Memorandum

Tab 21

To: CHAIR AND COMMISSIONERS

CTC Meeting: March 16-17, 2016

Reference No.: 4.21
Information

From: WILL KEMPTON
Executive Director

Subject: **COMMENTS TO THE GOVERNOR'S OFFICE OF PLANNING & RESEARCH'S "REVISED PROPOSAL ON THE UPDATES TO THE CEQA GUIDELINES EVALUATING TRANSPORTATION IMPACTS IN CEQA"**

ISSUE:

On January 20, 2016, the Governor's Office of Planning and Research (OPR) posted and invited input on the "*Revised Proposal on Updates to the CEQA Guidelines on Evaluating Transportation Impacts in CEQA*". On February 29, 2016, the Commission's Executive Director submitted comments to OPR in response to the revised proposal.

RECOMMENDATION:

Staff recommends the Commission affirm its concurrence with the attached comment letter transmitted by the Commission's Executive Director to OPR.

BACKGROUND:

Senate Bill (SB) 743 (Steinberg, 2013) requires that OPR amend the CEQA Guidelines to provide an alternative to level of service (LOS) for evaluating transportation impacts. As a result, on January 20, 2016, OPR released a revised proposal to update the CEQA Guidelines. The revised proposal includes: (1) an explanation of the changes and how OPR responded to public input received from an earlier public draft; (2) a revised proposed new CEQA Guidelines Section 15064.3; (3) a draft technical advisory containing recommendations related to methodology, thresholds of significance, safety, and mitigation; and (4) case studies illustrating how the proposed analysis would apply to sample projects. OPR required that comments to the revised proposal be submitted by February 29, 2016.

The revised proposal can be found at:
https://www.opr.ca.gov/docs/Revised_VMT_CEQA_Guidelines_Proposal_January_20_2016.pdf

Attachment – Comment Letter to OPR

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February 29, 2016

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

Dear Mr. Calfee:

The California Transportation Commission (Commission) appreciates the opportunity to review and provide comments on the draft document titled: *Revised Proposal on Updates to the CEQA Guidelines on Evaluating Transportation Impacts in CEQA*, which has been prepared to satisfy the requirements of Senate Bill (SB) 743 (Steinberg, 2013). The Commission recognizes the complexity involved in preparing these guidelines and commends the Office of Planning and Research (OPR) on its efforts to ensure consideration of stakeholder comments.

The change from using the Level of Service (LOS) metric to a Vehicle Miles Traveled (VMT) based criteria as a means of addressing California Environmental Quality Act (CEQA) requirements is a substantial shift in determining transportation project impacts. Specifically, discounting automobile delay or congestion as having a significant environmental impact will be a major factor in shaping the mobility choices available to the traveling public in the future. These changes need to be communicated to the public so the State's objectives are clearly understood and accepted.

Given the new direction outlined in the proposed Regulations and Technical Advisory regarding assessment of how land use and transportation impacts may affect where we live, work, and travel, it is important that this new direction does not negatively impact California's economic

competiveness and can be effectively implemented. To assist in the development of the guidelines process underway, the Commission offers the following recommendations:

Ensure that the proposed regulation promotes a robust and thriving economy and does not increase threats of CEQA litigation. Prior to finalization of both the Regulation and Technical Advisory, a thorough cost/benefit analysis should be performed to assess associated risks to achievement of California's economic, mobility, safety and other goals. To that end, we commend OPR for including advice and recommendations through a Technical Advisory that, as stated on page 10, is not regulatory in nature. Extensive technical guidance is necessary given the complexity that State, regional and local agencies will face implementing SB 743 requirements and subsequent OPR guidance. Clear and direct statements as to the purpose and role of documents such as this Technical Advisory are very important.

Address inconsistency with General Plans and Congestion Management Plans. The proposed VMT metrics and mitigation measures are in many cases directly inconsistent with mandated General Plan criteria as well as Congestion Management Plan requirements. Implementation of the proposed guidelines may result in conflicting evaluation of both land use and transportation projects, resulting in increased exposure to litigation and delay or even cancellation of projects valuable to a vibrant California economy.

Ensure traffic safety issues are thoroughly addressed. We are concerned that some of the proposed mitigation measures identified in the Technical Advisory on page 43 may have a negative impact on the safety of people walking, riding bicycles, or driving. The California Department of Transportation (Caltrans) is required to prepare the California Strategic Highway Safety Plan (SHSP). The 2015-2019 SHSP is a statewide, data-driven traffic safety plan that coordinates the efforts of a wide range of organizations to reduce traffic accident fatalities and serious injuries on all public roads. In coordination with Federal, State, local and private sector safety stakeholders, the SHSP establishes goals, objectives, and emphasis (or challenge) areas. We recommend OPR ensure this Technical Advisory is consistent with the SHSP.

Specify the role of and address the safety of freight truck trips. Neither the Technical Advisory nor Regulation provides for how large truck trips on roadways should be addressed. The State's highway system and a large percentage of local streets must be able to safely accommodate large trucks. We recommend the Technical Advisory address the potential negative outcomes of unmitigated truck congestion as well as the roadway types, traffic volumes and percentage of truck volumes where mitigation measures such as reduced lane widths or shorter left turn lanes may negatively impact the ability of large trucks to navigate safely.

Ensure "Induced Demand" impact assessments are reasonable. The Technical Advisory references a causal link between highway capacity increases and VMT increases. The Technical Advisory should not draw conclusions that all roadway capacity expansion projects lead to additional traffic. Although the document states "peer reviewed studies" have demonstrated this link, the specific studies should be referenced. There may also be compelling reasons in some

cases to add additional lanes to an existing roadway, including the need to address safety issues or to carry out voter approved sales tax commitments. Also, consideration should be given to transportation projects that may increase the capacity of a roadway to address the increasing amount of freight traffic using those facilities. Whether some transportation projects induce demand should be determined on a project-by-project basis.

Ensure each SB 743 requirement, including the VMT metric, is understandable to elected officials, local/regional stakeholders and the public. Additional information on the Regulation and Technical Advisory, including an explanation of how the proposed fifteen percent per capita VMT reduction threshold will be applied in small, medium and large cities and counties statewide, would be helpful. The Commission believes it is very important that a wide range of statewide stakeholders are engaged, consulted and given ample opportunity to provide input on the proposed Regulations and Technical Advisory. For example, fact sheets and/or a website could be developed to fully articulate to local elected officials, city and regional agencies, practitioners and the public the various nuances of the metric. Application examples with detailed parameters as to what qualifies or is excluded from the requirement could enhance acceptance and compliance. Commission staff is able to assist OPR in posting this material on the Commission's website and other venues if fact sheets or other information is prepared.

Maximize the two-year opt-in period and the development of a pilot program for urban and rural areas. The Commission believes that having a two-year opt-in period is a sound idea. During this period, we encourage OPR to develop pilot studies and actively engage with jurisdictions representing rural, suburban, and urban communities statewide as well as those directly involved with implementation, such as Caltrans District Offices and Regional Transportation Planning Agencies, to thoroughly study implementation issues associated with incorporating the new VMT metric.

Ensure the Technical Advisory offers useful and practical information, citing case studies that take into consideration California's geographical diversity. Providing case studies is helpful in illustrating the potential application of methodologies to measure VMT impacts and identify mitigation measures. However, we would recommend case studies that can be applied to the wide-range of both transportation and land use development projects that occur in a state as large and diverse as California. The case studies should also reflect ambitious but achievable examples of potential mitigation measures that would reflect actions that lead agencies could implement, and that would be applicable in both rural and urban settings.

Analyze transportation projects at the programmatic level. According to the draft Regulation, to the extent that the potential for induced travel has already been adequately analyzed at a programmatic level, a lead agency may incorporate that analysis by reference. For additional clarification, the Technical Advisory should address whether a transportation project that has already gone through programmatic environmental review as part of the Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) process is subject to a second review and

evaluation. We would hope that when extensive modeling has already taken place during the RTP/SCS process, a second review would not be necessary.

Closing comments. For your information, the Commission recommended in our 2015 Annual Report that the provisions of SB 743 be expanded to prohibit a cause of action under CEQA that would challenge a transportation project that has been included in a Programmatic Environmental Impact Report as part of an approved RTP/SCS. The Commission supports such a provision as it would streamline environmental review for projects that contribute to successful SCS implementation and achievement of greenhouse gas (GHG) emission reduction targets.

Finally, though this may not relate directly to the Technical Advisory, we refer to the timely publication of a February 23, 2016 editorial in *Sacramento Bee*, "California's Tax Code Blocks its Climate Change Goals", by UC Berkeley Professor Karen Chapple. Dr. Chapple states that California's current tax policies encourage sprawl, because local governments are incentivized to situate businesses within their jurisdictional boundaries because they rely on sales tax revenue generated from those businesses to meet municipal services such as police, fire, safety, parks and numerous others. Both the Technical Advisory and Dr. Chapple's editorial make it clear that ultimately land use decisions will influence our ability to achieve GHG emission reduction goals. The issues that are raised in the editorial may merit further research in terms of the causal link to increased VMT. Here is a link to the editorial:

http://www.sacbee.com/opinion/op-ed/soapbox/article62017457.html

Thank you for the opportunity to comment on this revised draft. Please contact Garth Hopkins, Commission Deputy Director, at (916) 653-3148 or garth.hopkins@dot.ca.gov if you have any questions.

Sincerely,

WILL KEMPTON
Executive Director

cc CTC Commissioners
CalSTA Secretary, Brian Kelly