

BEFORE THE KERN COUNCIL OF GOVERNMENTS
STATE OF CALIFORNIA, COUNTY OF KERN

RESOLUTION NO. 18-31

In the Matter of:

FINAL ENVIRONMENTAL IMPACT REPORT FOR THE 2018 REGIONAL TRANSPORTATION PLAN; (1) CERTIFICATION OF THE ENVIRONMENTAL IMPACT REPORT; (2) ADOPTION OF THE CEQA FINDINGS OF FACT; (3) ADOPTION OF STATEMENT OF OVERRIDING CONSIDERATIONS; AND (4) ADOPTION OF MITIGATION MONITORING PROGRAM.

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) (Cal. Pub. Res. Code § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs., Tit 14, § 15000 et seq.), Kern Council of Governments (Kern COG) is the Lead Agency responsible for preparing the Final Program Environmental Impact Report for the 2018 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS);

WHEREAS, an Environmental Impact Report (EIR) is a public document used by governmental agencies to analyze the significant environmental impacts of a project. CEQA Guidelines §15168 specifies that a Program EIR can be prepared on a series of actions that can be characterized as one large project related either geographically, as logical parts in the chain of contemplated actions, in connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or as individual activities carried out under the same authorizing statutory regulatory authority and having generally similar environmental effects which can be mitigated in similar ways;

WHEREAS, the Program EIR for the 2018 RTP/SCS (PEIR) is a programmatic document that provides a region-wide assessment of the potential significant environmental effects of implementing the projects, programs and policies included in the 2018 RTP/SCS (including the new SCS portion of the Plan);

WHEREAS, Kern COG has determined that the PEIR is appropriate to assess the environmental impacts of the 2018 RTP/SCS;

WHEREAS, the PEIR undertakes quantitative modeling of projects in the 2018 RTP financially constrained plan, and does not model strategic plan projects because funding for these projects is speculative and implementation of these projects is not yet reasonably foreseeable;

WHEREAS, the PEIR identifies feasible mitigation measures necessary to avoid or substantially lessen significant impacts of the 2018 RTP and a reasonable range of alternatives capable of eliminating or reducing these effects in accordance with CEQA Guidelines Sections 15126.4 and 15126.6;

WHEREAS, the PEIR is a program level document which analyzes environmental impacts of the 2018 RTP constrained plan on a regional/programmatic level, and does not analyze project-specific impacts. These impacts should be analyzed in detail by project proponents at the local jurisdiction level;

WHEREAS, Kern COG issued a Notice of Preparation (NOP) of the Draft PEIR on January 30, 2013, and circulated the NOP for a period of 30 days pursuant to CEQA Guidelines §§15082(a), 15103 and 15375;

WHEREAS, pursuant to CEQA Guidelines Section 15082 and Government Code Section 65080(b) et seq., on February 13, 2013, Kern COG publicly noticed and held one scoping meeting for the purpose of inviting comments from responsible and trustee agencies, regulatory agencies, interested persons, and others on the scope and content of the environmental information to be addressed in the PEIR;

WHEREAS, once the Draft PEIR was completed on March 12, 2018, Kern COG filed a Notice of Completion with the State Office of Planning and Research (OPR) in the manner prescribed by CEQA Guidelines Section 15085;

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WHEREAS, on May 18, 2018, Kern COG initiated the 55-day public review and comment period on the 2018 Regional Transportation Plan/Sustainable Communities Strategy, and on May 25, 2018 initiated the 45-day public review and comment period on the Program Environmental Impact Report; and Public Hearing Notices and Display Ads were published in newspapers of general circulation. In addition, Kern COG placed paper copies of the Draft PEIR in its offices and at the main public library in Kern County, and posted an electronic copy of the Draft PEIR on the Kern COG website;

WHEREAS, during the public review period for the Draft PEIR, Kern COG requested comments from and consulted with responsible and trustee agencies, regulatory agencies, and others, pursuant to CEQA Guidelines Section 15086;

WHEREAS, the 55-day and 45-day public review and comment period ended on July 12, 2018, in compliance with CEQA Guidelines Section 15105;

WHEREAS, approximately 33 written comments on the Draft PEIR were received by Kern COG during the comment period;

WHEREAS, pursuant to CEQA Guidelines §15088(a), Kern COG evaluated comments on environmental issues received from persons who reviewed the Draft PEIR and provided a written response to each comment, which are included in the Final PEIR, Chapter 3.0;

WHEREAS, the "Final PEIR" consists of: (1) the Draft PEIR; (2) all appendices to the Draft PEIR (Appendices 1.0 and 4. 7); (3) Chapter 1, "Introduction"; (4) Chapter 2, "Corrections and Additions"; (5) Chapter 3, "Response to Comments"; (6) Chapter 4, "Mitigation Monitoring and Reporting Program";

WHEREAS, Chapters 2 and 3 of the Final PEIR specifically include Kern COG's written, master responses to comments; a list of persons, organizations, and public agencies commenting on the Draft PEIR; Kern COG's written responses to specific comments on significant environmental points raised in the review and consultation process; and copies of comments, as required by CEQA Guidelines Section 15132;

WHEREAS, the changes to the Draft PEIR in response to comments received and the corrections and additions included in the Final 2018 RTP and Final PEIR, have not produced significant new information requiring recirculation or additional environmental review under CEQA Guidelines Section 15088.5;

WHEREAS, Kern COG has no authority to impose mitigation measures on individual projects for which it is not the lead agency. As such, all project-level mitigation measures in the Final PEIR are subject to a city or county's independent discretion as to whether measures are applicable to projects in their respective jurisdictions. Lead agencies may use, amend, or not use measures identified in the Final PEIR as appropriate to address project-specific conditions. The determination of significance and identification of appropriate mitigation is solely the responsibility of the lead agency;

WHEREAS, mitigation measures in the PEIR that include the language, "Kern COG through its Environmental Review Program/Intergovernmental Review process will facilitate and encourage implementing and local agencies to ..." are intended to be used by projects seeking to use this Program EIR for CEQA streamlining (under SB 375 and SB 226 - CEQA Streamlining for Infill Projects) and tiering pursuant to CEQA Guidelines Section 15152;

WHEREAS, Kern COG has prepared CEQA Findings of Fact (Findings), attached hereto and incorporated herein as "Attachment 1," for every significant environmental impact of the 2018 RTP identified in the PEIR and for each alternative evaluated in the PEIR, including an explanation of the rationale for each finding, in compliance with Public Resources Code §§21081 and 21081.5 and CEQA Guidelines § 15091.

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WHEREAS, implementation of the 2018 RTP will result in significant environmental impacts that cannot be fully mitigated to less than significant, and Kern COG has issued a Statement of Overriding Considerations, attached hereto and incorporated herein as "Attachment 2," setting forth specific economic, legal, social, technological, and other benefits of the 2018 RTP that outweigh the significant and unavoidable environmental impacts identified in the PEIR, pursuant to CEQA Guidelines Section 15093(b); and

WHEREAS, when making the Findings, the agency must also adopt a mitigation monitoring program to ensure compliance with the mitigation measures identified in the PEIR which avoid or substantially lessen significant effects, and which are fully enforceable through permit conditions, agreements, or other measures, as required by CEQA Guidelines Section 15091 (d);

WHEREAS, Kern COG has adopted a Mitigation Monitoring and Reporting Program in compliance with CEQA Guidelines Section 15091(d), which is incorporated into the Final EIR as Chapter 4;

WHEREAS, Kern COG made the proposed Final PEIR, publicly available on its website on August 3, 2018;

WHEREAS, pursuant to Public Resources Code Section 21092.5 and CEQA Guidelines Section 15088, Kern COG provided proposed written responses to all agencies who submitted comments on the Draft PEIR at least 10 days prior to certification of the PEIR;

WHEREAS, pursuant to CEQA Guidelines §15089(a), Kern COG, as the Lead Agency, must prepare and certify a Final PEIR before approving the Final 2018 RTP/SCS; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred;

NOW THEREFORE, BE IT RESOLVED the Final PEIR prepared for the 2018 RTP/SCS was completed in compliance with CEQA; and

BE IT FURTHER RESOLVED that the PEIR for the 2018 Regional Transportation Plan has been presented to the Kern COG Policy Board as the decision-making body of the Lead Agency prior to approving the 2018 RTP/SCS, and that Kern COG has independently reviewed and evaluated the information contained in both the Draft and Final EIR and written and oral testimony; and

BE IT FURTHER RESOLVED that Kern COG, as the decision-making body for the Lead Agency, hereby certifies that the EIR for the 2018 Regional Transportation Plan has been completed in compliance with CEQA and CEQA Guidelines; and

BE IT FURTHER RESOLVED that Kern COG finds that certain changes or mitigation measures will substantially lessen or avoid potentially significant environmental effects identified in the Final EIR and will be incorporated into the Regional Transportation Plan as conditions of future entitlements, permits, and agreements that are under the authority of Kern COG; and

BE IT FURTHER RESOLVED that Kern COG finds that certain changes or mitigation measures that will substantially lessen or avoid potentially significant effects of individual projects are not under the jurisdiction of Kern COG and that such measures would be imposed as appropriate, and at the discretion of, individual local agencies on projects seeking to tier from the PEIR; and

BE IT FURTHER RESOLVED that certain unavoidable significant environmental effects, resulting from Plan implementation even with mitigation measures to reduce these effects, have been identified in the EIR, but it is infeasible to avoid or substantially lessen these effects because of specific economic, social or other considerations; and

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BE IT FURTHER RESOLVED that as required by CEQA, Kern COG has balanced the benefits of the Plan against unavoidable significant environmental effects in determining whether to approve the Plan, and

Kern COG has independently determined that the benefits of the Plan outweigh the unavoidable significant environmental effects for the reasons stated in the Statement of Overriding Considerations; and

BE IT FURTHER RESOLVED that Kern COG adopts the CEQA Findings of Fact (Attachment 1); Statement of Overriding Considerations (Attachment 2); and the Mitigation Monitoring and Reporting Program (Chapter 4 of the Final PEIR).

AUTHORIZED AND SIGNED THIS 16th DAY OF AUGUST 2018.

AYES: Ortiz, B.Smith, Wood, Vallejo, Crump, Mower, Prout
Krier, P.Smith, Couch, Wegman

NOES: None

ABSTAIN: None

ABSENT: Cantu, Kiernan, Scrivner



Cheryl Wegman, Chairman
Kern Council of Governments

ATTEST:

I hereby certify that the foregoing is a true copy of a resolution of the Kern Council of Governments duly adopted at a regular meeting thereof held on the 16th day of August 2018.



Ahron Hakimi, Executive Director
Kern Council of Governments

8/16/18

Date