



Tony Boren  
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 Fresno Council of Governments  
 2035 Tulare Street Suite 201  
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December 1st, 2017

**Re: Fresno COG's 2018 RTP Draft Action Element and Additional Section 5.11**

Dear Mr. Boren,

Thank you for the opportunity to address the proposed new section to the Action Element, section 5.11. We, the undersigned organizations, appreciate Fresno COG's consideration of our comments regarding the Action Element, as well as Fresno COG staff's thoughtful replies. We are encouraged to see the proposed inclusion of Section 5.11, Integrated Transportation-Land Use Planning, and offer the following recommendations in response to COG staff's solicitation of input on this proposed section.

***1. We recommend greater specificity as to commitments related to farmland conservation.***

We are grateful to see that section 5.11 discusses the Model Farmland Conservation Program (MFCP), the San Joaquin Valley Greenprint and the recommendations made by the Ag Ad-Hoc Committee. Per the discussion at the October 25th RTP Roundtable meeting, we also appreciate Fresno COG's incorporation of San Joaquin Valley Greenprint layers into land use scenario development.

But section 5.11 is unclear as to how the MFCP and Ad-Hoc Committee recommendations will inform the land use scenario and transportation investments in the RTP/SCS. In particular, while it notes that the Ad-Hoc Committee recommended "establishing scoring criteria . . . to minimize the loss of prime farmland, unique farmland, farmland of statewide importance and farmland of local importance" consistent with a policy that "the construction of transportation projects minimize the loss of farmland," it does not address the current project evaluation criteria, which do not include farmland conservation. We would respectfully recommend that section 5.11 address this

gap and, if it is too late to change the project evaluation criteria for the 2018 round, commit to incorporating farmland conservation into the criteria for the next round.

***2. We recommend inclusion of an “Incorporating Title VI and Environmental Justice into Planning” subsection to recognize Fresno COG’s achievements and Proposed Actions.***

Fresno COG has made significant strides towards effective implementation of Title VI and addressing environmental justice issues in the 2014 RTP/SCS process. Title VI and environmental justice measures must be a part of Fresno COG’s planning activities, and provide the context for ensuring that regional transportation planning contributes to “integrated and balanced living patterns.”<sup>1</sup>

Therefore, we would like to see a paragraph under “Accomplishments” in section 5.11 that acknowledges the public participation and EJ analyses that have been integrated into the 2014 RTP/SCS process. We recommend the inclusion of the description of these activities in staff’s response to our letter, beginning with “Fresno COG has conducted extensive outreach efforts...” and ending with the description of the Transportation Needs Assessment.

We also recommend that staff include a paragraph under “Proposed Actions” of section 5.11 saying that it will consider the following initiatives going forward: creation of a Title VI and Environmental Justice Plan;<sup>2</sup> a qualitative and quantitative Environmental Justice Needs Assessment; the creation and implementation of the Sustainable Infrastructure Planning Grants Program, which will be fully funded with discretionary dollars for projects benefitting disadvantaged communities and environmental justice communities; and a general commitment to furthering Environmental Justice and Title VI goals.

***3. We recommend inclusion of groundwater resource considerations under “Proposed Actions.”***

We are encouraged to see that Fresno COG is aware of its obligations to consider groundwater management plans in its future planning activities, and that it plans to incorporate groundwater considerations into scenario planning and RTP/SCS project impacts in the future and provide the SJV Greenprint Gateway as a source of data for local agencies to use in evaluation the groundwater impacts of their planning activities.

We recommend that Fresno COG copy and paste the description of its planned SGMA-related activities that it included in its response letter into “Proposed Actions” in section 5.11. While we understand this will be dealt with in the EIR process, other activities mentioned in the Draft Action Element are also dealt with in other parts of the RTP

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<sup>1</sup> 24 CFR Parts 5, section 5.152 “Definitions”

<sup>2</sup> We have attached a sample Title VI and Environmental Justice Plan as an appendix to this document, for staff’s review.

process. We suggest that Fresno COG include the following language from its response letter under “Proposed Actions” un section 5.11:

For the purpose of ensuring adequate groundwater resources in the region, Fresno COG will assess the RTP’s cumulative impact on groundwater and water resources in its Program Environmental Impact Report (PEIR). The EIR will reference the Sustainable Groundwater Management Act, and Fresno COG will assess water table(s) and potential RTP/SCS project impacts on the water table if data is available. Fresno COG will also include mitigation measures that local agencies should address as new development takes place and is assessed as part of their environmental review process. This evaluation of the RTP’s cumulative water impacts will be more specifically detailed in the PEIR.

Furthermore, Fresno COG will continue to provide the SJV Greenprint project as a central database for local governments to use in their planning decisions. The SJV Greenprint Gateway includes hundreds of natural resource data sets and dozens of maps specifically showing areas of groundwater recharge, withdrawal and subsidence levels.

***4. We recommend including additional language demonstrating why and how transportation planning will support fair housing goals.***

We recommend the addition of language into section 5.11 that describes why Fresno COG’s transportation planning must further fair housing goals and includes goals, policies, and commitments to take specific actions to comply with its obligations under state and federal civil rights and fair housing laws.

While Fresno COG does not receive federal funding directly from HUD, it is still subject to the Fair Housing Act (Title VIII of the Civil Rights Act). Under the Fair Housing Act, as recipients of federal funding, FCOG and local governments in Fresno County are required by law to act consistently with and further the goals of the Fair Housing Act (“FHA”). They must do so not only in the programs that are federally funded, but in all of their activities. HUD defines jurisdictions’ obligation to affirmatively further fair housing under the FHA to mean:

taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.<sup>3</sup>

Fresno COG is also subject to requirements under California civil rights laws to avoid any actions or inactions which would contribute to existing patterns of segregation and

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<sup>3</sup> 24 CFR Parts 5, section 5.152 “Definitions”

disparities in access to opportunity based on protected characteristics.<sup>4</sup> These requirements extend to FCOG and member jurisdictions' identification and allocation of RHNA sites, as well as planning and investment actions and inactions that cross housing, land use, transportation, and education lines.

In Fresno County, many areas of racially and ethnically concentrated poverty exist. These areas have also received the least public investment, and few, if any, affordable housing opportunities exist for lower-income families in new development and growth areas.<sup>5</sup> Therefore Fresno COG's RTP/SCS growth scenarios, policies, plans, and actions must expand -- and not restrict -- access to opportunity both within and outside of low-income neighborhoods through clearly defined land use, housing, transportation, and public engagement strategies.<sup>6</sup> Such policies would not only avoid further aggravating current disparities, but would also help guide local agencies towards meeting their AFFH obligations. Such inter-agency collaboration goes towards the heart of Title VI and the Civil Rights Act by "promot[ing] economic mobility and equal access to the many benefits provided by affordable housing, great schools, and reliable transportation."<sup>7</sup>

In light of these legal obligations, we suggest the addition of the following language in the Overview or in the new Transportation Planning to Support Local Housing Needs section:

Fresno COG seeks to address disparities in transportation access, pursuant to its obligation under Title VI, and to support local agencies' efforts to address housing needs and access to opportunity by coordinating with and providing

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<sup>4</sup> See e.g., Gov. Code §§ 12955(k),(l) (prohibiting discrimination in land use practices, decisions, and authorizations); 11135 (prohibiting discrimination through any activity or program that receives any financial assistance from the state); 65008 (declaring null and void any action by any local government agency that denies to any individual or group the enjoyment of residence, landownership, tenancy, or any other land use based on protected characteristics.)

<sup>5</sup> A study by the Advancement Project California just released a report with the astounding finding that Fresno County is the eighth "most racially disparate" county in the State, based on measures of quality of life based on economic opportunity, education, crime and justice, access to services, housing and other indicators. *Report: Fresno County's racial inequality is among the worst in the state*, The Fresno Bee, November 28<sup>th</sup>, 2017. Found at:

<http://www.fresnobee.com/news/local/article186907188.html#storylink=cpy>. Race Counts report, Fresno results, found at: <http://www.racecounts.org/county/fresno/>.

<sup>6</sup> Such strategies should include place-based and mobility-based solutions, as well as construction of affordable housing outside of racially or ethnically concentrate places (R/ECAPs). Place-based solutions are solutions that improve access to opportunity in R/ECAPs by investing in them, which leads to households living in those areas having increased access to opportunity through additional services in the area. For transit, such solutions would mean putting transportation infrastructure into R/ECAP communities, including active transportation infrastructure. Mobility-based solutions are solutions that allow R/ECAPs to access currently-existing areas of opportunity outside of their communities. For transit, that would mean having connectivity between R/ECAPs and areas of opportunity, having a high-quality transit service in R/ECAPs that can connect people with jobs, services, etc. Please see CRLA's comment letter on environmental justice, housing and Title VI obligations for more information on those strategies.

<sup>7</sup> Dear Colleagues letter by the United States Secretaries of Transportation, Education, and Housing and Urban Development, 2016, found at <https://www2.ed.gov/documents/press-releases/06032016-dear-colleagues-letter.pdf>.

resources to local agencies conducting land use planning. Fresno COG shall do so by identifying areas of concentrated minority and low-income populations; helping local agencies identify housing needs in the region, particularly in areas of racially and ethnically concentrated poverty and facilitating local governments in developing and implementing strategies to expand affordable housing opportunities outside of lower-income neighborhoods in areas of opportunity and new development and growth areas; and identifying, planning for, and funding initiatives to address transportation needs in areas of concentrated minority and low-income populations.

Additionally, we recommend that Fresno COG further detail the actions that it has already taken and plans to take in light of its duty to affirmatively further fair housing.

We are glad to see Fresno COG's support for and implementation of the AHSC, Multi-Jurisdictional Housing Element ("MJHE"), and Measure C programs noted in "Accomplishments" as housing-related activities. These programs may be a step towards affirmatively furthering fair housing if done in a manner that alleviates resource deficits and inequities and expands access to opportunity for disadvantaged communities and protected classes.

To facilitate FCOG and member jurisdictions' compliance with their obligations under state and federal civil rights laws, we recommend the addition of commitments to the following action under "Proposed Actions" in section 5.11:

- Allow public participation in and provide public notice of the Countywide Housing Element Technical Committee meetings hosted by FCOG, post committee meeting minutes to the FCOG website, and annually publish a report documenting the outcomes of committee meetings and activities performed pursuant to MJHE Program 1. FCOG currently does not allow the public to attend these meetings or provide meeting minutes to the public. Doing so would create greater transparency in and strengthen FCOG and member jurisdictions' efforts to implement MJHE Program 1, which contains the Housing Element's only explicit commitments for jurisdictions to work collaboratively to affirmatively further fair housing.
- Similar to the role played by FCOG in facilitating the development of the MJHE, FCOG could convene local jurisdictions to facilitate the timely development of local and/or regional Assessments of Fair Housing pursuant to HUD's AFFH Rule.
- Convene jurisdictions to provide information regarding the availability of and eligibility requirements to receive funding for community and specific plans and the development and maintenance of affordable housing pursuant to SB 2. Provide technical support for the development of the allocation plan required of local jurisdictions in a manner consistent with the Valley Blueprint, Roadmap, MJHE, RTP/SCS, and jurisdictions' obligations under state and federal civil rights laws.

- Commitment to require that jurisdictions receiving competitive funding allocations from COG must create and implement Displacement Avoidance and AFFH plans.
- To avoid contributing to existing patterns of concentrated poverty and concentrated racial and ethnic groups, Fresno COG could also work with local agencies to identify areas that are not well served by transit, as well as opportunities to align fair housing goals with planned transportation investments.

***5. We recommend that Fresno COG revise the formatting of the proposed section.***

For ease of reading, and to effectively communicate the strides that Fresno COG is making towards providing resources and planning for healthy and safe communities, we suggest the following changes in format. We have also included suggestions about where the above recommendations should go in the section.

First, we suggest that staff divide the “Accomplishments” section into the following four categories:

1. Transportation Planning to Support Local Housing Needs
  - a. Introduction about federal and state housing obligations
  - b. RHNA
  - c. MJHE
  - d. AHSC
  - e. Measure C
2. Defining Regional Planning Priorities
  - a. Blueprint
3. Planning for Environmental Justice and Non-Discrimination
  - a. Introduction about Title VI, Environmental Justice obligations, and state civil rights law
  - b. General commitment to furthering Environmental Justice and Title VI goals.
  - c. Discussion of Fresno COG’s incorporation of EJ and Title VI considerations into 2014 RTP/SCS process
4. Farmland Conservation and Sustainable Use of Natural Resources
  - a. Farmland Conservation
5. Data and Planning Resources
  - a. Circuit Planners and Circuit Engineers
  - b. Greenprint data

We recommend that Fresno COG restructure the “Proposed Actions” section as follows:

1. Transportation Planning to Support Local Housing Needs
  - a. Short-Range Improvement Plan
    - i. Continued administration of TOD, AHSC, Measure C, and RHNA programs

- ii. Continued public participation processes to identify affordable housing and transportation needs, including enhanced public participation in Countywide Housing Element Technical Committee meetings
      - iii. Continued coordination with local agencies to address identified needs, including working with local agencies to identify areas that are not well served by transit, as well as opportunities to align fair housing goals with planned transportation investments.
      - iv. Convene local jurisdictions to facilitate the timely development of local and/or regional Assessments of Fair Housing pursuant to HUD's AFFH Rule.
      - v. Convene jurisdictions to provide information regarding the availability of and eligibility requirements to receive funding for community and specific plans and the development and maintenance of affordable housing pursuant to SB 2.
      - vi. Commitment to require that jurisdictions receiving competitive funding allocations from COG must create and implement Displacement Avoidance and AFFH plans.
    - b. Long-Range Improvement Plan
- 2. Defining Priorities for Integrated Planning
  - a. Short-Range Improvement Plan
    - i. Community outreach to define planning priorities in the 2022 RTP cycle
  - b. Long-Range Improvement Plan
    - i. Continue development of Blueprint
- 3. Incorporating Title VI and Environmental Justice into Planning
  - a. Short-Range Improvement Plan
    - i. Creation of a Title VI and Environmental Justice Plan
    - ii. Environmental Justice Needs Assessment
    - iii. Sustainable Infrastructure Grants Program
  - b. Long-Range Improvement Plan
    - i. Continue pursuing goals of Title VI and Environmental Justice and developing related resources for local agencies
    - ii. General commitment to furthering Environmental Justice and Title VI goals.
- 4. Farmland Conservation and Sustainable Use of Natural Resources
  - a. Short-Range Improvement Plan
    - i. Inclusion of Farmland Conservation in Project Evaluation Criteria in 2022 RTP
  - b. Long-Range Improvement Plan
    - i. Continued provision of resources for local agencies and consideration of farmland conservation in regional planning activities
- 5. Data and Planning Resources
  - a. Short-Range Improvement Plan

- i. Continue provision of Greenprint and other data and technical services such as Circuit Planners and Circuit Engineers for member agencies
- b. Long-Range Improvement Plan

Lastly, we urge Fresno COG to include timelines for all Proposed Actions set out in the proposed section.

**Additional comments and questions in response to FCOG response letter from November 13th, 2017**

**1. Regarding Active Transportation: Could Fresno COG staff add your description of the ATP process and tendencies towards more bike/pedestrian friendly investments to the Air Quality section of the Action Element?**

We envision the inclusion of the following language, taken from FCOG's response to our comment letter:

Under "Accomplishments":

As bikeways and pedestrian facilities, including trails, have become increasingly important to the Fresno County region due to air quality, economic development and quality of life (health) considerations, Fresno COG has become more involved in integrating active transportation into the regional transportation planning process.

Under "Proposed Actions":

Fresno COG is in the process of developing the Fresno County Regional Active Transportation Plan, which will make each jurisdiction eligible for new funding to construct new trails, sidewalks, bike lands, and other improvements for bicycling and walking. The plan will support applications for funding from state and federal sources, and will contribute to air quality, health and economic development goals by creating a network of bike and pedestrian facilities that connect Fresno County residents to key destinations.

We want to make sure that these important activities are included in Fresno COG's Action Element so that this progress towards important air quality goals can be recognized and replicated in future years.

**2. In the Transit section, could Fresno COG include that it will look into rural green transit projects?**

We understand that Fresno COG has yet to determine whether it will implement such projects. However, we think the Action Element should recognize that Fresno COG is part of innovative initiatives to look into these types of rural transit. We recommend that Fresno COG include a mention of its involvement in the Valley rural transit pilot projects

program in the Accomplishments section, and under Proposed Actions mention its continued exploration of the feasibility of these transportation alternatives.

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We thank Fresno COG for the opportunity to comment on this proposed new section of the RTP, and hope to meet with staff to discuss these points.

Sincerely,

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