

November 21, 2014

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

Re: Comments on Governor's Office of Planning and Research Preliminary Discussion Draft of Updates to CEQA Guidelines Implementing SB 743

Dear Mr. Calfee:

Thank you for extending the public comment period to provide feedback on your efforts to amend the California Environmental Quality Act (CEQA) Guidelines per Senate Bill 743 (SB 743). The San Diego Unified Port District (District) initially provided comments to the Governor's Office of Planning and Research (OPR) on October 10, 2014. As a result of the time extension, the District has had the opportunity to take a closer look at the draft update and has identified some additional issues. Based on closer examination, the District is requesting that additional clarifications and revisions be made to the proposed new *Section 15064.3 Determining the Significance of Transportation Impacts: Alternatives and Mitigation Measures* and other sections as noted, in the CEQA Guidelines.

The mission of the San Diego Unified Port District (District) is to protect the Tidelands Trust resources by providing economic vitality and community benefit through a balanced approach to maritime industry, tourism, water and land recreation, environmental stewardship and public safety. The District was created with the San Diego Unified Port District Act (hereinafter referred to as "Port Act") adopted by the California State Legislature in 1962 as amended. The Port Act recognizes the Public Trust Doctrine, and states that tidelands and submerged lands are only to be used for statewide purposes. To this end, the District is charged with management of the tidelands and diverse waterfront uses along San Diego Bay that promote commerce, navigation, fisheries, and recreation on granted lands. When issuing discretionary permits and/or project approvals for projects and activities located within tidelands, the District often serves as the lead agency under CEQA.

As explained in our previous letter, District staff generally supports replacing the level of service (LOS) metric with Vehicle Miles Traveled (VMT), for many of the same reasons identified in the SB 743 legislation. The intent of this letter is to provide suggestions on how the guidelines may be interpreted and implemented by lead agencies and to ensure successful implementation of SB 743. For ease of review, this letter includes our new comments, as well as our previous comments discussed in the District's October 10, 2014 letter. Our comments are as follows:

1. Clarify that all development projects located within a one-half mile of an existing major transit stop¹ or a stop along an existing high quality transit corridor generally may be considered to have a less than significant transportation impact: As currently written, the proposed new Section 15064.3 (b) Criteria for Analyzing Transportation Impacts (1) Vehicle Miles Traveled, does not differentiate between types of development projects. Upon speaking with transportation engineers and other lead agencies, it appears that one of the primary objectives of the proposed new section 15064.3 is to encourage all development projects (including residential, commercial, industrial, parks, and public facility projects) to locate within one-half mile of a major transit stop or a stop along a high quality transit corridor, irrespective of the type of project that is being proposed. Therefore, we respectfully request that this be clarified in the proposed new section as shown in cross-out/underline text below:

(b)(1) Vehicle Miles Traveled and Land Use Projects. Generally, transportation impacts of a project can be best measured using vehicle miles traveled. A development project that is not exempt and that results in vehicle miles traveled greater than the regional average for the land use type (e.g. residential, employment, industrial, commercial, public facility and public recreation) may indicate a significant impact. For the purpose of this subdivision, regional average should be measured per capita, per employee, per trip, per person-trip, or other appropriate measure. Also, for the purposes of this subdivision, region refers to the metropolitan planning organization or regional transportation planning agency within which the project is located. Any D development projects, (including a residential, employment, industrial, commercial, public facility and/or public recreation project), that locates within one-half mile of either an existing major transit stop, or a stop along an existing high-quality transit corridor generally may be considered to have a less than

¹ A "major transit stop" means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

http://www.opr.ca.gov/s_transitorienteddevelopmentsb743.php

significant transportation impact. Similarly, development projects, that result in net decreases in vehicle miles traveled, compared to existing conditions, or that can rely on rail in lieu of vehicular trips, may be considered to have a less than significant impact. Land use plans that are either consistent with a sustainable communities strategy, or that achieve at least an equivalent reduction in vehicle miles traveled as projected to result from implementation of a sustainable communities strategy, generally may be considered to have a less than significant impact.

Therefore, District staff recommends that the Guidelines be revised to clarify that “industrial” projects located within one-half mile of a major transit stop may result in a less than significant impact.

- 2. Address whether water-dependent industrial uses, specifically, maritime terminals, that are located in close proximity to an existing and operating freight railway, may be considered to have a less than significant transportation impact:** As it relates to goods movement, the District’s two marine terminals, Tenth Avenue Maritime Terminal and National City Maritime Terminal, import and export hundreds of thousands of metric tons of cargo every year, which are then distributed throughout the western United States. Many of the goods transported to and from these maritime terminals are moved as freight on railcars that service them. Currently, on-terminal freight rail or adjacent freight rail are not addressed in the update, but clearly using and relying on freight rail to transport goods reduces VMTs. As such the District respectfully requests that the proximity of freight rail be included as a means to demonstrate a less than significant impact related VMT for the terminals, which may be located beyond one-half mile of a transit stop as defined in SB 743.

Addressing the proximity of freight upfront will avoid any unintentional consequences of the proposed CEQA Guideline changes. The District respectfully requests that the location of freight rail be considered in the update.

- 3. Define a “High Quality Transit Corridor” as it is defined in SB 375:** As currently written SB 743 does not define a “High Quality Transit Corridor”. Therefore, District staff recommends that the proposed new Section 15064.3 reference the SB 375 definition of a “High Quality Transit Corridor” which defines it as “*a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours*”. SB 375 also includes criteria for identifying transit priority projects and includes other strategies to help the region meet greenhouse gas emission targets by linking land use planning and transportation planning. By referencing SB

375 legislation in proposed Section 15064.3 of the CEQA Guidelines, lead agencies would be able to rely on the work, and mapping efforts, done by various metropolitan planning organizations (MPO's) as part of their Sustainable Communities Strategy.

- 4. Clarify that previously certified EIR's and other environmental documents do not require a subsequent VMT analysis:** CEQA section 15164 allows for an addendum to a previously certified EIR if some changes are necessary, but none of the conditions in section 15162 calling for a preparation of a subsequent EIR have occurred. However, it is unclear if previously certified EIR's will need to be updated to include a VMT analysis. Therefore, District staff recommends adding clarification to the Guidelines to ensure previously certified EIR's and other environmental documents can continue to be relied on without conducting subsequent traffic analyses utilizing the VMT metric. District staff has included some sample language that could be used to clarify section 15162(b) of the CEQA Guidelines:

If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR if required under subdivision (a). Otherwise, the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation. Changes to the CEQA Guidelines that were established by SB 743 do not constitute changes to a project, its circumstances or new information.

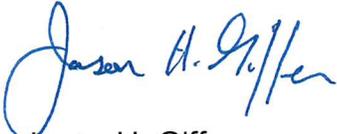
- 5. Place transportation-related mitigation measures directly in new section 15064.3:** District staff recommends placing the mitigation measures directly within the text of the proposed new section 15064.3 because Appendix F has been interpreted to apply only when there is a significant impact identified in an EIR. By placing mitigation measures directly in the new section, it will be clear that the mitigation measures associated with transportation should also be applied to mitigated negative declarations.
- 6. Recommend lead agencies may use their local air basin as a reasonable boundary for VMT analyses:** The proposed new Section 15064.3(b)(4) Methodology, acknowledges that "*the lead agency's evaluation of the vehicle miles traveled associated with a project is subject to a rule of reason; however, a lead agency generally should not confine its evaluation to its own political boundary.*" However, the "rule of reason" is frequently debated among industry professionals. To provide clearer guidance to both local governments and industry professionals, as well as to tie the impact directly back to air quality, District staff recommends that the guidelines suggest that the region's local air basin may be used. For the District, the local air basin is regulated by the San Diego Air Pollution Control District, and it

makes for a reasonable boundary, in part, because it is conterminous with the County boundary.

7. **Ferry stops, in addition to ferry terminals, should be considered as major transit stops to promote the use of efficient water-based transportation in lieu of increasing vehicle miles traveled:** Ferry service is an alternative to land-based transit options. For places like San Diego Bay, ferry service may provide a viable alternative to land-based, vehicular transport. As such, the District requests that ferry service, including both ferry terminals or stops, in close proximity to bus or rail service be considered to have a less than significant impact on transportation. Currently, there is no definition of a ferry terminal in the draft update; however, ferry terminals tend to be very large, regional facilities. More clarity is requested on this term.

Thank you for the opportunity to provide comments and suggestions regarding OPR's efforts to amend CEQA Guidelines, as required by Senate Bill 743 (SB 743). We look forward to continuing to work with you on this important and exciting endeavor.

Sincerely,



Jason H. Giffen

Director, Environmental and Land Use Management