

Transportation Solutions Defense and Education Fund

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April 3, 2016
By E-Mail to
jbroadbent@
baaqmd.gov

Jack Broadbent
Air Pollution Control Officer
Bay Area Air Quality Management District
375 Beale Street
San Francisco, CA 94105

Re: 2017 Draft Clean Air Plan

Dear Mr. Broadbent:

The Transportation Solutions Defense and Education Fund, TRANSDEF, is a Bay Area environmental organization dedicated to reducing the impacts on climate of the largest source category of GHGs, transportation. We have participated in the District's air planning efforts since the 1990s, including the 2001 SIP, the 2005 Ozone Strategy, and the 2010 CAP. Our focus has been on transportation control measures (TCMs).

TRANSDEF is very impressed with the draft 2017 Clean Air Plan ("CAP"). While we haven't reviewed the entire document, the sections we have gone through have been comprehensive and graphically attractive. In the 2010 CAP, we applauded the multipollutant approach to air quality planning, which was very innovative at the time. We are pleased at how well the District has integrated its air quality and climate protection responsibilities into this CAP.

We are especially pleased to see the attainment year charts in Appendix E. These charts indicate that your agency is actually accomplishing its statutory duties. In light of the many years in which the District did not seem to be making much progress, we congratulate you both for your in-the-air successes and for your ability to graphically represent those successes. All citations are to the Draft CAP, unless otherwise noted.

Transportation Emissions

For decades now, we have been commenting on one area in which the District fails to carry out its mandated duties: It has consistently been unwilling to pressure MTC to use its formidable financial and planning powers to reduce emissions from the transportation sector. We firmly believe attainment of all pollution standards could have been achieved years ago, had the District used its statutory power under Health and Safety Code Section 40233 to impose a larger emission reduction target on MTC.

This is the time for a critical policy decision: Has MTC been a good faith partner in reducing emissions in the region? If not, MTC's consolidation of planning power in the region by absorbing ABAG presents a now-or-never opportunity to exert the District's statutory power over MTC and demand that it perform. When the emissions reductions proposed in the TCM package are modified and totalled in response to the comments below, TRANSDEF is confident that that the shortfall will be marked enough for the District to be fully justified in taking action to increase MTC's emission reduction target.

Background

Recognizing how little MTC was doing for air quality, TRANSDEF challenged its motor vehicle emissions budget in the 2001 SIP, thereby forcing the Bay Area into a conformity lapse. When the Sacramento and Yolo-Solano Districts joined our suit, an historic compromise resulted with the Legislature imposing Smog Check II on the Bay Area. While TRANSDEF did not succeed in lowering the emissions budget, thereby forcing MTC to be concerned about achieving emissions outcomes, that suit resulted in the District now working cooperatively with other Districts to eliminate pollutant transport.

MTC's do-little approach has continued on to the present day. MTC's 2017 Final Preferred Scenario presentation for its Sustainable Communities Strategy stated that:

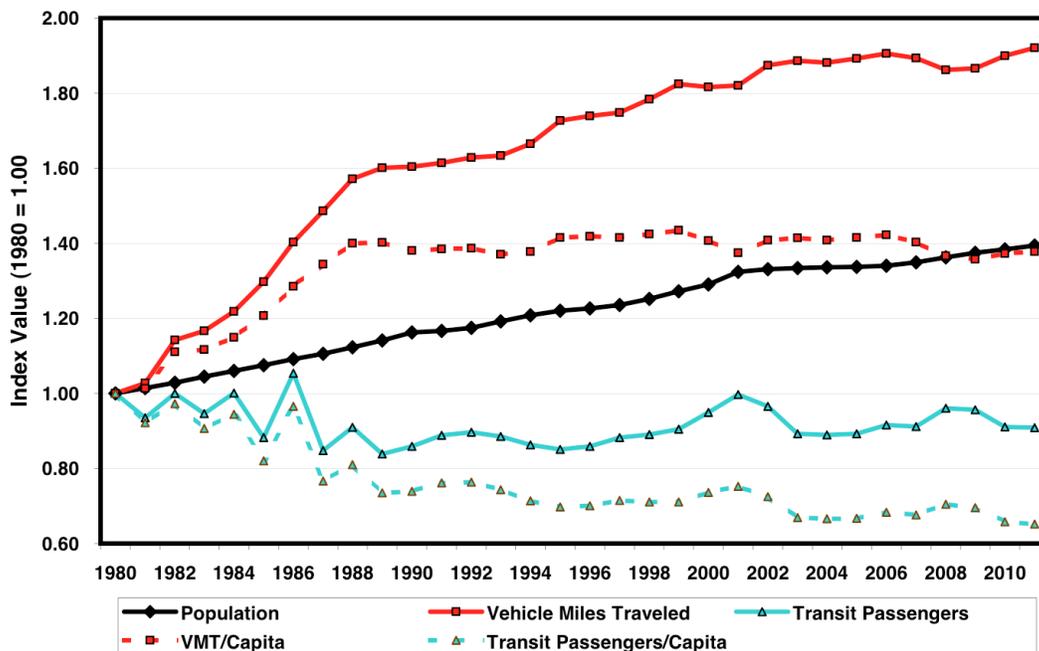
Most of the Plan's GHG emission reductions will come from MTC's Climate Initiatives Program. Transportation and land use strategies are not enough to meet the climate goals of SB375, requiring the following additional programs: Transportation Demand Management, Alternative Fuel/Vehicle Strategies, and Car Sharing and Vanpool Incentives. (Slide 19, <http://mtc.ca.gov/sites/default/files/Final Preferred Scenario POWERPOINT.pdf>)

Translating that into real world of financial allocations, MTC is saying that its projects and programs that increase VMT will unfortunately overpower the ones that decrease VMT. As a result, it sees itself as powerless to do anything other than use off-model adjustments to achieve the required GHG emissions reduction. TRANSDEF thoroughly rejects MTC's assertions: It's not that MTC can't reduce emissions--the problem is that MTC is not willing to reduce emissions if that entails controversy. It is not motivated to make difficult decisions.

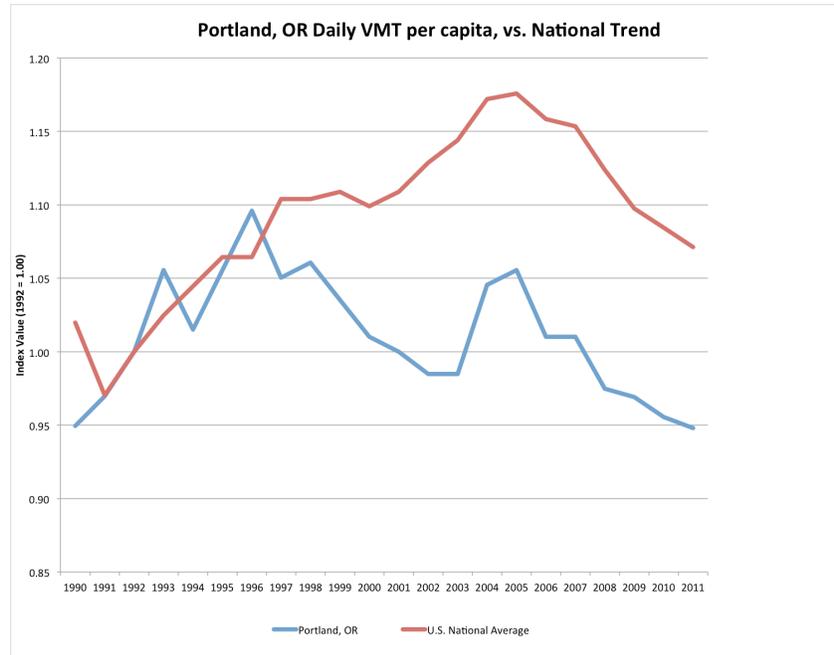
There is much MTC could do to reduce emissions. However, MTC has made it clear for decades that it had other priorities. As a result, MTC's own data demonstrates that the agency has massively failed as the manager of Bay Area transportation. MTC had made the enforceable commitment in TCM 2 to increase regional transit ridership 15% above 1982 levels. The graph on the next page shows that **regional transit ridership has fallen significantly below 1982 levels** on a total ridership basis, and far more on a per capita basis, because of the region's significant growth. Multiple traces on this graph indicate the absence of a comprehensive-enough transit system to shift travel preferences away from solo driving.

Under MTC's direction, effectively none of the new residents since 1986 uses transit. Instead, they are driving, emitting more pollution and GHGs, and causing unending congestion. (Note the top line on the graph is the sharply rising total VMT line.) Seeing the stagnant ridership trend back in 2001, TRANSDEF and a coalition of Bay Area non-profits sued to enforce compliance with TCM 2. The trial court ruled in favor of plaintiffs. (On appeal, a conservative panel ruled that an enforceable commitment under the Clean Air Act was not enforceable!). Had that ruling withstood MTC's counterattack, the region would likely be in attainment today.

BAY AREA TRANSPORTATION TRENDS 1980-2011



What's especially important about this graph is the relatively flat second line from the top. It is VMT per capita. It essentially hasn't budged since 1986. This indicates a deep stasis in transportation policy, as everything continued on a status quo basis. Stasis is not inevitable, however. For contrast, the graph on the following page depicts how Portland used policy tools to significantly drop its VMT per capita, while the national average was rising:



Portland had the will to shift its travel patterns, which is reflected in its declining VMT per capita. MTC says it cannot be done. By that, what they really mean is they won't do it, without a gun to their heads. TRANSDEF believes the time has come to provide that motivation. The CAP states:

Section 40233 allows the air District's discretion as to whether and when to revise the emission reduction target for transportation sources set in 1990. This update to the strategy to attain the state ozone standard does not include a revised emission reduction target for transportation sources, and therefore does not trigger a TCM plan revision. The Air District and MTC have, however, comprehensively reviewed and augmented the TCMs during preparation of the 2017 Plan to maximize their effectiveness. (CAP, pp. A/3 - A/4.)

The District's exercise of discretion in setting the emission reduction target was the subject of a legal challenge by TRANSDEF and CBE in 2003. The 2017 CAP offers no substantial evidence that a target revision is not necessary. The region has not attained for criteria pollutants. Worse yet, GHG emissions from transportation keep increasing as VMT increases, in the absence of effective MTC policies to restrain its growth.

The District Board's adoption of the 2010 CAP incorporated this TRANSDEF language (as modified by MTC):

BAAQMD, in its role as a member of the Joint Policy Committee, shall encourage MTC to accomplish the

maximum feasible reductions in future VMT per capita, in the context of an overall air quality planning strategy.
(Minutes, 9/15/10.)

With that Board direction and MTC's admission of failure to reduce VMT for the 2017 SCS, it is clear to TRANSDEF that the time has come for the District to use its powers under Section 40233 to compel MTC to become a partner in seriously decreasing regional emissions.

It is not difficult to identify the MTC policies needed to reduce emissions. The pathway forward was laid out a decade ago in TRANSDEF's Smart Growth Alternative, which was studied in the 2005 RTP FEIR. It contained the following major elements:

- No more highway capacity expansion
- Cost-effective transit expansion (No transit megaprojects)
- No greenfield suburban development

See: <http://transdef.org/RTP/RTP.html>

Much has been learned in the past decade since then. We recommend in addition:

- Eliminate Express Lanes. The sole purpose of this program is to delay the inevitable wrenching transition away from solo driving as the favored mode.
- Promote casual carpooling by:
 - Operating HOV lanes to preserve a consistent travel time advantage (open during all routinely congested periods)
 - Heavily promoting real-time smartphone ride-matching
 - Enforcing HOV lane occupancy rules
- Reduce transit fares
- Readopt MTC's Countywide Plan Guidelines, but make compliance mandatory for submissions to be considered in the RTP.

Overall Comments

The CAP underestimates the GHG contributions of motor vehicles by using only the tailpipe emissions (3/20). ARB uses the expression "nearly half" of emissions to indicate transportation sector emissions resulting from fuel production and vehicle manufacture and repair. Because the scale of transportation emissions is so much larger than other sectors, this sector deserves the highest priority to achieve emissions reductions.

It is shocking that "Reduce and reverse growth trends in VMT" was not included on its own as a Key Priority for Implementation on p. 5/35, especially considering the Board direction described above.

Comments on Transportation Control Measures

A control measure, by definition, is an effort to change existing conditions to meet a prescribed standard. A TCM based on the routine distribution of available funding is not a control measure. To qualify, a measure would need to be providing funding that results in reduced emissions, for something that previously did not receive funding.

TR1: The program, as defined in Volume 2, does not adequately address the identified Issues/Impediments. To truly provide the assistance employers need to transition to including telework, the program needs to be able to provide a rich supply of research on the legal and management issues associated with telework. Ideally, the program should be able to assist in resolving management's doubts, questions and concerns. This requires not only the collection of existing research, but possibly the commissioning of research targeted to specific issues identified in the region.

We have serious doubts about the emissions reduction calculations. They seem extremely high compared to other TCMs. What level of participation was modeled? How was a reasonable assumption for participation determined?

TR2: See our comments about trip caps under TR10. The emission reduction calculation needs to state the percentage of VMT reduction that was modeled.

TR3: Current levels of funding allocated to bus operations are inadequate. To incentivize users to change their mode choice to transit, far more funding is needed than is now provided. Distributing formula funds is not a TCM. Funding new transit projects is not a TCM, unless the projects meet specific performance measures that are aligned with regional goals (as distinguished from those that are merely popular).

TR4: With its record of failure in increasing regional transit ridership (see graph above), MTC and its Resolution 3434 are entitled to no deference as to their efficacy in reducing regional emissions. The project funding process has clearly favored politics over effectiveness, making the so-called "Project Performance Assessment" highly suspect.

Notes on specific projects:

- Caltrain electrification: Catenary power is obsolete. It is now far more cost-effective to use battery power and ultracapacitors, with quick charging while stopped at stations. TRANSDEF asserts that the most cost-effective and flexible approach would be with Diesel-Electric Multiple Units, which can switch on the fly between on-board Tier 4 diesel power and battery/capacitor power.
- As a general rule, TRANSDEF asserts that providing more transit service, through being able to afford more vehicles and more operating funds, is far more important to the task of reducing transportation GHGs than electrifying the motive power. Tier 4 engines have eliminated most of the problems of dirty diesel, and can play a vital role in moving the region to a much higher transit ridership.
- Dumbarton rail is "still several years away from completion" (TR-14) because MTC illegally shifted its voter approved RM 2 funding to another project.

- BART to Santa Clara is an outrageously expensive duplication of effort. It is a tradeoff that cannot be justified when compared to the emissions reductions possible from far more cost-effective projects that are currently unfunded.

Because most of the money is going to vehicle replacement and project lists that historically have done little for regional transit ridership, we doubt the new riders that will be added. We find the Emissions Impacts for this measure (Table H-1, H/5, TR-15) to be unjustifiably high. State the specific assumptions that went into this emissions calculation.

Please note that the most likely reason that regional transit ridership has not risen in proportion to the funding allocated to transit expansion is because the ridership projections produced by project sponsors (on which the Emissions Reduction calculations were based) were fraudulent. We have grave doubts as to the due diligence exercised by MTC in basing its funding decisions on them.

TR5: The sole reason that Clipper was initially implemented was the resistance of transit operators to a regional fare program. The complexity of Clipper technology could be greatly reduced through a political compromise between operators that established regional fare zones, or some other simplification for the benefit of users. The extremely high amount of funding proposed to be used for a new generation of Clipper will crowd out the provision of actual transit service. A much less expensive technology could free up funding to provide additional emissions reduction through increased service and ridership.

TR8: TRANSDEF sees smartphone-based ride-matching as the unacknowledged silver bullet for future transportation policy. Because the region's primary transportation problem is too many solo drivers, the region needs to divert some drivers to carpool with another driver, using appropriately enticing incentives. If the region heavily promoted ride-matching, the pool of willing carpoolers could expand enough to make shared mobility practical from many of the region's dispersed travel origins.

Our understanding is that the pilot ride-matching programs have been completed, with disappointing results, due to the absence of meaningful incentives. The most obvious incentive is access to HOV lanes that provide a consistent travel time advantage. That would require active enforcement of violators and eliminating access by SOV toll-payers. If HOV lanes are operated to provide a consistent incentive, dynamic ride-matching could become a major success, with zero public capital costs and emissions reductions that vastly exceed the paltry amount calculated. (TR-32.)

TR10: While the PDA approach makes tremendous sense for regional planning, at the current time, it is little more than just words. There is little on-the-ground reality to the grand promise of PDAs. The cultural gulf between typical suburban development practices and actual TOD is still vast. PDAs like Pleasant Hill BART and Union City BART are still largely planned for automobiles. The modest resulting reduction in VMT from these land use patterns wastes the large public investment in transit. Translating

the good words of the regional plan into action will take enforcement--a voluntary approach has shown little efficacy.

A key strategy for reducing future VMT needs to be the District's active involvement with CEQA documents throughout the region. It must be recognized that all new vehicle trips in the region get approved via this passageway. Thus, the CEQA process is where the impacts of added vehicle trips need to be identified and mitigated or avoided. The District should adopt a new set of CEQA Guidelines acknowledging the congestion and air quality impacts associated with motor vehicles. It should provide default thresholds of significance and model mitigation conditions of approval to assist local agencies in performing their duties in a manner that minimizes impacts on the region.

We suggest an additional threshold of significance for transportation impacts: the addition of a vehicle trip, thus triggering the need for mitigation. (Note that this is another way of addressing Indirect Source emissions.) The District should recommend a menu of conditions of project approval, including employer trip caps, funding and space for car share parking, electric vehicle charging facilities, transit passes built into rent or HOA dues, parking cash-out, unbundled parking and paid parking. (See the San Francisco Transportation Demand Management Ordinance, approved February 2017. <http://sf-planning.org/shift-transportation-demand-management-tdm>)

Both the SCS and RHNA are, therefore, powerful regional planning tools to ensure that land use and transportation work together to reduce GHG emissions from vehicle trips. (TR-41.)

It should be emphasized that the state will need cooperation and assistance from regional and local agencies to successfully implement many of these policies and regulations. (3/19.)

The problem is, that cooperation is sadly lacking. There is a missing link in the chain of responsibility, and that link is MTC. Counties are adopting countywide transportation plans showing 28% and 35% increases in VMT by 2040. MTC adopted Countywide Transportation Plan Guidelines, and made them voluntary, i.e., entirely meaningless. They have not influenced local agencies. Contra Costa is now on track to adopt a transportation plan that effectively doesn't acknowledge the existence of climate change. It will take a strong implementation of this TCM by the District to overcome this backwardness. This is where this statement becomes a critical motivator:

Since current regional, state, and national policies are insufficient to meet the necessarily ambitious GHG emission targets adopted by the state and the air District for 2030 and 2050, additional regulations, policies and transformative technologies are needed. (3/29.)

Air Districts previously had the authority to enact Employer Trip Reduction Ordinances. Although business pushed back and pressured the Legislature to rescind that authority, the time has come to propose the return of that authority, now that congestion is completely beyond the ability of MPOs to cope. It is too haphazard to regulate a region by trip caps enacted on a project-by-project basis, as is happening now in the South Bay.

TRANSDEF and Sierra Club litigated the approval of the new Sutter Hospital in Santa Rosa, and won a ruling finding the auto-dependent project site would increase GHG emissions. In settlement, we were able to extract a commitment to fund transit passes for employees and a free shuttle to the SMART train station, as mitigation. While useful as an example of CEQA's power to constrain VMT growth, litigation will not be able to alter regional trends. That will require comprehensive action by the District.

While the Emission Reduction Methodology seems satisfactory, it is impossible to tell from the calculations what assumptions were made as to the penetration rate of infill development (the total area covered by new infill as a percentage of all new development). The calculations are meaningless unless the reasonableness of the assumptions can be evaluated. Please clarify whether the methodology did post-processing to compensate for the level of transit service available, and if so, allocate the total area covered by infill into the different levels of transit service.

TR11: This measure is primarily a group of studies, which someday might lead to actual control measures. Identify the assumptions on which the emission reductions were calculated. It appears a region-wide VMT fee was modeled. (A daily fee was an essential element of the TRANSDEF Smart Growth Alternative.) However, since the TCM does not propose the implementation of a VMT fee, it is improper to count emission reductions from a study measure. Note that a study produces potential co-benefits, rather than actual co-benefits.

TR12: In an environment of low gas prices and greatly reduced highway speed enforcement, a Smart Driving TCM is a farce. Highway speeds in uncongested periods are now at least 10 mph higher, on the average, than what they had been at the time of the last CAP. Clearly, per capita GHG emissions are now significantly higher, and will be unaffected by this TCM. On that basis, we find the Emissions Impacts for this measure (Table H-1, H/6 and TR-55) to be overstated by at least two orders of magnitude. Without vigorous enforcement, this measure is merely empty words, no matter how much money is spent on pilot programs. There are no co-benefits.

TR13: Include in this measure the elimination of public funding for parking structures, unless the funding agreement includes the enforceable commitment to enact a fee structure that fully recovers public capital and operating costs. It is not enough to merely "Continue support for State and Federal bills to reduce subsidies for parking." (TR-58.) Eliminate "Consider parking projects as part of future Climate Program grant opportunities, such as the Transportation Demand Management program" (*Id.*) because more parking equals more GHG emissions. Fund shuttles instead.

TR14: Ensure that any claimed emissions reductions under this TCM are additional to and not duplicative of state-level ZEV promotion. Government needs to stop using HOV lane access as a ZEV incentive, because that interferes with the carpooling solution suggested above in TR8.

TR15: It is concerning that not emission reductions were calculated for this TCM. Please identify any evidence demonstrating that Spare the Air has benefits worth its substantial cost.

TR16: TRANSDEF strongly supports Indirect Source Review as a critical regulatory tool. By fully allocating the public costs of auto-oriented development to the parties responsible for the impacts, ISR can influence developer proposals, and level the playing field between infill and greenfield development.

TR18: This measure needs to specifically identify shifting freight to rail transport as a component of the plan. This involves possibly offering financial incentives to shift loads to rail, thereby getting trucks off the roads, and aiding in the construction of rail infrastructure to facilitate service from the ports to distribution centers in the Central Valley and elsewhere. These incentives should be limited to Tier 4-only locomotives.

The District should consider an incentive system whereby truck with engines that meet the latest standards are allowed access to highway facilities that older trucks cannot. That would mitigate the identified tradeoff where new capacity for trucks would increase diesel exposures of residents.

TR22: Ensure that the District's standard mitigation package for construction impacts requires Tier 4 diesel off-road equipment. That will trigger retrofits and the replacement of older equipment, and eliminate the need to "Between 2016 and 2030 provide incentives for the early deployment of electric, Tier 3 and 4 off-road engines used in construction, freight and farming equipment." (TR-97.)

Editorial Suggestions

Chapter 3 is an extremely comprehensive and informative primer on climate change. However, TRANSDEF fears that the only people reading it through will already be familiar with the material. We recommend the creation of a short pamphlet for wider distribution, containing key extracts from each area of the chapter. Special attention must be paid to not overwhelming the reader with the immensity of the challenge facing humankind.

3/20: Footnote 69 does not relate to the text it is anchored to.

4/4: The TCMs are contained in Appendix F, not H. We recommend placing a reference to Volume 2 for the details of the measures in each of the sector descriptions.

4/23: The link to Planning Healthy Places does not work. This appears to be the result of a website change, as well as a space from the line break, and the final period

5/40: As an ally of the Post-Carbon Institute, TRANSDEF was very pleased to see the use of the term "post-carbon."

E/7, E/8 & E/9: ppm is used where ppb should have been used in the terms "person-ppm-hours" and in "km²-ppm-hours" respectively.

Conclusion

California chose to create a global example with AB 32 and the Scoping Plan. The Bay Area needs to do its part in demonstrating what committed leadership looks like. Because the Bay Area is known as a center of progressive environmental policy, a far more aggressive CAP would act as a model for other areas of the United States and the world to emulate, thus achieving GHG emissions reductions far beyond what is attainable for the region alone. A markedly more aggressive plan to shift mode choice will capture the attention of policy makers, and help create movement in the direction of actually protecting the climate.

TRANSDEF appreciates this opportunity to comment on the draft Clean Air Plan. We stand ready to assist the District in formulating a plan that will create significant reductions in the region's GHG emissions. Unfortunately, the Proposed Plan will not achieve that result.

Sincerely,

/s/ DAVID SCHONBRUNN

David Schonbrunn,
President

cc: Steve Heminger, MTC
Bradford Paul, ABAG