

March 15, 2018

Christopher Calfee
Deputy Secretary and General Counsel
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Dear Deputy Secretary Calfee,

On behalf of the cities listed below, we offer this letter in support of the Guidelines Implementing the California Environmental Quality Act (CEQA) that were recently released by the Office of Planning and Research (OPR).

The transition to using Vehicle Miles Traveled (VMT) for the analysis of transportation impacts, pursuant to Senate Bill (SB) 743, is an exciting and important change. This change gives cities and the State a new tool to address numerous mutual goals including achieving climate action targets, increasing livability and access, and relieving the affordable housing crisis. Our city leaders express support for this change as demonstrated in the attached letter to OPR last July. We recognize the responsibility of local jurisdictions to plan for future development in areas that will result in low VMT outcomes. The State's leadership in advancing to a VMT-based metric will help achieve this outcome.

Along with our overall strong support for this advancement, we offer the following comments in response to the release of the recent CEQA Guidelines on evaluating transportation impacts.

Transportation Projects

- 1) **Transportation projects that induce VMT should be required to analyze VMT.** The Transportation Impacts purpose section states that "vehicle miles is the most appropriate measure of transportation impacts." Conversely, the section goes on to state: "For roadway capacity projects, agencies have the discretion to determine the appropriate measure of transportation impact consistent with CEQA and other applicable requirements." SB 743 states that automobile delay shall no longer be considered a significant impact on the environment pursuant to CEQA. SB 743 states that exceptions may be made for locations, not types of projects. As documented in OPR's thematic responses and the Natural Resources Agency initial statement of reasons regarding a geographic application exception, OPR and the Natural Resources Agency recommend not including this exception because of numerous concerns regarding lack of environmental protection, confusion, and litigation risk. Therefore, including an exception for transportation projects to this requirement would not only conflict with SB 743, but also OPR and the Natural Resources Agency's own rationale for geographic applicability. As documented with substantial evidence on OPR's website, roadway

expansion projects are a primary source of emissions as they induce vehicle travel and sprawl development. VMT is thus an appropriate metric to understand the impacts of increasing roadway capacity.

By leaving it up to agency discretion to adopt VMT for transportation projects the State CEQA Guidelines will also add confusion and added legal risk to CEQA transportation analysis. There is a demonstrated relationship between roadway capacity enhancements and growth in VMT. Thus projects that do not analyze their VMT effect will be at risk of litigation, for good reason. Furthermore, by having a different metric for transportation projects than other projects will cause confusion as to the purpose and intent of CEQA as it relates to transportation. Therefore, transportation projects should also be measured under VMT analysis to ensure their impacts are being addressed in a way that advances the achievement of a lower VMT future, and reduces litigation.

If a lead agency wants to adopt a transportation project with significant VMT impacts (e.g., highway widening projects mentioned within regional bond measures), CEQA does not prevent this. Instead, CEQA will require a lead agency to identify mitigation measures and alternatives that reduce the harmful environmental effects associated with substantial increases in VMT and adopt a statement of overriding considerations if the lead agency rejects those measures or alternatives that reduce VMT. Therefore, we recommend the Secretary reinstitute the January 20, 2016 language drafted by OPR in Section 15064.3 regarding induced vehicle travel. Agencies can continue to analyze LOS in addition to VMT, at their discretion, but outside of their CEQA assessments.

Land Use Projects

- 2) **In concurrence with OPR's recommendation, all land use projects, not just those in Transit Priority Areas (TPAs), should be required to use a VMT metric.** We concur with the current version of the Guidelines to require VMT analysis for all land use projects in the state regardless of their location. Some agencies have requested that VMT replace the LOS metric only for infill projects within Transit Priority Areas (TPAs), while retaining LOS as the metric for projects outside of TPAs. We find significant flaws in this approach on both technical and legal grounds. Restricting the VMT analysis to projects that are within TPAs will likely undermine the streamlining objectives of SB 743 for infill projects. This bifurcated approach would not preclude legal challenge that an infill project within a TPA could be shown to aggravate congestion on street intersections that fall outside of TPAs. In addition to creating legal uncertainty, this approach would also create a double burden for infill projects to evaluate both VMT and LOS, while land use projects that are far from transit access would have more limited LOS analysis. The result would only further the existing incentive under CEQA to reward projects far from transit and high employment areas, and would be inconsistent with the statute. VMT is the appropriate tool to review land use projects on the basis of transportation efficiency and its close association with GHG emissions. We urge the Natural Resources Agency

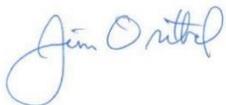
to preserve the existing framework to apply VMT as the transportation metric under CEQA for all land use projects.

- 3) **Lead Agencies should have greater discretion on transit-proximity and a presumption of less than significant impact.** We have concerns that the language in Section (b)(1) is overly-conclusive that projects within one-half mile of either an existing major transit stop, or a stop along an existing high quality transit corridor should be presumed to cause a less than significant transportation impact. Land use factors that influence travel behavior can vary greatly, even within transit priority areas, and more so within high quality transit areas. There are many areas throughout the state that could meet this definition that currently consist of very low residential density and low transit utilization, though by definition would qualify for a presumption of less than significance based on proximity of a transit stop with a corresponding bus service that operates within minimum 15-minute peak headways. Major cities are quickly making available sketch modeling tools that can easily demonstrate the VMT performance of land use projects. The current Guidelines language urges agencies to conclude less than significant impact on VMT without supporting evidence, which may unnecessarily expose infill projects to legal challenge. To better protect from legal challenges and support transparency, we recommend that lead agencies should have greater discretion to determine when a project would be presumed to be less than significant based on supporting evidence.

- 4) **Land use projects, including reuse projects, should be measured against regional and statewide VMT-reduction goals instead of only being compared to the VMT of existing conditions.** The Land Use Projects statement (page 79 of Guidelines) should be amended in the following way: “Projects that decrease vehicle miles traveled in the project area according to regional and state goals of reducing VMT should be considered to have less than significant transportation impact.”

We appreciate the efforts and leadership of the Office of Planning and Research and the State in crafting guidance for cities. We look forward to continuing to work together throughout the rulemaking process.

Sincerely,



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