State of California
**DEPARTMENT OF TRANSPORTATION**

Business, Transportation and Housing Agency

# Memorandum

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**To:** DEPUTY DISTRICT DIRECTORS—ENVIRONMENTAL
DISTRICT ENVIRONMENTAL OFFICE CHIEFS AND
SENIORS

**Date:** **July 28, 2011**

**From:** KELLY C. DUNLAP
Chief
Environmental Management Office

**Subject:** **Policy Implications of *Sunnyvale West Neighborhood Association et al v. City of Sunnyvale*, 190 Cal. App. 4th 1351 (2010)**

The purpose of this memorandum is to clarify the Department's reading and policy direction with respect to the *Sunnyvale West Neighborhood Association et al v. City of Sunnyvale*, 190 Cal. App. 4th 1351 (2010) court case. First and foremost, the Department reads the rule of this case to be a reinforcement of the long-standing California Environmental Quality Act (CEQA) requirement that the environmental impacts of a proposed project must be compared to baseline conditions. Baseline conditions are the existing physical conditions in the affected area as they exist at the time the notice of preparation is published, or where no notice of preparation is published, at the time the environmental analysis is completed. The most important point from this case is that a traffic impact analysis, just like any other environmental impact analysis under CEQA, must contain an explicit discussion of the future conditions with project compared to the existing baseline conditions. While a comparison of future build to future no build is sufficient for impact assessment under the National Environmental Policy Act (NEPA), a CEQA analysis cannot rely *solely* on that future analysis, there must be a comparison back to baseline conditions.

The second point of clarification is that many are interpreting the *Sunnyvale* case to state that modeling of the "existing plus project" scenario is required; this is not the Department's reading of the case and the Department is not advocating the modeling of "existing plus project" for its projects. The Department's reading of the case is that while the Court did discuss that as one possible approach to glean the project's impacts when compared to baseline conditions, it is just that, one possible approach. Another possible approach and the one currently being utilized and advocated by the Department is to take the difference of the future build versus future no build as a measure of the project's impacts and then compare that back to the baseline. Where the defendant failed in Sunnyvale was in not relating the difference back to baseline; it is imperative under CEQA that impact determinations are linked back to the baseline conditions and then discussed explicitly in the environmental documentation.

If you have any questions regarding this memorandum, please contact
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