



September 28, 2016

Mary Nichols
California Air Resource Board
1001 I Street
Sacramento, CA 95814

Re: 2030 Target Scoping Plan Update Draft: Vibrant Communities White Paper and VMT Discussion Document

Dear Chair Nichols:

On behalf of the Los Angeles Area Chamber of Commerce, which represents more than 1,650 organizations and 650,000 employees in the region, we appreciate the opportunity to review and comment on the 2030 Target Scoping Plan Update Draft: Vibrant Communities White Paper and VMT Discussion Document.

Founded in 1888, the Los Angeles Area Chamber of Commerce is the largest and most influential business association in the Los Angeles area, and the voice of business in our region. The Los Angeles Area Chamber of Commerce champions economic prosperity and quality of life for the Los Angeles region by being the voice of business, promoting collaboration and helping members grow.

Given the business community's need for certainty and clarity in all government regulations, we submit this comment letter because we believe that the 2030 Target Scoping Plan Update White Paper on Vibrant Communities (White Paper) and the Discussion Document on VMT currently lack clarity and certainty in key aspects. Also, the timeline in which to participate through public comment on the white papers released under the Scoping Plan Update was truncated to two weeks. We urge ARB to carefully consider extending the comment period, the weight of these comments under the short window in which we had to review documents, taking the time necessary to work with the legislature to develop the targets that the draft seeks to address, and weighing the impact of land use regulation on the economy and on housing supply that is causing quality of life problems for many in our state.

The Vibrant Communities document, if approved and put into effect, would constitute a radical departure from existing policies concerning land use – and, as such, should not be considered without a far more robust stakeholder and public input process and – given the legislative policy and constitutional implications – the direct involvement of the State Legislature itself. While we support policies that bolster or encourage development in urban settings like Los Angeles through incentives and creative policy, we are concerned that the recommendations in the White Paper increase the price of less costly housing production by suggesting that infill developers pay out-of-area fees for transferable development rights (basically paying a rancher somewhere in California to not develop the ranch). We are also concerned that it creates new litigation/mitigation/fee/risk obligations for urban roads and freeway improvements (even HOV lanes) that are designed to relieve congestion and improve mobility for more densely developed communities like Los Angeles. As with many vision statements, the devil is in the details, and we are concerned that an expansion of details on how this would work could undermine the economic wellbeing of California's residents and businesses.

The Vibrant Communities proposal's focus on the 2050 GHG goal has no Legislative authorization, and conflicts with prerogatives that the Legislature has deliberately exercised. We are concerned that the

documents are being proposed during their recess, when legislators are busy tending to their district. We ask that CARB and the sister agencies involved in the drafting and rulemaking process commit to obtaining Legislative authorization and utilizing formal rulemaking procedure prior to taking any agency action in furtherance of the non-statutory 80% GHG reduction target in any sector. We also ask that action on the proposed policies in the White Paper and VMT Document be suspended or withdrawn until the Legislature is back in session, and until a wider effort is made to solicit public input. The last public workshop in Southern California was held in 2013, and much has changed since that time.

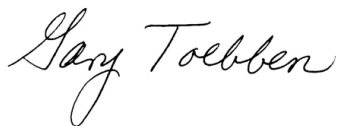
We are also concerned that the role out of the White Paper and VMT Document could affect current transportation and infrastructure improvement projects approved by California voters and compliant with SB 375. We ask that state agencies commit to use all available resources and authority to allow for a timely completion of those projects before any of the policies and objectives in the two documents take effect, so as not to otherwise increase regulatory obligations, burdens, cost, or risks on these projects.

With further regards to VMT, I am also attaching to this document a letter previously sent to OPR with comments on the VMT update and it's ambiguity in practice that I think might be helpful as you seek to shape a policy.

Lastly, the Vibrant Communities proposal does not consider the economic implications of its proposed policies. While the commitment to equity in the documents is visionary, the state would be remiss to not weigh the impact to economic impacts of future rules as well. We ask the state also commit to fully disclose and analyze the social, equity, economic, employment, and global GHG consequences, to complete a comprehensive environmental impact report under CEQA, and to seek express Legislative authorization prior to taking any action to modify any regional SB 375 targets or otherwise adopting any policy, plan or regulation that would increase the compliance costs, litigation risks, or cause any further delays in the implementation of SB 375 compliant projects, policies, and plans.

Numerous studies recently have shown that the restrictions and barriers California has put on building housing have poor economic consequences for the vitality of the state and for the quality of life of its residents. I urge you to consider how policies like the White Paper and VMT Document that encourage sustainable practices also could inhibit housing supply for future generations of a growing California. For these reasons, the Los Angeles Area Chamber of Commerce asks that ARB and her sister agencies consider the balance of the needs of our existing and future community and commit to the requests above. If you have questions or would like to discuss the matter further, please contact me or Alycia Witzling at (213) 580-7531 or awitzling@lachamber.com. Thank you for your time and consideration of this issue.

Sincerely,



Gary Toebben
President & CEO

February 29, 2016

Christopher Calfee
Senior Counsel
Governor's Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

Re: Comments on Revised Proposal to Update CEQA Guidelines for Evaluation of Transportation Impacts Under CEQA

Dear Mr. Calfee:

On behalf of the Los Angeles Area Chamber of Commerce, which represents more than 1,650 organizations and 650,000 employees in the region, we appreciate the opportunity to review and comment on the proposal by the Governor's Office of Planning and Research (OPR) to revise guidelines under the California Environmental Quality Act (CEQA) for implementing the traffic-related portion of Senate Bill 743 (the "Proposed VMT Guideline").

Founded in 1888, the Los Angeles Area Chamber of Commerce is the largest and most influential business association in the Los Angeles area, and the voice of business in our region. The Los Angeles Area Chamber of Commerce champions economic prosperity and quality of life for the Los Angeles region by being the voice of business, promoting collaboration and helping members grow. We are actively interested in the effects of CEQA policies and practices on the economic growth of the region, and have convened a local reform working group of practitioners in land use, led by Ed Casey of Alston & Bird, to come up with ideas to streamline the process. This letter is submitted with input by members of the working group; more information on the working group can be found on our website at www.lachamber.com.

Given the business community's need for certainty and clarity in all government regulations, we submit this comment letter because we believe that the Proposed VMT Guideline lacks clarity and certainty in a number of key aspects. Also, the CEQA process is too often lengthy and complex, and we are concerned that the Proposed VMT Guideline carries the potential to worsen that process. We urge OPR to carefully consider these comments and take the time necessary to develop a VMT Guideline that assures all stakeholders that the legislative purpose underlying SB 743 can be achieved without causing a gridlock in the entitlement process for proposed development projects.

1. Calculating VMT and Evaluating Significance of Traffic Impacts

There are still unanswered questions concerning the most appropriate way to calculate VMT and whether a proposed project would cause an increase or decrease in VMT. For example, in the Technical Advisory provided by OPR with the Proposed VMT Guideline, OPR states that a new retail project's effect on VMT should be evaluated based on how the retail project would "re-route travel from other retail destinations." First, please confirm that this assumption in methodology only applies beyond retail projects. Second, many other environmental impacts are not analyzed on the basis that the

proposed project will attract existing users away from their current homes, offices and shopping centers. For example, contrary to how OPR would calculate a project's effect on VMT, air quality impacts attributable to traffic trips are calculated on the assumption that the project's traffic trips are entirely new trips with no consideration to whether those trips are already occurring in the same region and air basin. Yet, under the approach taken to calculate VMT, a project's air quality impacts should be assessed based on emission of air pollutants from *net* new trips. Consistency in the evaluation of environmental impacts under CEQA is critical to the successful development needed by local communities, and, therefore, we urge OPR to address this issue.

In addition to attracting existing users, a project may capture new users attributable to the future population growth. Yet, the Technical Advisory provides no guidance on what assumptions should be made concerning such future population growth and the VMT associated with that population. Recognizing that such growth is inevitable, a baseline VMT has to be assigned to that population, and then the effect of the proposed project on VMT should be measured against that baseline VMT for future population growth. We request OPR to clarify its position on this issue.

Another uncertainty arises from the absence of any discussion in the Technical Advisory concerning the time horizon for calculating VMT. For example, Caltrans' proposed VMT reduction goals cover the period from 2010 to 2020, while SB 375 looks at the period from 2005 to 2035. Further, page 16 of the Technical Advisory talks about the short and long-term effects of VMT, yet, it is not clear if the Technical Advisory is recommending an Opening Day VMT study or a Long-Term VMT analysis, or both.

Addressing the relationship between projects that meet the needs of future population growth and the metrics for evaluating the significance of traffic impacts of such projects based on VMT is critical to the assessment of the many projects that are not discussed in the Technical Advisory. Under the Proposed VMT Guideline, any new or expanded facilities will have significant new VMT impacts requiring unknown new mitigation measures (and spawning creative new CEQA litigation challenge opportunities against these projects). Such new facilities are critical to support future growth and jobs in our region, including:

- Tourism California's renowned tourism industry serves global travelers, and depend in part on automobile trips.
- Entertainment Venues and Events, ranging from the Super Bowl and Los Angeles Olympic Bid to major league sports facilities, civil auditoriums, soccer and other sport field complexes, and even new movie venues, all include automobile transportation.
- Goods Movement into and out of California's Ports includes complex logistics including employee and cargo vehicular travel.
- Research Universities, High Tech, Green Tech, and Biotechnology all require varying levels of in-state vehicular travel.
- Agriculture requires vehicular travel in field and processing operations, and in shipping.

2. Caltrans

As noted in the Proposed VMT Guideline, Caltrans is preparing its own Transportation Analysis Guide and Impact Study Guide. Consistency between that document and the Proposed VMT Guideline is critical. Otherwise potential projects may be whipsawed between inconsistent regulations and standards, a problem that recently led to the invalidation by a Los Angeles Superior Court of an EIR

prepared for a significant project in Los Angeles, which would have brought hundreds of jobs to our region (i.e., the Millennium project). Therefore, we urge OPR to defer issuing the New VMT Guideline until Caltrans finalizes its Transportation Impact Guide.

3. Agencies Using Police Powers to Reduce a Project's Traffic Trips

Proposed CEQA Guideline 15064.3(a) makes clear, as does SB 743, that “a project’s effect on automobile delay does not constitute a significant environmental impact.” Yet, in the introductory remarks to the Proposed VMT Guideline, OPR states that a lead agency may exercise certain powers to cause a reduction in a project’s trips. Specifically, with respect to the presumption that a project that causes a 15% reduction in VMT will not cause a significant transportation impact, OPR states: “Second, the recommended presumption may be rebutted. A lead agency may find that details about the project or its specific location indicate that the project may cause a significant transportation impact, despite being near transit, and thereby require trip reduction measures. Third, SB 743 specified that lead agencies may find use more stringent thresholds.” We request that OPR clarify those remarks so that those “details about the project or its specific location” or “more stringent thresholds” cannot involve, in any fashion, a project’s effect on automobile delay.

4. Exceptions to Presumption of No Significant Impact

OPR’s Technical Advisory lists three possible exceptions to the presumption of no significant impacts if the project lies within one-half mile of a major transit stop. We urge OPR to delete reference to those three scenarios and leave that matter to each local lead agency to address based on the specific circumstances of each project. For example, one exception concerns parking. The Technical Advisory suggests that the presumption would be rebutted if the project “includes more parking for use by residents, customers, or employees of the project than required by the jurisdiction.” Yet, it has been years (sometimes decades) since many cities have updated their minimum parking requirements, and the cities have been more than satisfied with setting parking ratios based on an assessment of a market demand that does not negatively affect nearby development and neighborhoods. For the CEQA legislation to suddenly define any exceedance of these minimum parking standards as a rationale to require a full VMT calculation is not prudent or warranted. Similarly, the Technical Advisory provides an exception to the above presumption if the project’s floor area ratio (FAR) is less than 0.75. Yet, the calculation of the VMT per capita is based almost solely on the location of the project, and FAR (as well as parking supply) are minor factors in the CalEEMod analysis.

5. Safety Impacts

The introductory remarks to the Proposed VMT Guideline states that the more detailed provisions relating to safety impacts have been removed from proposed VMT Guideline because the precise nature of that analysis is best left to individual lead agencies. We support that approach and request that OPR also remove the discussion of safety impacts from the Technical Advisory. That discussion in the Technical Advisory only raises more questions as well as the potential for conflicting regulations. For example, the discussion in the Technical Advisory of lane widths on public streets is not consistent with the California Highway Design Manual. Is OPR recommending changes to those standards?

Further, the list of “Mischaracterizations of Detriments to Overall Safety” on Pages 43 and 44 of the Advisory raises several unanswered questions:

- Is OPR suggesting that every roadway in California with a speed limit over 25 mph (which would be virtually every roadway in the state since the prima facie speed limit in California is 30 mph) include a Class IV bikeway?
- Is the addition of a turn lane or a through lane a “substantial” increase in pedestrian crossing distance?
- Most signals in California cities already have cycles greater than 90 seconds. Has OPR thought about the air quality impacts of forcing millions of more vehicles per hour to stop and start as a result of shorter signal phases?
- While double right turn lanes can present pedestrian safety problems no such problems exist for double left turn lanes. Increased signal time for the pedestrian crossing often results from the installation of dual left turn lanes.

In short, we believe that fashioning measures to address a project’s safety issues is best left to the local lead agency, particularly since such agencies already review for safety considerations as part of their access and circulation design review process.

6. Congestion Management Program and Transit Impacts

The Proposed VMT Guideline provides a modified Initial Study Checklist, which deletes any reference to Congestion Management Programs (CMP). For clarity’s sake, we request that the Guideline be clarified that a project’s conflict with the CMP cannot constitute an environmental impact under CEQA.

The Technical Advisory also discusses a project’s potential impact on transit. The Advisory states at page 26 that the addition of new users to transit should generally not be treated as an adverse impact. Again, for clarity’s sake, we request that OPR clearly state that a project’s contribution of new users to transit cannot constitute an environmental impact under CEQA. A contrary position would run contrary to the legislative purpose of SB 743.

7. Induced Travel

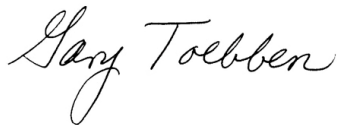
The Proposed VMT Guideline states that a significant impact may arise if a project includes the “addition of through lanes on existing or new highways, including general purpose lanes, HOV lanes, peak period lanes, auxiliary lanes, and lanes through grade-separated interchanges.” Yet, as OPR also recognizes, a city or county may exercise its police power and condition its approval of a project on paying for traffic improvements, which presumably could extend to the addition of such lanes. However, such a condition of approval, if imposed by a local lead agency, should not require the developer of an individual project to undertake the elaborate analysis of induced travel described in the Technical Advisory (particularly when the Advisory provides no realistic measures for mitigating impacts attributable to induced travel.). Otherwise, a developer of an economically beneficial project would be subject to a CEQA analysis that is simply unrealistic and overly time consuming.

The proposal concerning induced travel could also affect transportation projects needed to accommodate future growth. For example, the Technical Advisory calls for a 4% cap on statewide

highway and road projects that relieve congestion and add traffic capacity – a cap that even includes even HOV/carpool lanes. Further, the Advisory provides that adding a single lane to an existing road or road right of way is a new CEQA significant adverse impact, a standard that could adversely affect voter-approved transportation project and projects that CARB already concluded meet the state’s 2035 GHG reduction targets.

For these reasons, the Los Angeles Area Chamber of Commerce asks that OPR revisit the Proposed VMT Guideline and its Technical Advisory and make the revisions necessary to balance the needs of our existing and future community. If you have questions or would like to discuss the matter further, please contact me or Alycia Witzling at (213) 580-7531 or awitzling@lachamber.com. Thank you for your time and consideration of this issue.

Sincerely,

A handwritten signature in black ink that reads "Gary Toebben". The signature is written in a cursive, flowing style.

Gary Toebben
President & CEO

CC: Ed Casey, Alston & Bird