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Arthur T. Leahy
Chief Executive Officer

November 21, 2008

Chairman Mary Nichols
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Dear Chairman Nichols:

The Orange County Transportation Authority (OCTA) appreciates the opportunity to comment on the Climate Change Proposed Scoping Plan. Acknowledging the efforts that have gone into creating a framework for reducing greenhouse gas (GHG) emissions statewide, OCTA looks forward to working as a partner as the process moves forward to ensure that the proposed measures can be realistically, economically, and technologically implemented while continuing strides to meet the goals outlined under AB 32 – the Global Warming Solutions Act of 2006 (Chapter 488, Statutes of 2006). In particular, OCTA, as the regional transportation planning agency for Orange County, has the knowledge and resources to contribute in the creation of measures for the transportation and land use sectors, specifically any proposed changes in the transportation planning process.

While considering those comments that OCTA submitted on August 11, 2008, for the Draft Scoping Plan, there are a few key passages within the Proposed Scoping Plan that warrant further comment.

I. Regional Transportation-Related Greenhouse Gas Targets

As the primary method of achieving the proposed regional GHG reduction targets, the Proposed Scoping Plan outlines the framework developed under SB 375 (Chapter 728, Statutes of 2008) for linking transportation and land use planning through the creation of a sustainable communities strategy (SCS). However, elements of SB 375 were omitted in this discussion, as well as an acknowledgement of remaining issues that need to be addressed. Throughout the process of implementing SB 375, there are designated opportunities for input from county transportation commissions, such as OCTA, in addition to related stakeholders in the development of regional targets, protocols, and ultimately, the SCS within the Southern California Association of Governments (SCAG) region. Because the Proposed Scoping Plan does not acknowledge the role of county transportation commissions in the SCAG region, revisions should be created to ensure that the SB 375 process will allow for input from

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county transportation commissions at all steps, including as representatives on the Regional Targets Advisory Committee.

Second, the Proposed Scoping Plan focuses on the reduction in vehicle miles traveled (VMT) as the primary method for meeting regional GHG targets. OCTA believes that consideration should also be given to alternative methods of reducing GHG emissions, such as a reduction in vehicle hours traveled or the elimination of bottlenecks, which reduces congestion. In addition, the focus on VMT does not take into account the simultaneous requirement of creating more efficient vehicles. As vehicles become more fuel efficient, the reduction of VMT will have little effect on overall GHG emissions. Therefore, the Proposed Scoping Plan should acknowledge that as vehicle efficiency improves, the accuracy of measuring GHG reductions purely through VMT reduction will be flawed. SB 375 does not require VMT to be the sole measurement, and instead allows for flexibility in how GHG reductions should be measured. The Proposed Scoping Plan should be revised to allow for the same flexibility.

Another consideration that the Proposed Scoping Plan fails to take into account is the mismatch of benefits and responsibilities within the SB 375 framework. SB 375 is traditionally touted as an incentive-based framework for achieving GHG reductions due to the streamlining available under the California Environmental Quality Act (CEQA) for specific development projects. However, the responsibility for creating the plans does not rest with the developers who stand to benefit from such incentives, but rather transportation agencies that create the regional transportation plans. Similar benefits are not extended to transportation projects, including transit, that are consistent with the regional targets. Furthermore, the requirements under SB 375 do not extend to general plans. Although the Proposed Scoping Plan recommends that local governments seek to reduce GHG emissions by 15 percent, nothing requires alignment of the general plans with the regional transportation plans that implement SB 375. Therefore, general plans can be adopted which contradict what transportation agencies propose through the SCS, thereby causing difficulties in meeting GHG reduction targets and implementing the SCS. With neither incentives to meet the targets created under SB 375 nor a required alignment of local general plans, the achievement of GHG targets will be challenging.

In relation to the regional targets, the Proposed Scoping Plan proposes a total reduction of 5 million metric tons carbon dioxide equivalent (MMTCO2E), more than double that which was originally proposed in the Draft Scoping Plan. The primary means for achieving these reductions is to be through the SCS under

SB 375. With the first SCS in the SCAG region not set to be adopted until 2012, and modeling tools not yet available, any additional increase in proposed reductions from the transportation and land use sector will be premature. If it is proven that additional reductions can feasibly be achieved, this should be taken into account within the SB 375 framework, which allows for a reanalysis of targets every four years. With the current economic uncertainties, any increase in the GHG targets will put further burdens on already strained transportation agency resources.

Finally, the Proposed Scoping Plan does not clearly mention a potential funding source for creating the SCS or meeting the related targets. Although the Proposed Scoping Plan recommends that funding sources for assisting local governments continue to be explored, the same provisions are not made for transportation agencies that are the responsible parties for creating the SCS. Revisions should be made to the Proposed Scoping that identify sources of funding for the implementation of any measures required to meet the GHG reduction targets, including expansion of transit service. With repeated state transportation funding shifts, transportation agencies cannot maintain existing services, let alone take on additional requirements.

II. Recommendations Related to Transit

The majority of recommended mechanisms for achieving regional GHG reductions rely on the underlying assumption that by creating incentives and otherwise encouraging mode shifting to alternative modes of transportation, a correlating reduction in vehicle usage will occur, thereby reducing GHG emissions. The importance of transit in reducing GHG emissions is thereby implicitly recognized throughout this equation. However, without a secure funding source for transit, the meeting of these goals will not be possible.

Although the Proposed Scoping Plan acknowledges the need to find a secure source of transit funding, the only source identified is through the federal re-authorization process. Not only does this proposition ignore that there is no guaranteed transit funding available through this mechanism, but overlooks the current funding issues occurring within the state.

Over the last two years, major transit funding diversions have been included in the state budget. Prior to the fiscal year (FY) 2007-2008 budget, spillover funds (a calculation of the difference between a portion of the state sales tax on all goods and the state sales tax on gasoline) were statutorily dedicated to transit. However, in trailer bill language in the FY 2007-2008 budget, 50 percent of

spillover funds were permanently diverted to cover general fund purposes including home-to-school transportation and past debt services, which a state superior court later ruled to be mass transportation purposes. The FY 2008-2009 budget then took this proposal a step further and diverted all spillover funds to cover these newly designated mass transportation purposes, as well as a portion of "base" State Transit Assistance (STA) funding (Proposition 111 and the sales tax on diesel). Two of the sole remaining sources of state transit funding were through Proposition 1B and Proposition 42.

With the state now facing a projected $11.2 billion deficit in FY 2008-2009, sights have again been set on additional transit funding diversions. When the Governor signed the FY 2008-2009 budget, Proposition 42 was fully funded, with a total of $306 million in STA funding to be used for transit. At the start of the special session, the Governor recommended the elimination of the STA program under Proposition 42 for the remainder of the year and the elimination of the program starting next year. Instead, the Proposition 42 STA funding will be used for traditional general fund purposes as highlighted above. This proposal would leave $76 million in the STA for transit agencies statewide. Because transit agencies have already received this funding in the first quarter of this FY, there will be no additional STA allocations for the remainder of the year. Furthermore, because Proposition 1B funding cannot be used for transit operations, transit operators will be completely dependent on local funding sources in order to operate their fleets.

As the state continues to raid sources of transit funding, the Proposed Scoping Plan should more definitively state the importance of protecting existing transit funding to ensure that the state meets the goals under AB 32. Not only does the Proposed Scoping Plan not address the current state diversions, but it also does not recommend transit as an eligible recipient of new funding sources authorized under AB 32. It is therefore recommended that the Proposed Scoping Plan be revised to stress the importance of maintaining existing state sources of transit funding, and prioritize transit as a recipient of funding through any market mechanism implemented under AB 32, including a cap-and-trade system. Without such actions, the regional GHG targets and the requirements they create for transit agencies will simply be unfunded mandates.

III. Emission Reductions Associated with Bond Funded Projects

As stated above, Proposition 1B remains one of the sole sources of state transit capital funding. When spillover funding was first diverted in FY 2007-2008,

Proposition 1B funds were used to backfill losses that transit agencies experienced. As one of the remaining sources of transit capital funding, transit agencies are utilizing this bond funding to create innovative transit projects that will reduce GHG emissions. In addition, Proposition 1B provides funding for projects that will improve efficiencies on highways and roads, which can also further reduce GHG emissions.

However, the Proposed Scoping Plan recommends that credit for the emission reductions achieved through bond funded projects should remain with the state rather than the entity that implements the project. Local jurisdictions are often required to contribute local matching funds to the creation of these projects. It is the local implementing entity that plans, creates, constructs, and often contributes the majority of funding to these projects. Simply stating that the state should have ownership over these reductions ignores the role of the local entity in creating the project achieving these emissions reductions as well as the financial responsibility for operate the transit system. Furthermore, because bond funding for transit capital is one of the sole remaining sources of transit funding, transit agencies will be hard pressed to find a means of funding additional projects to help meet regional targets. The Proposed Scoping Plan should therefore be revised to take into account this complex process, and give local entities credit for these projects.

Beyond the comments above related to the regional targets, role of transit and bond funded projects, OCTA's August 11, 2008 comment letter for the Draft Scoping Plan provided additional comments that have yet to be addressed and should be considered further, including comments related to goods movement, congestion pricing, and high-speed rail (See Attachment). OCTA looks forward to continuing to collaborate with the California Air Resources Board to promote measures that assist in reducing GHG emissions, while being economically and technologically feasible. If you have any questions please contact me at (714) 560 5584 or Wendy Villa, State Relations Manager, at (714) 560-5595.

Sincerely,

Arthur T. Leahy
Chief Executive Officer

ATL:ke
Attachment

OCTA

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CHIEF EXECUTIVE OFFICE

Arthur T. Leahy
Chief Executive Officer

August 11, 2008

Chairman Mary Nichols
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Dear Chairman Nichols:

The Orange County Transportation Authority (OCTA) appreciates the opportunity to comment on both the Climate Change Draft Scoping Plan (Plan), the June 2008 Discussion Draft, and the Climate Change Draft Scoping Plan Appendices (Appendices). Acknowledging the challenges associated with creating a workable framework for achieving greenhouse gas (GHG) emission reductions as required under AB 32 – the Global Warming Solutions Act of 2006 (Chapter 488, Statutes of 2006), OCTA looks forward to continuing to work closely with the California Air Resources Board (CARB) to fashion measures for the transportation and land use sectors that are feasible and economical. In order to create such measures the framework developed will need to include the flexibility necessary for agencies to adapt the measures to the existing regional structures and needs, while still making real strides to meet GHG emission reduction goals.

Regional Greenhouse Gas Reduction Targets

For the land use sector, both the Plan and the Appendices propose the creation of regional GHG targets. Although a regional approach to reducing GHG emissions offers the potential of allowing GHG reductions from land use and transportation to be achieved in a manner that takes into account local funding structures and needs, a collaborative effort in creating these goals will be needed. Specifically, in the Southern California region there should be a recognized opportunity for input from county transportation commissions such as OCTA, who have programming and planning authority over transportation projects within the region.

Furthermore, flexibility in how the regions achieve the emission reduction targets is imperative. As stated in the Appendices, each region within the state has different economic, population, and housing needs that will need to be met regardless of any new regulations implemented under AB 32. In order to ensure that these needs are met and that workable mechanisms for achieving GHG emissions reductions are created, it is best to allow the regions to determine the most appropriate mechanisms for reducing GHG emissions. A

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one-size-fits all framework would be unworkable. By mandating specific strategies or otherwise constraining the ability of local agencies to respond to the immediate needs of their region, transportation project implementation and the corresponding achievement of GHG reductions will only be hampered. OCTA therefore agrees with the statement in the Appendices that recommends "actions to reach targets would not be prescribed to the regions."

OCTA also supports efforts at creating incentive based programs to meet any regional GHG emission targets, believing an incentive based approach is the best way to meet the goals of AB 32. Neither the Plan nor the Appendices references specific incentives for transportation agencies to meet GHG emission reduction goals. Although there are references to possible project streamlining under the California Environmental Quality Act (CEQA) for specific projects, past attempts at creating such structures have been problematic due to the lack of correlation between the recipient of the incentive and the entity which carried the burden. Any incentive developed should be granted equitably to all entities working towards meeting the targets developed.

The Appendices recommend that the state provide "technical, fiscal, and regulatory priority to projects and developments consistent with regional blueprints that meet established targets." OCTA strongly discourages any prioritization or linking of transportation funding to any adopted GHG emission reduction goals. Such a linkage could delay many already planned projects in which the state and regions have invested extensive time and resources.

Overall, one of the keys to meeting GHG emission reduction goals will be the development of adequate protocols for not only measuring GHG emissions, but also tracking, modeling, and mitigating. Part of the development of these measures should be consideration that there are multiple forms of measuring GHG emission reductions besides looking solely to a reduction in vehicle miles traveled. For instance, our modeling shows that a decrease in vehicle hours traveled can also decrease overall GHG emission reductions by allowing people to reach their destinations more efficiently. In addition, efforts to target congested bottlenecks also reduce GHG emissions by reducing the time vehicles idle. Each of these methods should be recognized in any protocols or recommendations for reducing GHG emissions.

Finally, the Appendices currently refer to a 2010 date for creating the regional GHG reduction targets. At the same time, the Appendices recommend the targets be created with consideration of reductions that will be achieved from

other proposed transportation-related GHG measures. Regulations adopted under AB 32 do not have to be enforceable until 2012. Creating targets prior to all regulations being implemented under AB 32 will not allow full consideration of all GHG benefits that will be achieved. Thus, it is recommended that the targets be created at a date later than 2010 when more definition is available relating to reductions that will be achieved by other measures. Otherwise, the targets created will be premature, creating possible inconsistencies.

Blueprints

Both the Plan and the Appendices propose regions use the blueprint planning process to create an integrated land-use and transportation plan that meets regional needs, as well as GHG targets. OCTA agrees that a growth scenario based on local input that is consistent with general plans is critical to the success of future transportation planning studies, land-use decisions, environmental documentation, and modeling efforts.

Blueprints should be developed using a bottom-up approach that incorporates input from local agencies, county transportation commissions, MPOs and the general public. They should be the result of a voluntary, collaborative process and be aligned with regional transportation plans (RTP) and local general plans. Blueprints should reflect a future growth scenario that local agencies believe is feasible to implement, not simply a wish list of projects that are unlikely to be approved.

Blueprints will be ineffective if they propose a growth scenario that differs significantly from development patterns outlined in RTPs and general plans. If blueprints become mandatory documents, local agencies should retain their right to control transportation funding decisions and should be given flexibility in how to meet GHG targets using a combination of land-use and transportation strategies. Transportation funding decisions should not be based on consistency with a blueprint plan that may not reflect realistic patterns of growth and expected development.

Greenhouse Gas Emission Reductions Associated with Land Use

The Appendices state that current modeling results show reductions from land use changes could lead to a 25 percent reduction in VMT and GHG emissions from the 2050 base case. Citations for such estimates, however, are not given, but instead the Appendices state that the numbers are based on CARB staff's literature search. All literature used in these estimates should be provided for analysis by stakeholders. The underlying assumptions of the analysis should be clear. Furthermore, it is not clear whether these estimates take into account changes in travel behavior the state is experiencing due to increased fuel prices. These recent shifts should be part of this analysis.

California Environmental Quality Act Incentives

As mentioned previously, both the Plan and the Appendices mention the streamlining of the CEQA process for GHG emissions as a possible future incentive. OCTA supports efforts to encourage future streamlining, especially for transportation projects consistent with stated GHG emission reduction goals. As recommended in the Appendices, programmatic mitigation strategies can be a useful tool to meet regional GHG emission reduction. The preference for a programmatic analysis of GHG emissions is echoed in the recent CEQA Technical Advisory released by the Governor's Office of Planning and Research, which stressed that some projects may not be appropriately analyzed at the project level due to the analysis not being feasible or effective.

If a regional approach to reducing GHG emissions from transportation and land use is to be taken and is implemented through a blueprint type mechanism, transportation projects consistent with such blueprint should have the GHG emission CEQA analysis done at the programmatic level. Project level CEQA analysis for GHG for these same transportation projects would be duplicative of the analysis already done at the programmatic level. Not addressing this issue would create additional hurdles for meeting the regional GHG emission reduction goals by extending the time needed to complete environmental analysis for transportation projects and creating the potential for further delays because of potential litigation challenges.

Emission Reductions from State Bond Projects

The Appendices propose that GHG emission reductions achieved through the state bond funded projects should remain with the state. OCTA opposes this proposal. The entity that proposed, planned, and implemented the project that achieved the reduction should have ownership over the GHG emission reductions resulting from such projects. Moreover, projects funded by Proposition 1B were matched with local and other funds from the implementing agency. Due to the nature of the project development process and the variety of local funding sources involved, any GHG emission reductions should be credited to the entity that implemented the project.

Costs Associated with Land Use Changes

The Plan and the Appendices state that changes in the Local Government sector to regulate GHG emissions are expected to result in long-term cost savings for all levels of government. OCTA questions the methodology behind that assertion, as the two Blueprint plans cited have not been in place long enough to demonstrate any tangible benefit or cost savings.

In addition, CARB does not acknowledge the significant short-term costs associated with measures proposed in the Plan, including land-use changes, development of new vehicle technology, and the capital and operating costs related to increased transit service. Existing funding sources will not be adequate to support the range of measures proposed in the Scoping Plan.

Updated Regional Transportation Plan Guidelines

The California Transportation Commission (CTC) recently adopted new guidelines to address GHG emissions within the RTP. The guidelines are the result of a multi-stakeholder effort that included the participation of transportation agencies including OCTA, environmental stakeholders, and land-use entities. These policies represent a consensus approach by the participating entities of how to address GHG emission reductions in the transportation planning and programming process. A similar process should be used in any future modifications, if required. In addition, CARB should look not only at the flexibility and the variety of choices addressed in the guidelines, but also the stakeholder process as a model for how to create consensus in the transportation and land use sector.

Updated State Transportation Improvement Program Guidelines

The Appendices state that the California Transportation Commission will update the State Transportation Improvement Program (STIP) guidelines to include potential "strategy metrics" such as the number of projects that promote pedestrian, bicycle, transit and rail access. While these criteria may be used as performance measures in the STIP, they should neither influence project selection nor contradict current authorizations and obligations.

Transit Measures

Various policy proposals within both the Plan and the Appendices are created with the underlying intent to encourage greater use of alternative forms of transportation, such as transit. An increased demand in transit will further burden already strained funding for transit operations and capital. In order for transit operators such as OCTA to attempt to meet the anticipated demand, it will be necessary for the state to provide secure, consistent funding for transit without further diversions. Furthermore, it should be acknowledged that existing land uses in some areas may never have enough demand to support an extensive public transit network.

In addition, the Plan and the Appendices should include transportation projects that contribute to reducing GHG emissions as eligible recipients of additional sources of revenues provided under AB 32. Within the framework of AB 32, the use of market mechanisms such as a cap-and-trade system, are encouraged. Through these types of market mechanisms there is a potential for the creation of additional sources of revenue. With acknowledgement that the mechanisms implemented under AB 32 will serve to create greater demand for alternative transportation, OCTA recommends that the Plan and Appendices specifically include such projects as eligible recipients of any revenues created by market mechanisms under AB 32.

Consideration should also be given to state laws that require an efficient investment in public transportation services. Regulatory mandates that lay out specific efficiency requirements such as farebox recovery ratios should be reconsidered in light of the attempts to create an increased demand for these services.

The predicted increase in transit demand should also be carefully considered when creating new technology requirements for transit. While transit continues

to aggressively take strides to meet air quality requirements and reduce GHG emissions through the use of alternative fuel vehicles, additional requirements such as those required under the zero emission bus rule could pose additional hurdles for meeting the increased demand.

Congestion Pricing

Both the Plan and the Appendices propose the potential use of congestion pricing as a method of GHG emission reductions. OCTA, as the operator of one of the first successful congestion pricing projects in California – the 91 Express Lanes, can provide valuable insight into how such projects should be implemented. OCTA recommends the Plan and Appendices use the 91 Express Lanes as a model for how congestion pricing principles should be created to expand travel options. Revenues from such projects should be made available for improvements and maintenance, as well as transportation alternatives and overall corridor benefits. In addition, the Plan and the Appendices should give consideration of the use of public-private partnerships to create such projects.

The 91 Express Lanes has created another mobility option for customers traveling between Riverside and Orange counties. The use of congestion management pricing is designed to optimize the traffic flow by managing demand of the 91 Express Lanes at free-flow speeds. Through the use of this structure, commuters report an average savings of 30 minutes on their drive by using the toll roads. Furthermore, over 80 percent of respondents in the 2007 customer satisfaction survey admit that they would alter their drive times to correspond with lower priced times.

In order to allow for additional similar projects, OCTA supports the efforts discussed in the Appendices to advocate for additional state legislative authority to implement this mechanism.

High-Speed Rail

OCTA supports implementation of the California High-Speed Rail system including the Los Angeles to Anaheim route in the initial segment. OCTA has agreed to provide $7 million toward project-level environmental studies within the 27-mile Los Angeles to Anaheim corridor. The California High-Speed Rail Authority (CHSRA) has completed a preliminary analysis demonstrating the feasibility of using renewable sources of energy to power the high-speed rail

system, potentially providing additional GHG reduction benefits. OCTA believes the CHSRA project moves the state in the right direction by providing an environmentally friendly alternative to air travel and long-distance vehicle trips.

However, OCTA questions the need to create a new "interregional transportation and land use body" that would identify "smart corridor" development areas around high-speed rail stations. Currently, the CHSRA has sole statutory authority to develop and implement the state's high-speed rail system. The CHSRA is already working with cities along the proposed high-speed rail route to create a set of station-area development policies that reflect the type of "smart corridor" development CARB encourages. A new and duplicative agency is not necessary.

Goods Movement

OCTA agrees that the development of goods movement efficiency measures should be a high priority, not only to help meet the state's GHG reduction goals but also to improve overall air quality and reduce traffic congestion. The development of such measures should be a collaborative effort that brings together public and private-sector stakeholders at the local, regional, state and federal level. OCTA and its regional partners should be active participants in such a process.

OCTA would like further clarification on how emission reduction goals will be assigned to "key contributors", including ports, shippers, and rail operators. In addition, CARB should elaborate on the proposed membership of the Goods Movement Vision 2050 taskforce, which should include county transportation commissions such as OCTA. OCTA is generally supportive of public-private partnerships to improve goods movement networks, provided that approval of goods movement infrastructure and mitigation projects remains at the local level.

CARB recently adopted a new regulation that requires cargo ships, tankers, and cruise vessels sailing into California waters to use cleaner fuel to power their engines and boilers. This regulation should be referenced in the Scoping Plan.

OCTA looks forward to continuing to collaborate with the California Air Resources Board to promote strategies that allow us to provide cost-effective, reliable, and safe transportation to our customers while doing our

part to improve California's air quality. If you have any questions please contact me at (714) 560-5584 or Wendy Villa, State Relations Manager, at (714) 560-5595.

Sincerely,

Arthur T. Leahy
Chief Executive Officer

ATL:ke

c: Orange County State Legislative Delegation
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