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Christopher Calfee, Senior Counsel  
Governor's Office of Planning and Research  
1400 Tenth Street  
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Re: Comment on Proposed Senate Bill 743 (Steinberg, 2013) and Preliminary Discussion Draft of Changes to the State California Environmental Quality Act ("CEQA") Guidelines

Dear Christopher:

Thank you for allowing the County of Riverside ("County") to review and comment on the provided draft changes to the State CEQA Guidelines and the need for new models of transportation analysis and improved efficacy to gauge potential environmental impacts, including the use of the Vehicle Miles Traveled ("VMT") model.

The County appreciates the Governor's Office of Planning and Research ("OPR") goal of allowing flexibility and broad implementation of the VMT model. Yet, until meaningful legislation is enacted to curb CEQA abuse on the part of petitioners, greater time must be devoted to working with various regional and local agencies to create an improved model with meaningful analysis and appropriate mitigation. Such collaboration will reduce confusion and provide practical direction for local agencies. Moreover, while a certain level of interpretation will inevitably be required from the Courts, greater clarity and detail from OPR as part of the amended guidelines would only enhance the substance and consistency of the environmental analysis among the stakeholders.

**Clarification for Implementation of Vehicle Miles Traveled Model**

• **Effect of Mitigation Measures**

The amended guideline refers to Appendix F, which proposes examples for appropriate mitigation measures and/or alternatives to reduce traffic impacts. Unfortunately, the examples provide limited substantive detail (e.g. traffic calming, unbundling parking costs) and it is unclear as to the effect of the mitigation in reducing potentially significant impacts to less than significant. Moreover, mitigation typically related to a level of service analysis does not necessarily equate to more air quality and greenhouse gas emissions. For example, measures directed at reducing peak hour travel, signal synchronization, etc. may provide *both* improved traffic flow as well as emissions reductions. The proposed amendments and the VMT model also do not appear to recognize the value of low emissions vehicles, or the consideration that other modes of transportation may be more efficient with less air quality emissions than public

transport. Therefore, greater detail, discussion, and clarity of likely mitigation that could potentially offset significant impacts related to the VMT model are needed prior to guideline implementation.

- **Simultaneous Level of Service and VMT Model**

While the guidelines provide for the use of the VMT model, the language within SB 743 clearly does not prevent a local agency from continuing to analyze level of service as part of the consistency analysis with other planning documents; only that this model is no longer the basis for a significant impact pursuant to CEQA. In fact, almost all local agencies use level of service to determine appropriate impacts and mitigation. This is inevitably going to result in likely challenges from petitioners, arguing that both level of service (due to physical improvement requirements in land use plans) and the VMT model needs to be analyzed for projects under CEQA. Further, if local land use and transportation plans continue to require a level of service analysis, with resulting potential direct roadway improvements to offset vehicle delay being conditioned on projects, how will the roadway improvements coincide with the language changes to the amended guidelines? Would those required roadway improvements such as adding turn lanes or increasing roadway width now potentially trigger additional impacts based on the VMT model?

- **Appropriate VMT and Vehicle Daily Trip Rate**

OPR should include greater detail in the proposed guidelines to clarify that the use of a trip-based, tour-based, or area-wide VMT model is sufficient for a comparison to the regional average VMT. Further, consider including in the amended guidelines that the use of ITE *Trip Generation Manual* for average daily trip rates is acceptable and meets legal standards under CEQA. Without such clarification, petitioners will needlessly challenge a lead agency's choice of a VMT model as inappropriate.

- **Travel Demand Models**

While various travel demand models likely provide degrees of benefit based upon project-specific details, the preliminary discussion included upwards of 20 different models a lead agency may utilize to calculate VMT. Therefore, unless the OPR intends to utilize an industry standard, clear authority that the travel demand models are at the sole discretion of the lead agency should be included. Further, will these various example models be vetted by OPR to ensure their accuracy?

- **Cumulative Analysis**

OPR should include discussion as to how the VMT model would be handled for cumulative impacts. Currently, the level of service model includes existing and future (horizon year) analysis. Will VMT modelling address only direct impacts and cumulative impacts evaluated in another format, such as consistency with a regional transportation and sustainable community strategy plan? If so, then under CEQA it appears reasonable that for projects consistent with such plans, impacts would be deemed less than significant.

- **VMT Model and Other CEQA Impacts**

It is unclear how the use of the VMT model for traffic will alleviate costly and complex level of service analysis for other potential impacts under CEQA such as air quality, greenhouse gas emissions, and noise impacts. While a level of service evaluation need not be as robust if traffic impacts are not specifically evaluated, it continues to create an additional level of analysis. Further, vehicle delay and congestion can actually increase other potential impact categories under a CEQA analysis, providing another argument to analyze and mitigate for vehicle delay *and* VMT.

- **VMT Appendix**

While it is reasonable for OPR to actually incorporate a guideline as opposed to an appendix similar to energy conservation, it would prove beneficial to include both an amended guideline and a separate appendix focusing exclusively on the use of the VMT model and analysis (as opposed to mitigation additions to Appendix F).

- **Trial Periods**

OPR should consider a trial period prior to implementing such a dramatic change in the way traffic impacts are evaluated under CEQA. This will allow various agencies time to incorporate their own local guidelines and procedures as to the best method for implementing the VMT model, rectifying the VMT model with level of service requirements in existing land use plans, and allow more time for OPR to further define and revise the VMT model and amended guidelines.

Again, the County appreciates the challenge facing OPR and its efforts in this respect and welcomes the opportunity to be included in the discussion of this important issue. The inclusion of greater detail into the State CEQA Guidelines aids in certainty both for applicants and the lead agency, which is invaluable. With ambiguity, lead agencies are forced to continuously defend projects against petitioners while issues are sorted out with the courts. Hopefully, additional details and guidance will be included that provides greater certainty on behalf of the lead agency.

Sincerely,

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County Counsel



Aaron Gettis  
Deputy County Counsel