This comment is submitted on behalf of our Stockton-based environmental justice coalition, Rise Stockton, and the undersigned partners.

Background

Rise Stockton is an independent coalition of partners focused on environmental justice, building collective capacity to create equitable environmental outcomes. Our goals are to advocate for underrepresented groups; identify gaps and program opportunities in policy and programming; communicate the environmental justice to the Stockton community; and provide low-barrier capacity-building opportunities for our partners.

Since its inception in November 2017 with the award of a Transformative Climate Communities (TCC) Planning Grant, Rise Stockton and its partners have focused on addressing the explicit environmental needs and priorities of our shared community. The community engagement and planning conducted during the TCC Planning Grant resulted in a Sustainable Neighborhood Plan. That body of work eventually led to the award of a \$10.8 million TCC Implementation Grant in June 2020.

The Stockton Diamond grade separation project is an enormous infrastructural investment into Downtown and South Stockton neighborhoods. We see benefits in this project, including increased access to transportation options, potential decreases in idling emissions from vehicles and rail, and improved levels of service for local vehicular traffic. However, we have also identified several concerning points in this Environmental Impact Report (EIR) as well as the process by which SJRCC has solicited feedback from stakeholders of the project area. We must also recognize the history of social and economic damage caused by similar investments in these neighborhoods--most egregiously, the construction of CA-4. Our comments below may be read in light of that history and the intention to not repeat it.

General Comments

This EIR consistently lacks rigorous substantiation or clarity for some of its claims. When describing coordinating with the City and County to "prepare and implement an Outreach and Engagement Plan," there is very little context given on what that plan may contain (ie, what community partners will be engaged, what strategies are being considered, etc.) Similarly, the draft EIR claims that the project will improve air quality through GHG emissions reductions, but is unable to provide context and a quantitative analysis of current emissions and future projections to prove this benefit.

We understand that this EIR was written as a regulatory requirement of CEQA. However, it provides SJRRC an opportunity to go above and beyond for a community that has undergone generations of disinvestment. For example, the Resource Study Areas (RSA) for the Air Quality and Greenhouse Gas Emissions Environmental Impact Analyses contain the legally mandated area (the San Joaquin Valley and state of California, respectively). But there is much higher resolution data at the city-level for both air quality and climate impacts, and using this data would have resulted in a much finer analysis of these environmental impacts.

We have questions concerning the description of the community's visual preferences in the Aesthetics section (3.1-9) as "modest; essentially, they express a desire to live, work, and recreate in a landscape that contributes to the vibrancy of the community with evidence of a healthy natural environment, a clean and cared for cultural environment, and with Project corridor environments that are visually coherent." Did this assessment come from a resident(s) of the Aesthetics RSA? If not, this section is premised on an enormous assumption of community preference.

Additionally, that the "existing visual quality in the aesthetics RSA is poor" is a contributing factor to the finding that the project would have a "less than significant impact" on the community's viewshed is likely unsympathetic to the true visual preferences of the community. The evidence offered as support for this statement is appalling: "There is a preponderance of abandoned and derelict buildings, abandoned or stored cars and trucks, and piles of discarded materials and trash. The absence of natural resources, particularly those associated with water, vegetation, or wildlife, create an impression that existing natural harmony is less than desired." There is an assumption here that residents in the project area had significant influence over how healthy their environment is, how clean and cared for their cultural environment is, how visually appealing their surroundings are, and more specifically, their proximity to railroad and industrial land uses. We hope that improving aesthetics in the project area in collaboration with residents is something SJRRC and other project beneficiaries will strongly consider.

In Chapter 5, the EIR states that the Project would not result in "disproportionately high and adverse human health and environmental effects..." The first reason listed reads as follows: "With the proposed Project, all improvements are located in minority and low-income communities." Essentially, because the whole project area is predominantly minority and low-income communities, they are not disproportionately affected. For context, the three converging Census Tracts encompassing the Stockton Diamond Grade DEIR have higher Overall Pollution Burden Scores of 100%, 100% and 99% in CalEnviroScreen 4.0. This is a fundamentally flawed framework for equitable decision-making and in flagrant opposition to the chapter's title, Environmental Justice. That the project area primarily comprises an EJ community should alert SJRRC that greater mitigation efforts are needed. Rise Stockton would be a willing partner of SJRRC to identify solutions to the impacts on project area residents. These may include solutions for homelessness displacement, urban greening, continued engagement with local community based organizations and residents, or any other solution that may benefit from a local environmental justice perspective.

The rest of our comments are structured along four overarching themes:

1. Community Engagement Challenges
2. Housing & Homelessness
3. Greenhouse Gas Emissions & Climate Mitigation
4. Economic Development
5. Water Rights in Mormon Slough

Community Engagement Challenges

The community engagement process for both the overall project and this draft EIR has been woefully inadequate. A number of external challenges exist given the project area and current circumstances borne from the global pandemic. Still, there were many signals to the community and working group members that this particular aspect of the project was an afterthought and insufficient consideration was given to the ways in which residents could meaningfully engage in the process. This was made evident in the structure and frequency of Stakeholder Working Group (SWG) meetings, lack of communication and community participation regarding the design of the project, and especially the presentation of this draft EIR.

On page 8-5, the EIR reads, “SWG members have been asked to meet with the Project team up to six times during the Project’s planning process. Between Project inception and the public comment period for this Draft EIR, only two SWG meetings have been held to date.” To clarify, the “working group” meetings held throughout this process have looked less like a “working group,” which encourages two-way communication between the members of the group, and more like webinars or marketing presentations with little time at the end for participants to ask questions. In addition to redesigning these meetings, it is recommended that the project team re-evaluate the composition of the SWG to include more grassroots community organizations and residents from the project boundaries. Specifically, it would be ideal to include an organization that has an explicit mission to work with unhoused residents.

Other concerns:

- How will community members be notified of permanent street closures?
- What will community engagement look like in order to ensure residents who are impacted by noise and vibrations will be compensated for home improvements to mitigate these impacts?
- The draft EIR is very difficult to navigate; could the format be changed to be more navigable (ie, clickable table of contents, more clear page numbering conventions, etc.)?

Housing & Homelessness

The Best Management Practice (BMP) associated with this impact is called an Outreach and Engagement Plan. According to BMP PH-1, “The Outreach and Engagement Plan will include goals and strategies of the County’s Community Response to Homelessness Strategic Plan and will focus on a targeted proactive response for temporary and permanent relocation assistance for transient populations affected by the proposed Project.” As mentioned in the General Comments section, BMP PH-1 lacks rigorous detail. It also does not address the topic of funding for an issue that is historically costly. Building spaces to accommodate unsheltered residents displaced by construction will be a significant amount of work, and

it will require funded solutions to be effective. We encourage SJRRC to work with project beneficiaries, the City, and the County to identify *funded* means of displacement mitigation. Rise Stockton is also available as a resource to access local community-based organizations focused on housing and homelessness in Stockton. We also recommend that SJRRC continue to engage with local property owners and residents through the design and implementation phases of the project.

Greenhouse Gas Emissions & Climate Mitigation

The draft EIR has identified and listed GHG emissions reductions and better air quality as a benefit from completion of the Stockton Diamond Grade Separation Project in (Sec. 1.5). In making these claims, there is a lack of quantitative analysis of greenhouse gas emissions accounting for the full suite of sources that would be created and eliminated by the project.

It's given that the estimated short-term emissions from demolition, construction, and clearing activities would generate 7,480 to 12,913 MT of CO₂e (3.7.5). But where is the accounting of approximate annual emissions at the Stockton Diamond junction and the net benefit that would be provided over time by reducing congestion and, hence, idling of trains and vehicles?

The lack of a quantitative analysis of long-term air quality and GHG emissions is based upon the idea that "the Project in and of itself would not increase the number of freight and passenger trains or change regional VMT" (Sec 3.7.3). However, there has been little to no substantial evidence offered that this project would not increase traffic to the area, despite plans for expansion of the Altamont Corridor Express's Valley Rail program and identification of rail projects in progress in Chapter 6. As such, the DEIR has failed to appropriately evaluate the cumulative impacts on air quality and GHG emissions associated with this project and anticipate increases in traffic resulting from planned increases in efficiency and capacity. To better understand that potential expansion, are there any growth projections available, and how would traffic and congestion then be affected?

Additionally, there is no emissions inventory accounting for any vegetation that would be removed and planted to accommodate the new development, as referenced in Sec. 3.2-3. There is also a lack of clarity as to whether new vegetation would be used as a buffer to reduce the impacts of air pollution, noise, vibrations, and odors between neighborhoods and the development (ie, urban greening and vegetative barrier projects). We are grateful for pledges to work together to address sound and air pollution. However, we feel it is incumbent upon the lead agency of this project to specify mitigation strategies for Displacement, Sound & Air pollution, even at this early stage.

Economic Development

In Chapters 1, 3, 4, 5, 6, 7, and the executive summary of this EIR, SJRRC refers to an increase in economic growth and competitiveness as a result of this project. However, there is little evidence presented to corroborate this consistent claim. Section 3-12 reads, "A full analysis of the socioeconomic impacts of the proposed Project can be found in Chapter 5, Environmental Justice." But Chapter 5 does not provide any further indication of economic growth--just how the project may or may not affect

minority or low-income populations. Can SJRRC share by what measures economic growth will occur in the project area, and potentially beyond?

In addition to the suggested economic growth stemming from this project, Chapter 2 describes the number of workers per crew to work on various phases of construction. Can the SJRRC identify exactly how many jobs are created and/or enabled by construction of this project? Further, will the SJRRC commit to weighting local contractors more heavily in the bid process to show preference for Stockton's workforce?

In Section 3.10 Land Use and Planning, the EIR describes SJRRC's acquisition of six private parcels on which five businesses sit. Mitigation Measure LU-2 describes the relocation assistance offered: "payment of fair market compensation and provision of relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act." However, it also provides a minimum of only 90 days written notice to vacate before the project requires possession of the property. If SJRRC has not already notified these businesses of this project's proposed acquisitions, we recommend that notification be sent as soon as possible to provide business owners ample time to strategically relocate.

Finally, the potential impacts on property values in the project area are not reflected in the draft EIR. Is there any information on this subject that SJRRC may make available?

Water Rights in Mormon Slough

On Page 244 of this EIR the following narrative regarding Mormon Slough and critical habitat for Central Valley steelhead and Chinook salmon claims that no direct impacts will result on these species due to lack of perennial flow, but that direct impacts would result in critical habitat for these species. The EIR adds that "although Mormon Slough does not currently support habitat for these species, Project activities in Mormon Slough have potential to affect its long-term restoration potential for use by these species." This analysis is incomplete, short sighted and goes against the goals of the Central Valley Improvement Project for doubling salmon numbers in Central Valley rivers and the San Francisco Bay-Delta Estuary.

First, this analysis fails to address community desires and input for the restoration of Mormon Slough. Members of this coalition see the restoration of Mormon Slough as a multi-benefit project for the public good. Perennial flows can be restored easily through pumps and pipes using toilet-to-tap water discharge from Stockton's new municipal drinking water plant which will be on-line in the near future. Such flows would provide perennial flows for the restoration of both Central Valley steelhead and Chinook salmon, and would recreate much needed water circulation to flush out Mormon Slough and the Stockton shipping channel. This type of water recirculation moving from the slough into the shipping channel would help with the dilution of legacy pollutants in Mormon Slough from the Port of Stockton and industries operating from the Slough, and would assist in combating toxic algal blooms which were recorded as containing 200 times over dangerous level of cyanotoxins last year by the State Water Boards. The claim that the project would not result in impacts on fish species because perennial flow does not exist ignores how poorly designed flood control in Mormon Slough (by local government, the

Port of Stockton, and State agencies) has contributed to transforming Mormon Slough into a toxic and dangerous waterway in need of clean up and restoration, and suggests by inference that seeing that water circulation has already been altered eliminating perennial flows there is no harm for yet one more project and industry to add to the destruction of its water quality. Flow is a component of discharge mitigation.

Under the Clean Water Act, section 101(a), efforts must be made by dischargers to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters,” and attempts must be made to eliminate discharge of pollutants into navigable waters. The proposed project would increase the potential for aggravating discharge and pollution conditions for steelhead and salmon by impacting long-term restoration potential as native habitats function as natural water pollution filtering systems when flows are adequate. Habitat for fisheries consists first of cool, clean, flowing water, in addition to gravel beds, native plants, and shade for waterways. Any project that eliminates the community’s ability to restore such physical habitat for both fisheries and for the use of area residents is a direct negative impact on the public trust because it impedes the public’s right to fishing, to recreation, and to access of America’s waterways. Mormon Slough for decades has been utilized as a publicly subsidized pollution pond for Stockton industries, rather than as the public trust resource that it is under California’s public trust doctrine.

Last, enacted by the US Congress in 1992, the Central Valley Project Improvement Act (CVPIA) requires improvements to water management to protect fish and wildlife, including achieving the state and federal doubling goal for Central Valley Chinook salmon natural production relative to 1967-1991 levels. To achieve these goals, restoration of perennial flows and physical habitat is required. Any project that eliminates the potential for such restoration is in violation of the CVPIA and is off the table for community groups desiring the environmental restoration of Mormon Slough for public benefit.

Conclusion

Rise Stockton is interested in the equitable treatment of Stockton residents. As this project will have a substantial impact on the lives of central and south Stockton residents, our comments center on how the Stockton Diamond grade separation will contribute to the project area’s social, economic, and environmental health. As this project moves from design to construction and eventual operation, Rise Stockton would like to continue being a partner in this project and proponent of the Stockton community. There is much that this project has to offer, and we are an enthusiastic ally to make sure that benefits are distributed equitably and adverse impacts are mitigated as much as possible.

Thank you for your time in reading this letter and the opportunity to comment.

Sincerely,
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On behalf of the Rise Stockton Coalition

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