

Transportation Solutions Defense and Education Fund

P.O. Box 151439 San Rafael, CA 94915 415-331-1982

June 14, 2020
By E-Mail to:
ellen.greenberg
@dot.ca.gov

Ellen Greenberg, Deputy Director
Caltrans Headquarters
1120 N Street
Sacramento, CA 95814

Re: SB 743 TAF and TAC Comments

Dear Ms. Greenberg,

TRANSDEF, the Transportation Solutions Defense and Education Fund, has been focused on reducing the growth in Vehicle Miles Travelled (VMT) for 26 years. We have provided [detailed critiques](#) of three decades of RTPs, and participated in the CTC Working Group that revised the RTP Guidelines in response to AB 32 (2008), SB 375 (2010) and the [attempt by MPOs to disavow responsibility for climate change](#) (2016).

TRANSDEF is pleased that the Department is finally bringing Induced Demand into its transportation planning process. In our comments below on the draft Transportation Analysis Framework (TAF) and the draft Transportation Analysis under CEQA (TAC), we seek to raise the following principal points:

- If the Department keeps building highways, it will not be implementing SB 743.
- The Department's responsibility to stop promoting VMT growth will require profound changes in its attitudes, culture, procedures, policies and plans.
- The draft TAF and TAC do not provide adequate guidance for staff and MPOs.
- Mitigations must reduce the net GHG emissions from a project to zero or less.
- Given the intent of State climate policy to avoid climate catastrophe, Statements of Overriding Considerations must not be used to avoid project cancellation or selection of non-highway alternatives.
- COVID-19 may change transportation forever. Caltrans needs to be fluid.

Introduction

TRANSDEF has advocated in three decades of transportation planning processes for the reduction of VMT in order to foster a shift towards sustainable transportation, protect the climate and reduce congestion. We struggled against tremendous resistance from

MPOs, [ARB](#) and Caltrans. Caltrans created an especially bad example for the transportation sector by [rejecting its SB 391 mandate to plan for climate change](#) in the State Transportation Plan.

Caltrans' efforts to implement SB 743 mark an historic change in policy. We look forward to constructive collaboration now, as the legal requirement to include induced demand in transportation planning has ended that contested chapter.

The legislative adoption of SB 743 and the regulatory actions to implement it have invalidated the foundational assumptions that have guided transportation agencies for decades. As a result, these agencies need to rethink their missions, and in particular, [understand the linkage](#) between the suburban form of development and the dual challenges of highway congestion and increasing GHG emissions. This comment letter will attempt to articulate these larger issues, while addressing the TAF and the TAC.

Do the TAF and TAC Really Need to be Separate Documents?

Is it really necessary to have two documents? Review of the two documents, which present some of the same materials, suggests they could be combined, with a CEQA section at the end of the TAF. Planners uninvolved in environmental review could simply skip reading that section.

Caltrans' mission and how it affects the TAC

From Caltrans' beginnings as the California Highway Commission, the agency's mission has never wavered. The 2014 [SSTI Assessment and Recommendations](#) identified that mission as obsolete, and called for the transition to a new mission. However, the text of the TAC makes it clear that highway building is still the mission. Just compare the level of detail of the alternatives section (p. 8) to the CEQA analysis of capacity-increasing projects (pp. 13-22). That difference suggests little has changed except for the rhetoric:

Caltrans supports these changes, which aim to reduce automobile use while increasing use of more sustainable modes that are essential to supporting our growing population and economy, while also meeting climate goals.
(p. 3. Emphasis added.)

That statement does not ring true. The emphasis on mitigation and Statements of Overriding Considerations for capacity-increasing projects is contrary to the direction the Legislature gave Caltrans. Questions must be asked: If the priority is to stop the upward trend of statewide VMT and GHGs, why is Caltrans still concerned about capacity-increasing projects? How is mitigation consistent with State climate goals if it results in increased GHG emissions? What consideration could possibly override the State's goal [to avoid a global temperature rise of 2° C](#), which has been judged incompatible with the continuation of human civilization as we know it? How could that significant environmental impact be considered "acceptable"? (p. 23.) In TRANSDEF's view, the TAC does not faithfully implement SB 743.

Recognizing that Caltrans' typical projects of the past have been capacity-increasing, the scoping section (p. 8) should have had a far more expansive discussion of alternatives to vehicular capacity increases. TRANSDEF participated in the editing of the [Smart Mobility Framework](#) (2010), a neglected Department resource whose time has finally come. Promoting a document like that would be valuable to MPOs that need to completely retool their RTP strategies, because their excessive projected VMT growth is inconsistent with State climate policy and SB 743.

Critical to future transportation planning at the local, regional and state levels is the full integration of land use planning into the process. Transportation and Land Use have always been [intimately linked](#): The latter generates the demand served by the former. SB 743 implies a systemic reorientation away from the suburb/freeway model of development that has dominated the State ever since the 1950s—unless COVID-19 completely changes how society functions.

If that massive change weren't enough, the picture is made far more complex after the world's adaptation to the COVID-19 pandemic. The future of travel demand may be very different from what it was just last year. The state's favorable experience of telework could result in a permanent reduction in commute travel, which would change the fundamental assumptions of highway, transit and possibly even land use planning. Cities around the world are making dramatic changes in response to the pandemic, including [installing bike lanes](#) to allow travellers to feel safer than using transit. Caltrans will be challenged to emerge from its institutional rigidity and discover a more fluid way of responding to uncertainty and change.

If VMT returns to its pre-pandemic levels, reducing the growth in VMT will require shifting future land use away from greenfield suburban development and towards infill and TOD. It would require transit that is time-competitive with the automobile, connecting new communities clustered around transit stops. These profound cultural changes would require a significant public education campaign, coupled with proper incentives and disincentives to secure cooperation from local land use authorities. On the other hand, if VMT stays down post-pandemic as a result of a shift from a commute to a work-from-home model, the State will need to reevaluate its Strategic Growth Plan, and recalibrate its strategies.

Cumulative Impact of Induced Demand on Transportation Planning

Acknowledgement of induced demand calls for nothing short of a revolutionary shift in the goals and means of transportation and land use planning. Had induced demand been understood in the 1950s, transportation planning would have taken an entirely different direction. It would have resulted in the decision to modernize existing interurban trolley lines instead of scrapping them, along with the continued expansion of streetcar suburbs. In particular, the counterintuitive recognition that adding highway capacity cannot solve congestion would have indicated to early planners that building freeways would end up as a dead end, incapable of serving more than a fraction of a metropolitan population.

TRANSDEF firmly believes that contemporary suburban development and commute patterns have reached their natural limits: it is not feasible to add enough roadway capacity to accommodate the growth that has occurred, or that which is planned. That means that residents of existing suburban development, who are dependent on the automobile for mobility, will inevitably be stuck in gridlock if that development paradigm isn't stopped soon. (A rigorous application of SB 743 might just accomplish that...)

Managed Lanes

TAC Section 5.5.a(i) (p. 10) should include "HOV-to-managed lane conversions" in its list of Project Types Likely to Lead to a Measurable and Substantial Increase in Vehicle Travel. Even though these projects do not add new pavement, these conversions must be recognized as capacity enhancing with regards to single-occupant vehicles (SOVs). While TAC Figure 2 is silent on the induced demand analysis for managed (HOT) lanes, it is obvious they will lead to additional VMT.

Given that managed lanes are central to Caltrans' strategy going forward, managed lanes cannot be allowed to become a covert means of increasing SOV capacity. That would be totally contrary to the intent of State climate policy to "reduce vehicle miles traveled and contribute to the reductions in greenhouse gas emissions..." (p. 2.) Furthermore, managed lanes are known to decrease the use of carpools, which TRANSDEF sees as the only feasible way to reduce congestion. (See Mitigations, below.) [TRANSDEF's comments](#) on Caltrans' San Mateo Hwy. 101 Managed Lanes project point to the refusal to consider environmentalist-proposed alternatives, and to Caltrans' attitude to environmental review. The conclusion from that letter:

Perhaps what's most offensive about this DEIR process is the deliberate way Caltrans is closing its eyes and ears to comments from the public, so that it can maintain Business as Usual. Public comment is the very heart of CEQA. Listening could help shift the agency in the direction of sustainable transportation, so that Caltrans can stop playing the role of dinosaur, about to be made extinct by history.

TRANSDEF has long argued that HOT lanes are a counterproductive strategy for addressing congestion and climate change. Congestion is caused by excessive numbers of SOVs. The only rationale for creating HOT lanes is to facilitate more SOV travel. Encouraging SOV travel, however, just makes congestion and GHG emissions worse. It delays for a generation the inevitable shift to alternative modes, as SOVs overwhelm the roadways. In addition, the induced demand from easier SOV travel results in more GHG emissions, which now constitutes a significant CEQA impact.

Mitigation

The section on mitigation needs to identify quantitative tools for establishing substantial evidence of the sufficiency of the mitigation. Mitigation in the context of SB 743 means that the net effect of the project on GHG emissions is either zero or negative. Most of

the mitigations listed on p. 22 of the TAC are likely to result in quantitatively de minimus GHG emissions reductions (the bicycle-pedestrian ones, in particular).

Stepping back for a moment, it should be clear that mitigating the impacts of a VMT-increasing project will not contribute to the State's VMT and GHG reduction goals. A mitigated VMT-increasing project would merely not make GHG emissions worse. Transportation funding should be directed instead towards those projects that don't need mitigation, especially transit.

Let's remember too that mitigations, under CEQA, must be enforceable and effective. TRANSDEF takes that to mean that the mitigation must actually produce the claimed GHG reduction assigned to it in the EIR over the long term. Going through the motions of adding a few mitigations from a list to sweeten a project package will not be sufficient.

We have seen such tokenism before. We complained bitterly, for example, that MTC's Climate Initiatives could not substitute for actual VMT reduction. They were unfunded and made up the vast majority of the GHG reductions claimed in the 2017 RTP:

Climate Initiatives from the 2013 RTP have not been funded. Why should these Initiatives get credit, especially when 62% of the 2035 claimed emissions reductions come from these Initiatives? If they are not credible, the RTP fails to achieve the 2035 target.

In that situation, ARB at least evaluated the credibility of the emissions reductions. No process has been set forth in the TAC to keep agencies honest.

As mitigation on the SHS, TRANSDEF has long advocated for Caltrans to operate its HOV lanes to offer a consistent travel time advantage to carpools. Because this incentive to carpool has been lacking for decades, carpool utilization has been poor. Caltrans has long resisted making carpool lanes operational whenever General Purpose lanes are typically congested. Caltrans has thus favored SOVs over HOVs, which is not a sustainable policy. TRANSDEF is unaware of any evidence that Caltrans has ever operated HOV lanes for the purpose of encouraging mode shift from SOV to HOV.¹

The other elements of TRANSDEF's HOV-based strategy to increase average auto occupancies are (2) enforcement of occupancy rules, preferably by automated cameras; (3) heavy promotion of smartphone-based ridematching, with a participant security check similar to Uber/Lyft; and (4) retention of the 2+ occupancy standard, to encourage carpooling (3+ is dramatically more difficult to implement). This is the most feasible way to expand the person-trip capacity of existing infrastructure, without any capital costs.

¹ It appears to us that Caltrans built its HOV lanes solely to open up capacity by diverting HOVs from General Purpose lanes. (The Clean Air Act prohibited the construction of General Purpose lanes in non-attainment areas.)

CEQA Baseline

TRANSDEF has experience with [bogus CEQA baselines](#) created to evade the proper disclosure of impacts. The TAC directive that "the CEQA baseline for VMT should be the future no-build condition" (p. 14), while clever, is a stunning departure from decades of CEQA practice. In effect, Caltrans is saying that decades of EIRs using existing conditions baselines were "misleading." It is richly ironic that Caltrans' approach to implementing VMT as the key CEQA metric would seek to separate the VMT "attributable" to a highway widening from the increased VMT from the growth and development induced by the project at the very time it is required to evaluate induced demand.

The directive appears to be based on an intentional misquoting of the CEQA Guidelines. The actual language of the Guideline places "only" in a critically different location in the sentence:

A lead agency may use projected future conditions (beyond the date of project operations) baseline as the sole baseline for analysis only if it demonstrates with substantial evidence that use of existing conditions would be either misleading or without informative value to decision-makers and the public. (CEQA Guidelines §15125(a)(2). Emphasis added.)

TRANSDEF does not see how that evidentiary burden can possibly be met as standard practice, when case law in this area has been very fact-driven. TRANSDEF is unaware of the TAC's approach ever having passed judicial scrutiny. We demand correction of the quotation, and either the retraction of the directive, or confirmation that it has survived legal challenge. Nevertheless, an existing conditions baseline is needed for evaluating cumulative impacts, including "other variables not caused by the project, such as the projected future regional transportation system, population growth, economic growth and land use changes" (p. 14) that are reasonably foreseeable.

Reliance on Deeply Flawed ARB Documents

The attached critique of *CARB 2017 Scoping Plan-Identified VMT Reductions and Relationship to State Climate Goals* explains in detail why practitioners will not be able to rely on its prescription for demonstrating consistency with State climate goals. (p. 13.)

The text on p. 13 is unacceptably imprecise. It is unclear whether the 25% reduction needed to reach the State's climate goals (line 24) is in light-duty or all on-road vehicles. The source material clearly refers to light-duty vehicles.

The reduction percentages on p. 7: 22-28 appear to have been superseded by the percentages in the document critiqued in the Attachment. As explained therein, however, those numbers cannot be used for project compliance purposes.

The List of Non-Capacity Increasing Projects

TRANSDEF finds the inclusion of:

- Addition of tolled lanes, where tolls are sufficient to mitigate VMT increase (TAF p. 10; TAC p. 12.)

to be inadequate and misleading without a discussion of the evidentiary burden required to demonstrate sufficiency. Since this document is directed towards practitioners, more needs to be stated than was included in the OPR Technical Advisory.

We are similarly concerned about the absence of a brightline test here:

- Addition of passing lanes, truck climbing lanes, or truck brake-check lanes in rural areas that do not increase overall vehicle capacity along the corridor. (TAF p. 10; TAC p. 12.)

TRANSDEF is aware of several gateways to urbanized areas, where truck climbing lanes are proposed or have been built. We believe these projects clearly increase vehicle capacity. Please identify the characteristics that distinguish those that do not.

Conclusion

This is a time of profound change for the Department. TRANSDEF would be happy to lend assistance. Please let us know if you would like to discuss any of these issues.

BTW, There is a typo in the TAF Table of Contents. "Transportation" was misspelled. Capitalization was quite irregular on that page. In addition TAF p. 9:5-11 seems to be a repeat of the previous paragraph.

Sincerely,

/s/ DAVID SCHONBRUNN

David Schonbrunn,
President

Attachment: A Technical Critique of a TAC foundational paper

CC: Toks Omishakin, Caltrans
David Kim, CalSTA
Mary Nichols, ARB
Kate Gordon, OPR
Susan Branson, CTC
Jim Frazier, Assembly Transportation Committee
Jim Beall, Senate Transportation Committee
Therese McMillan, MTC
Sammy Roth, LA Times
Inside Climate News
ACLU-California
Sierra Club California

Transportation Solutions Defense and Education Fund

P.O. Box 151439 San Rafael, CA 94915 415-331-1982

A Technical Critique of a TAC foundational paper
*CARB 2017 Scoping Plan-Identified VMT Reductions
and Relationship to State Climate Goals*

The above-referenced document is deeply flawed:

1. SB 375 never mandated the use of per capita metrics. That decision was totally ARB's. (p. 3.)
2. It is untrue that the Final EA for the 2018 Regional Targets Update found the "SB 375 targets at the level necessary to attain state climate goals ... would be infeasible for MPOs to achieve with currently available resources." (p. 3. Emphasis added.) See the cursory analysis in the [Final EA](#), p. 153-155. TRANSDEF commented at that time on the [EA](#) and on the [Update](#) itself.
3. The statement that "An RTP/SCS that meets the applicable SB 375 targets alone will not produce the GHG emissions reductions necessary to meet state climate goals in 2030 nor in 2050" (p. 4) is purely the result of ARB's cowardice to undertake the culturally and politically difficult decisions required to carry out its SB 375 mandate.
4. From a policy standpoint, this is a ridiculous state of affairs. Worse yet, the permit streamlining built into SB 375 is being abused, because it is not possible to find that the streamlined project is consistent with State climate goals.
5. Comparing Figure 2 (p. 9) to the sp_mss_vmt_calculations spreadsheet ARB created to go along with the document shows disturbing assumptions and an unclear presentation.
 - a. The text surrounding Figure 2 did not define total VMT. It failed to inform the reader that total VMT included Heavy Duty Vehicles (HDVs).
 - b. A discussion of VMT for SB 375 purposes should only involve Light Duty Vehicles.
 - c. It is bogus to include HDV VMT in a per capita metric.
 - d. The Baseline VMT grew by 21.7% in the 2015-2050 period, while the CTF VMT grew by 3.5%. Distorting this entire picture, however, is the 54% increase in VMT for HDVs.
 - e. Massive amounts of shipping could be shifted to freight rail, if appropriate economic incentives were implemented. That would change the Mobile Source Strategy significantly.

- f. The analytic frame ignores the impact of a 24% increase in total VMT on actual travel in the year 2050. Do the planners really think that all those vehicles can be accommodated on existing, already-congested roadways?
 - g. Note that the Baseline VMT/capita barely changes from 2015-2050. That indicates a tiny mode shift, indicating a massive policy failure.
 - h. The analytic frame ignores what happens after 2050. It should be obvious that VMT and GHG emissions can't keep growing beyond that year. Yet ARB is not creating the foundation for a low-GHG, low-congestion future. Simply replacing fossil fuel cars with EVs does nothing about congestion, which will turn into gridlock if suburbs keep sprawling.
6. This paper leads to a conclusion so egregious that questions must be asked about the ability of ARB staff to do basic arithmetic:

Certain land use development projects located in areas that would produce rates of **total** VMT per capita that are approximately 14.3 percent lower than existing conditions, or rates of **light-duty** VMT per capita that are approximately 16.8 percent lower than existing conditions ... could be ... interpreted to be consistent with the transportation assumptions embedded in the 2017 Scoping Plan and with 2050 State climate goals. (p. 11. Emphasis in original.)

Apart from the unnecessary confusion caused by using a per capita metric (which complicates the analysis), this conclusion confuses the impact of a single project with the cumulative impact of the entire population during the plan period. Remember that in development, only a tiny fraction of the existing land base undergoes change in any given period. The residents of existing development will continue with their prior patterns of auto usage, absent some major policy implementation or economic intervention.

What this means is the opposite of the paper's conclusion is true: If a project proposes to reduce VMT/capita by 14.3% re: 2050, that is dispositive evidence that the project is inconsistent with State climate goals. The only way a 14.3% reduction is consistent with State climate goals is if it characteristic of the entire population.