

Transportation Solutions Defense and Education Fund

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

November 3, 2014
By E-Mail to
2014ctp@ccta.net

Kevin Romick, Chair
Contra Costa Transportation Authority
2999 Oak Road, Suite 100
Walnut Creek, CA 94597

Re: Draft SEIR for 2014 Countywide Comprehensive Transportation Plan

Dear Mr. Romick:

The Transportation Solutions Defense and Education Fund ("TRANSDEF") is a non-profit environmental group advocating for the regional perspective in the planning of transportation, land use and air quality. In the past few years, we have focused on reducing the impacts of transportation on climate change. These comments pertain to the Draft Supplemental Environmental Impact Report ("DSEIR") for CCTA's 2014 Countywide Comprehensive Transportation Plan ("CTP").

The DSEIR is the most legally inadequate CEQA document TRANSDEF has ever seen. The SEIR/no existing conditions baseline approach defies everything the state of California is attempting to do to reduce its GHG emissions and to serve as a model for governments around the world. As such, the approach must be vigorously opposed.

TRANSDEF concludes that the DSEIR violates CEQA by not analyzing impacts in relation to a baseline of existing conditions. By refusing to perform that analysis, it tramples on "[t]he fundamental goal of an EIR [which] is to inform decision makers and the public of any significant adverse effects a project is likely to have on the physical environment." (Section 21061 of the Public Resources Code; *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 428.)

The DSEIR fails to provide substantial evidence to support its assertion that using a baseline of existing conditions would "detract from an EIR's effectiveness as an informational document either because an analysis based on existing conditions would be uninformative or because it would be misleading to decision

makers and the public.” (DSEIR p. 1.1-9,* citing *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 452 (“*Neighbors*.”)). Innumerable certified program EIRs on General Plans, Transportation Plans and other plans that are indistinguishable from CCTA's CTP are unquestioned as to their “effectiveness as [] informational document[s],” raising the obvious question, “What and where is the evidence of the CTPs uniqueness that would justify treating it different from the vast body of program EIRs?”

Section 15125(a) of the CEQA Guidelines specifies that in evaluating a project’s potentially significant impacts on the environment, a lead agency

should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published ... This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. (California Code of Regulations, title 14, § 15125, subd. (a), emphasis added.)

While commendable for its creativity, CCTA's exploitation of *Neighbors'* new exception plays fast and loose with the Project Definition. “Funding exists for only about 47% of the estimated CTP cost, but these funds have not been assigned to specific projects. It is not reasonable to expect that full implementation of the Project will occur in the near future such that a comparison against current conditions would be informative.” (p. 1.1-9.)

On the one hand, CCTA wants environmental clearance for its full list of projects. On the other hand, it claims that because half the projects on the list are unfunded, the list should not be evaluated for its environmental impacts against an existing conditions baseline, as would be standard in any EIR. In effect, the DSEIR is saying that an informative EIR would evaluate only half the projects. Because it is mandated to produce an informative EIR, CCTA must either cut the project list in half or analyze the impacts of the full list. CCTA cannot have it both ways with the Project Definition.

The fact that the project list is incompletely funded is immaterial in CEQA. The only question CEQA is concerned with is the environmental impact of the proposed project, funded or not. If CCTA insists on conducting the environmental review of a fiscally unconstrained plan, it must analyze its impacts against an existing conditions baseline--unless it can make the evidentiary showing called for by *Neighbors*--and implement all feasible mitigations for all its identified impacts. Alternatives must be considered that avoid as many of those impacts as feasible.

* All citations are to the DSEIR unless otherwise noted.

The DSEIR claims that "Even if the CTP were fully funded, it would be infeasible for all or even many of these projects to be implemented in the near term, making such a comparison uninformative." (p. 1.1-9.) This novel argument has never been successful in decades of CEQA practice litigating program EIRs. General Plans, Transportation Plans and other types of plans typically are implemented over dozens of years. Nothing in *Neighbors* suddenly justifies a change in how they are now analyzed.

While the DSEIR touches base on both of *Neighbors*' "magic words" (uninformative and misleading), it offers no evidence or argument as to why using existing conditions as the baseline would be misleading, beyond asserting it is so. If anything, quantifying the changes from existing conditions resulting from implementing the proposed CTP would be the clearest way to show the benefits of the CTP, helping any sales tax campaign.

The example given by the Supreme Court of a misleading existing conditions baseline is one where a properly selected future baseline was lower than existing conditions. (*Neighbors for Smart Rail, supra*, 57 Cal.4th at p. 453, FN 5.) The opposite is present here: A higher future baseline strips a massive amount of significant impacts out of the analysis, leaving them unmitigated, in violation of CEQA. The DSEIR asserts "a comparison against existing conditions [would be] uninformative" (p. 1.1-9), when just the opposite is true.

The DSEIR provides no evidence that a list of unfunded projects is unusual. "Projected future conditions may be used as the sole baseline for impacts analysis if their use in place of measured existing conditions...is justified by unusual aspects of the project or the surrounding conditions." (*Neighbors for Smart Rail, supra*, 57 Cal.4th at p. 451.) Being unfunded is so typical in transportation that 20 years of MTC Regional Transportation Plans have contained a Track 2 or Vision section specifically to house a list of unfunded projects. MTC's 2014 Countywide Plan Guidelines ask counties to provide a place in their plans for such projects: "4. List of candidate projects if funding becomes available" (MTC Resolution 2120, 9/24/14.)

The elimination of the existing conditions baseline allows this DSEIR to claim with a seemingly straight face that the Plan has no significant impacts in the areas discussed below, and thus requires no mitigation. Not a bad trick for a Plan that increases Vehicle Miles Travelled ("VMT") by 35% (CTP p. 1-12) and more than doubles Vehicle Hours of Delay! (p. 2.1-13.)

Lack of Substantial Evidence

A supplemental EIR carries the same evidentiary burden as a full EIR. It must support its conclusions with substantial evidence. The impact analyses fail to provide the most basic of numeric findings. No accompanying technical appendices were published. The public is apparently expected to accept the

DSEIR's conclusions on faith, as there is no way to independently vet them. This fails the test of adequately informing the public.

There is no table of VMT projections. Table 2.1-3, Vehicle Miles Per Capita, is not an adequate substitute. This becomes important when trying to cross-check numbers shown in the 2014 Countywide Comprehensive Transportation Plan ("Plan"). The Plan disclosed on page 1-12 that it would result in a 35% increase in VMT. Coupled with a 28% increase in population, this should have resulted in a 5.5% increase in VMT per capita. Instead, DSEIR Table 2.1-3 shows a slight decrease in VMT per capita. This is either a glaring mistake or outright deception. Either way, without a basic set of numbers, it impossible to sort this contradiction out. The DSEIR must be corrected, supplemented and recirculated.

There is also no table of projected GHG emissions--only a few percentage comparisons on page 2.12-11. These cannot be considered substantial evidence since it is not even possible to check the arithmetic. A major part of evaluating GHG emissions is the differentiation and separate reporting of emissions reductions resulting from statewide measures. To be valid, it is critical that the analysis not count amongst the plan's emissions reductions the reductions coming from measures that are not part of the plan.

SB 375 called for emissions reductions from regional transportation and land use beyond those of statewide measures. This was made clear in the legislative findings for SB 375:

...greenhouse gas emissions from automobiles and light trucks can be substantially reduced by new vehicle technology and by the increased use of low carbon fuel. However, even taking these measures into account, it will be necessary to achieve significant additional greenhouse gas reductions from changed land use patterns and improved transportation. Without improved land use and transportation policy, California will not be able to achieve the goals of AB 32. (Chapter 728, Statutes of 2008, Section 1(c) and (i), emphasis added.)

Incorporation by Reference of the 2009 SEIR

"This [2014] SEIR incorporates by reference the 2009 SEIR (SCH #2008052073), which may be found at the offices of the CCTA at 2999 Oak Road, Suite 100, Walnut Creek, CA or online at www.ccta.net." (p. 1.1-8) As a document that cannot stand on its own, this DSEIR is entirely dependent on being read in conjunction with the 2009 SEIR: "The DSEIR supplements and relies on the EIR for the 2009 CTP, which the Authority certified on June 17, 2009. That EIR, along with the adopted findings and mitigation monitoring and reporting program for the 2009 CTP, may also be downloaded by clicking here."

(CCTA website page <http://www.ccta.net/planning/view/158/5>, accessed 11/2/14 and attached herein as Exhibit B.)

The website is so badly managed that this website page for the EIR fails to provide a link to the EIR where it invites the reader to click "here." (Note the absence of an underline, which would indicate a hyperlink.) As far as we can tell, the 2009 EIR is not available anywhere on the CCTA website. The icon "2009 CTP EIR" (accessible at <http://www.ccta.net/sources/detail/11/1> (accessed 11/2/14 and attached herein as Exhibit C)) links to the Final SEIR, which contains the Response to Comments but not the full SEIR. Neither the DSEIR nor the adopted findings are posted. At a minimum, the CCTA conducted a defective review period, because the public was deprived of ready access to an essential document.

Regulatory Changes Since the 2009 SEIR Require a Full EIR

The claim that "This [SEIR] approach is appropriate because of ... the few changes in the physical and regulatory setting for the CTP since 2009" is shockingly false. Profound regulatory and scientific changes have occurred between the 5/16/08 issuance of the Notice of Preparation for the 2009 SEIR and the 4/24/14 issuance of the Notice of Preparation for the 2014 SEIR:

- 9/30/08: SB 375 signed by the Governor
- 12/11/08: ARB *Scoping Plan* adopted
- 12/15/09: EPA Endangerment Finding, 74 Fed. Reg. 66496
- 3/18/10: CEQA Guideline §15064.4 adopted
- 9/15/10: BAAQMD *Clean Air Plan* adopted
- 3/23/12: Executive Order B-16-2012 signed by the Governor
- 5/31/12: BAAQMD CEQA Guidelines updated
- 7/18/13: *Plan Bay Area* adopted
- 9/27/13: IPCC 5th Assessment Report: *Climate Change 2013--Physical Science Basis*
- 3/31/14: IPCC 5th Assessment Report: *Impacts, Adaptation and Vulnerability*
- 4/13/14: IPCC 5th Assessment Report: *Mitigation of Climate Change*

A complete revolution in transportation planning has taken place in the interim, such that planning for ever-increasing auto travel and congestion is now obsolete. These significant changes in the regulatory environment make updating the 2009 SEIR legally inadequate. These changes "result in new or more severe impacts from such "carry over" projects" (p. 1.1-7), thereby requiring a full EIR. Preparing a full EIR using an existing conditions baseline will mean these "carry over" projects from the 2009 CTP receive full environmental review. This in turn means these projects will be evaluated for feasible mitigation of their impacts or for replacement by a list of projects with fewer impacts.

Flawed Impact Analyses

The DSEIR's impact analyses are profoundly flawed because of their failure to use a proper baseline of existing conditions, as discussed above:

Agencies should compare the regional plan's baseline emissions with its projected future emissions to analyze any potential increase in emissions of criteria air pollutants and precursors, GHGs, and toxic air contaminants. (BAAQMD CEQA Guidelines, 2012, p. 9-5)

Net Decrease in VMT per capita

The bare assertion that VMT per capita will decline with the proposed Project compared to existing conditions (Impact 2.1-1, p. 2.1-11) is unsupported by evidence and contradicted by the CTP itself. (See above.) The increase in VMT per capita is a significant unmitigated impact.

A Total VMT threshold of significance should have been used in the DSEIR. Total VMT is highly correlated with environmental impacts, and so, is a far more appropriate criterion than VMT per capita. The threshold should read: "Implementation of the CTP would have a potentially significant adverse impact if it results in an appreciable increase in total VMT compared to existing conditions.

Net Increase in Vehicle Hours of Delay

The WCCTAC comment letter on the 2009 CTP and DEIR contained a report from Fehr & Peers that stated:

The 2030 No Project condition reflects a twelve-fold increase in peak hour congestion compared to existing conditions, while the 2030 Project case reflects a ten-fold increase. Both of these future conditions reflect increases in congestion that are orders of magnitude higher than the 20%-40% increase in population and jobs contained in the ABAG land use projections. The measures of VMT and average speed also indicate substantial growth in traffic congestion, although at less-dramatic levels of increase. (2009 CTP FEIR, PDF p. 34 of 58.)

These levels of increase are so alarming that the very ability of CCTA to conduct transportation planning must be questioned. It is further alarming that the VHD data showed only a doubling at the plan horizon, begging the question of whether this DSEIR is adequately disclosing information on delay. Fehr & Peers cited data on VMT at LOS F, which is a different but closely related measure. Why is the 2014 projection so different from the 2009 projection?

Net Increase in GHG Emissions

The impact significance terms by which the DSEIR evaluates greenhouse gas emissions and climate change impacts are completely outmoded, flawed and unacceptable. The impact conclusion for Impact 2.12-1 is "Significant Cumulative Impact, Project Contribution Not Cumulatively Considerable." (p. 2.12-11) No countywide transportation plan could ever make a cumulatively considerable contribution to a global problem.

This impact significance term is especially egregious given California's accumulated body of policy, law and regulation that sets the absolute reduction of GHG emissions (and not the mere slowing of the rate of increase) as a state priority. After concluding that the Project will result in an increase in GHG emissions, it is deeply violative of state policy to then conclude that the increase isn't important enough on a global scale to warrant mitigation. The courts have agreed that such thresholds are "meaningless":

First, the City noted that the Project, at buildout, would emit operationally about 15,000 metric tons of carbon dioxide equivalents yearly, which is 0.003 percent (i.e., just 3 one-thousandths of 1 percent) of California's 2004 GHG emissions. This relative comparison is meaningless, though, in determining the Project's environmental impact regarding GHG emissions. It conjures a comparison worse than apples to oranges. Of course, *one store's* GHG emissions will pale in comparison to those of the world's eighth largest economy. The relevant question to be addressed in the EIR is not the relative amount of GHG emitted by the Project when compared with California's GHG emissions, but whether the Project's GHG emissions should be considered significant in light of the threshold-of-significance standard of Assembly Bill 32, which seeks to cut about 30 percent from business-as-usual emission levels projected for 2020, or about 10 percent from 2010 levels. (*Friends Of Oroville et al. v. City Of Oroville et al.* (2013) 218 Cal.App.4th 1352, 1359-1360, emphasis in original.)

The claim that operational GHG emissions after implementation of the CTP would be 1.9% lower than existing conditions (page 2.12-11) is seemingly contradicted both by the finding of a significant increase in GHG emissions (Impact 2.12-1) and by text in the CTP. As stated above, the CTP disclosed on page 1-12 that it would result in a 35% increase in VMT. Coupled with a 28% increase in population, this should have resulted in a 5.5% increase in VMT per capita and a corresponding increase in GHG emissions and GHG per capita. A full exposition of numeric data, including full details on operational and other categories of GHGs, is needed as per the discussion of substantial evidence

above. The EIR and CTP must be made consistent in their indications of impacts. The DSEIR needs to be revised and recirculated consistent with the *Friends Of Oroville* opinion by adopting an impact significance tied to state GHG emissions reduction policy.

Impeding the Attainment of Applicable Plans, Policies and Regulations

The DSEIR makes the bald assertion on page 2.12-16 that "Specifically, the proposed Plan would not be in conflict with the GHG reduction goals of SB 375, AB 32, EO S-3-05 and EO B-16-2012, as discussed below." This is a blatant falsehood. While the DSEIR claims that the discussion of consistency is adapted from the *Plan Bay Area* EIR, the CTP's rejection of the region's GHG and VMT reduction goals makes any comparison invalid.

To support the claim that the CTP did not impede the implementation of EO S-3-05 and especially EO B-16-2012, the DSEIR would need to demonstrate that the CTP's emissions trend, extrapolated to 2050, would result in an 80% reduction in motor vehicle GHG emissions below 1990 levels. Given the claimed 1.9% reduction in 2040 from existing conditions levels, that claim is nothing short of preposterous. If the CTP's numbers are correct, the increase in GHGs impedes implementation even more.

The DSEIR deceptively asserts that "emissions from transportation are only one component of overall GHG emissions" (p. 2.12-16) thus minimizing the sector's significance. However, transportation is the largest source category of GHG emissions. This sector should logically shoulder responsibility for the largest share of emissions reductions. Instead, the DSEIR makes the completely unsubstantiated claim that "it is reasonable to determine that, given the downward trajectories identified in regional plans such as *Plan Bay Area*, the Bay Area is heading in the direction of achieving the goals of the executive orders, and therefore does not impede their achievement." (p. 2.12-16)

This statement is incorrect in several ways: 1). The direction of the Bay Area is irrelevant when evaluating the impacts of the CTP on Contra Costa; 2). Contra Costa doesn't have a downward trajectory, per Impact 2.12-1; 3). The statement obfuscates by cleverly conflating direction and rate, thereby avoiding getting caught in an obvious falsehood. A downward direction that takes hundreds of years to reach the 2050 goal clearly impedes the achievement of the goal.

The invalidation of this statement means that there is no substantial evidence supporting the Impact 2.12-3 conclusion. A significant adverse unmitigated impact must be found here. Despite ARB's call for new technology, the existence of new technology is far too speculative to serve as substantial evidence of an attainable emissions reduction by 2050.

Mitigation Measures

“This SEIR supplements the 2009 SEIR with the information necessary to address ... the potential for new, effective mitigation measures” (p. 1.1-7.) As discussed below, new effective mitigation measures are both very needed for the CTP, and missing from the DSEIR.

The mitigation measures proposed for the net increase in GHG emissions on page 2.12-12 are neither mandatory nor enforceable, so they cannot be considered to be legitimate mitigations. They require that “sponsors shall consider measures...” which is meaningless as a mitigation, as is “Potential mitigation measures could be drawn from ...” (emphasis added.) Unless there are performance measures or specific commitments, identifying the amount of mitigation required, the impacts must be considered to be Significant, Unavoidable.

Interestingly, even though the DSEIR introduces its mitigation measures with “Because of the urgent need to respond to the challenges of climate change” it did not find conditions urgent enough to propose any transportation-related mitigations. Because motor vehicles are the largest source category of GHG emissions, reducing VMT is the single most obvious strategy for reducing GHGs. The fact that the Plan focuses on accommodating SOVs (and the DSEIR hides the impacts of VMT increases by avoiding an existing conditions baseline) speaks volumes about CCTA’s commitment to “respond[ing] to the challenges of climate change.”

This is not the first time the CTP SEIR proposed only non-transportation related mitigations for increased GHG emissions. Contra Costa County's comments on the 2009 DSEIR were ignored then and ignored for the 2014 CTP:

In a related matter, the DEIR finds a significant impact from the project on Greenhouse Gas Emissions. However, none of the mitigation measures affect growth in VMT. Measure J contains the basics of a number of feasible measures to reduce VMT. The Measure J Express Bus Program, eBART Commuter Rail Project, Commute Alternatives program and related Transportation System Management Ordinance help reduce the number of commuters driving alone to work. The Transportation for Livable Communities Program helps make streets more conducive to walking and transit trips. The Urban Limit Line requirement supports containing expansion and urban areas and can limit trip length. The value of these projects and programs in reducing greenhouse

gases should be acknowledged in the CTP and in the DEIR. (2009 CTP FEIR, PDF p. 25 of 58.)

The most obvious mitigation for the dramatic increase in VMT would be the elimination of funding for projects that encourage SOV use, including HOT lanes, roadway widenings and interchange improvements. To replace that conventional planning, a fully funded practical plan is needed to substantially increase the non-SOV mode split. Please see Exhibit D, attached, TRANSDEF's CTP comments.

Supporting that notion is the WCCTAC comment letter on the 2009 CTP and DEIR, which contained a report from Fehr & Peers that stated:

...the pace of traffic growth is expected to outstrip the amount of roadway capacity added to the system. The goals of the West County Action Plan attempt to address this situation by focusing on maintaining or increasing transit usage, enhancing bicycle and pedestrian connections, and maintaining the existing roadway infrastructure in good quality. (2009 CTP FEIR, PDF p. 34 of 58.)

The main driver of VMT increase, besides SOV-supportive infrastructure investment, is Contra Costa's auto-oriented land use pattern for future development. The Attorney General provided mitigation suggestions for the significant adverse impact on climate change of the update of the Sacramento County General Plan (Letter attached as Exhibit A) that are directly relevant here as mitigation suggestions for the CTP and its DSEIR:

In light of the significant impacts of the proposed General Plan, and the need to look at all feasible means of reducing VMT, we believe it is critical for the County to require that new residential developments provide: (1) sufficiently high densities to support transit; (2) infrastructure, including transit, that is put in place at the same time the project is developed; (3) a jobs-housing balance that reduces the need for long commutes and ensures low VMT; (4) a project design that will enable residents to walk, ride bicycles, or take transit to their jobs and schools; and (5) a reasonable amount of mixed-use development. ...

In the Attorney General's settlement with the City of Stockton, for example, Stockton agreed to consider a differential fee program that allows infill developments to pay lower fees than developments in outlying or greenfield areas, and a phasing program where

Stockton will locate a specified number of new housing units in infill areas, and consider limiting greenfield development until certain criteria are met. Sacramento County may or may not want to consider these types of mitigation measures. This office recognizes that the planning process is a local prerogative and, as long as mitigation is sufficient, specific actions to be adopted are within a local jurisdiction's discretion.

This is a golden opportunity for Sacramento County to become a leader in smart growth planning and reducing greenhouse gas emissions, a path that all local governments will have to follow to comply with the State's climate change goals and emission reductions under AB 32 and SB 375. (3/7/11 letter, Exhibit A, p. 2, attached.)

Why shouldn't Contra Costa become a leader in smart growth planning? While CCTA has no land use powers, its members do. CCTA is obligated by CEQA to bring its members together in the pursuit of the common goal of substantially reducing the impacts of future development, as it did in the Measure C Growth Management Program. The Statement of Overriding Considerations should identify the tasks to be implemented by CCTA member agencies, including the adoption of ordinances establishing smart growth requirements. As in Measure J, funding should be used as an incentive to participate.

"Additionally, the analysis in this EIR assumes the realization of the land development pattern proposed in *Plan Bay Area* for the purpose of evaluating future cumulative impacts." (p. 1.3-3) Enforceable mitigations are needed to incentivize local development decisions consistent with the regional plan. If the *Plan Bay Area* land development pattern is not realized, impacts will be worse than projected.

In its 5/27/14 comment letter on the EIR's Notice of Preparation, Caltrans recommends "developing and championing a regional transportation impact fee program to fund, support, maintain the quality of the Bay Area's transportation network for the travelling public." (PDF p. 405 of 420.) If the fee were tied to VMT generation rates and were high enough, it would serve to disincentivize greenfield development and incentivize infill development, yielding a reduction in future congestion and GHG emissions.

The Project Alternatives Are Too Weak to Promote Mode Shift

Alternative 3, the Focus on Reducing Greenhouse Gas Emissions (p. 1.1-13), is simply not a credible alternative. Its focus is actually on disturbing the status quo

as little as possible. Increasing parking costs only where paid parking already exists is a prescription for minimal change.

A serious alternative that actually attempts to reduce GHGs should be based on the Contra Costa portion of the TRANSDEF Smart Growth Alternative, studied in the EIR for MTC's 2005 RTP. The joint strategies of avoiding greenfield development and avoiding SOV-supportive investments are consistent with the mitigations proposed above. The TRANSDEF Alternative is detailed at <http://transdef.org/RTP/RTP.html>

Comments on the Text

p. 1.1-4: The 2014 CTP definitely does not “address how elements included in *Plan Bay Area* ... fit into the Authority’s vision for Contra Costa.” The DSEIR completely ignores the conflict between the Plan’s increase in VMT, VMT per capita and GHG emissions, and the goals of the regional plan.

p. 2.1-2: While the text speaks of “increased interest in modes other than driving alone” (driving alone is known as the Single-Occupant Vehicle or SOV mode), it is clear that the Plan is focused on accommodating SOV demand.

p. 2.1-7: Criterion 1 is not a measure of environmental impact. While it is a useful indicator, total VMT is the criterion that correlates with impacts on the environment. VMT per capita is a useful measurement to obscure environmental impacts when planning for ongoing auto-dependent growth. Increasing SOV demand is hidden by only measuring VMT per capita.

p. 2.1-7: Criteria 2 and 3 are auto-only measures, rather than person-based measures, thereby indicating a strong modal bias.

p. 2.1-9: While land use changes are not part of the proposed Countywide Plan, they need to be, to mitigate the unsustainable projected increase in VMT.

p. 2.1-10: The text is blindly auto-centric and backwards-looking when it states “VMT is an aggregate measure of how the 2014 CTP will impact the path choices of drivers.” A 21st Century view would be that VMT is an aggregate measure of the mode choices of residents. Importantly, the trends in VMT per capita are an indication of the availability or lack thereof of modal alternatives and incentives for non-SOV mode choices. The tiny change in VMT per capita shown in Table 2.1-3 indicates a lack of modal alternatives and a lack of incentives for non-SOV mode choices.

p. 2.1-11: The “See Table 2.1-3” reference to total VMT is incorrect. That table only shows VMT per capita.

p. 2.12-6: The omission of the two Executive Orders calling for an 80% decrease in GHG emissions is troubling in a section dedicated to the regulatory setting for greenhouse gas emissions and climate change. While the Executive Orders are mentioned on page 2.12-16, placement in the Regulatory Setting is mandatory.

p. 2.12-15: The impact analysis is missing for the third criterion, as is the section heading.

p. 2.12-16: it is unclear whether the text is correct when it refers to a 1.9 percent decrease in GHG emissions between existing conditions and 2040 Project conditions. If nothing else, this statement is inconsistent with the approach mentioned on page 1.1-9 of not using an existing conditions baseline. If existing conditions can be used here without misleading the public, the justification for not using an existing conditions baseline throughout the EIR is invalidated.

Conclusion

The 2014 CTP would result in massive impacts that are undisclosed and/or unmitigated by this DSEIR. TRANSDEF urges CCTA to rethink its attempt to get around CEQA. CCTA would be well advised to not expect a repeat of the silence that accompanied the 2009 SEIR, when it received only five comment letters from public agencies and nothing from the public.

The time has come for CCTA to face up to the profound changes that climate change will require of local government and local residents.

All the effort of putting on a successful sales tax campaign would be wasted if CCTA were enjoined from collecting the tax, as a result of a defective SEIR. TRANSDEF calls on CCTA to withdraw the DSEIR and direct staff to prepare a legally adequate DEIR consistent with the recommendations made above.

Sincerely,

/s/ DAVID SCHONBRUNN,
President

Attachments

Exhibit A: 3/7/11 Attorney General's letter to Sacramento County BoS
Exhibit B: CCTA website page <http://www.ccta.net/planning/view/158/5>
Exhibit C: CCTA website page <http://www.ccta.net/sources/detail/11/1>
Exhibit D: TRANSDEF's 10/15/14 comments on the CTP

TRANSDEF CTP DSEIR COMMENTS

EXHIBIT A

KAMALA D. HARRIS
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555
Telephone: (916) 327-7877
Facsimile: (916) 322-5609
E-Mail: Lisa.Trankley@doj.ca.gov

March 7, 2011

Supervisor Roberta MacGlashan
Chair, Sacramento County Board of Supervisors
700 H Street, Suite 2450
Sacramento, CA 95814

RE: Comments on General Plan Update: Proposed Vision and Growth Management Strategy

Dear Chair MacGlashan:

The Attorney General's Office appreciates this opportunity to comment on the vision and growth management strategy that your staff has proposed for your review at the Board hearing on March 9th. We are submitting these comments on the Attorney General's behalf, pursuant to her independent duty to protect the public health and natural resources of the State and not on behalf of any other entity.

As you may know, the Attorney General's Office submitted detailed comments on the draft Environmental Impact Report (draft EIR), has met several times with both the environmental and planning staffs, and also met with Interim County Executive Steven Szalay. Our concerns have been focused on the County's need to comply with the California Environmental Quality Act (CEQA) in its General Plan Update process. The County's EIR found that the General Plan, even at the levels of growth now being projected, will have a significant adverse impact on climate change. We believe the same is true with respect to impacts on air quality.

We have consistently encouraged the County to fully explore all feasible mitigation measures to reduce these significant impacts, as required by CEQA.¹ We have emphasized the need for the County to consider measures to reduce vehicle miles traveled (VMT) and resulting greenhouse gas emissions, and to look at requirements for increased density, mixed use

¹ Cal. Public Resources Code, § 21002; Cal. Code Regs., tit. 14, § 15021, subd. (a)(2).

development, and transit-oriented development. Accordingly, we congratulate the County on its decision to suspend the General Plan adoption process to re-examine, with the assistance of the County's consultant, DC&E, the growth management and land supply assumptions that went into the proposed General Plan land use element.

In light of the significant impacts of the proposed General Plan, and the need to look at all feasible means of reducing VMT, we believe it is critical for the County to require that new residential developments provide: (1) sufficiently high densities to support transit; (2) infrastructure, including transit, that is put in place at the same time the project is developed; (3) a jobs-housing balance that reduces the need for long commutes and ensures low VMT; (4) a project design that will enable residents to walk, ride bicycles, or take transit to their jobs and schools; and (5) a reasonable amount of mixed-use development. A recent report from the Center for Clean Air Policy (summary attached) found that "[A]n inclusive planning process following smart growth principles that yields more walkable neighborhoods with broader options for housing and transportation can help communities, businesses and individuals make money, save money and improve quality of life."

The recommendations in the DC&E Report and, to a large degree, the recommendations in the staff report, would substantially achieve these objectives. We therefore urge the County to adopt, at a minimum, the recommendations set forth in the staff report. If the County chooses to adopt alternative measures, we stress that these measures must be equally effective to those that the staff has proposed to reduce VMT and greenhouse gas emissions.

There may, of course, be other means to achieve the County's environmental and quality of life goals. In the Attorney General's settlement with the City of Stockton, for example, Stockton agreed to consider a differential fee program that allows infill developments to pay lower fees than developments in outlying or greenfield areas, and a phasing program where Stockton will locate a specified number of new housing units in infill areas, and consider limiting greenfield development until certain criteria are met. Sacramento County may or may not want to consider these types of mitigation measures. This office recognizes that the planning process is a local prerogative and, as long as mitigation is sufficient, specific actions to be adopted are within a local jurisdiction's discretion.

This is a golden opportunity for Sacramento County to become a leader in smart growth planning and reducing greenhouse gas emissions, a path that all local governments will have to follow to comply with the State's climate change goals and emission reductions under AB 32 and SB 375. Consistent with the purposes of CEQA, our comments are intended to support the

Supervisor Roberta MacGlashan
March 7, 2011
Page 3

County in improving its General Plan. Please let us know if we can assist in any way.

Sincerely,

/s/

LISA TRANKLEY
Deputy Attorney General

For KAMALA D. HARRIS
Attorney General

LT:pc

cc: Vice Chair Don Nottoli
Supervisor Susan Peters
Supervisor Phil Serna
Supervisor Jimmy Yee

TRANSDEF CTP DSEIR COMMENTS

EXHIBIT B

Transportation Plan

Environmental Impact Report

On September 19, 2014, the Authority released the Draft Supplemental Environmental Impact Report (DSEIR) for the Draft 2014 Countywide Transportation Plan.

The DSEIR supplements and relies on the EIR on the 2009 CTP, which the Authority certified on June 17, 2009. That EIR, along with the adopted findings and a mitigation monitoring and reporting program for the 2009 CTP, may also be downloaded by clicking here.

TRANSDEF CTP DSEIR COMMENTS

EXHIBIT C

Countywide Transportation Plan (CTP)

[← Back to Library](#)

The Countywide Comprehensive Transportation Plan, or CTP, is one of the key planning tools called for in the Measure J Growth Management Program (GMP). Specifically, Measure J requires the Contra Costa Transportation Authority to:

Support efforts to develop and maintain an ongoing planning process with the cities and the County through the funding and development of a Comprehensive Transportation Plan.

The CTP provides the overall direction for achieving and maintaining a balanced and functional transportation system within Contra Costa - including a series of strategies and implementing actions - while strengthening links between land use decisions and transportation. It outlines the Authority's vision for Contra Costa and it establishes goals, strategies, specific projects, and other actions for achieving that vision.

The Authority adopted its first Countywide Plan in 1995. The first major update to the Plan was adopted in July 2000. The second major update, which helped define the Measure J Expenditure Plan and GMP, was adopted in May 2004. The third update (available below) was adopted in 2009.

During 2014, the Authority will undertake a fourth update to the CTP. The 2014 Issues and Opportunities brochure, (available for download below) sets the stage for the 2014 CTP Update. On August 1, 2014, the Authority released the Draft 2014 CTP. The draft plan includes three volumes. Volume 1 is the plan itself, Volume 2 contains the Action Plans for Routes of Regional Significance within the subregions of the county, and Volume 3 lists the projects and programs in the Authority's Comprehensive Transportation Project List. All three volumes, as well as the Executive Summary from Volume 1, can be downloaded from the links below.

On September 19, 2014, the Authority released the Draft Supplemental Environmental Impact Report (DSEIR) for the 2014 CTP. It also can be downloaded below. It is a supplement to the EIR on the 2009 CTP. The 2009 EIR can also be downloaded below.



Public Comment
Packet thru mid-Oct.



Sept. 23 Telephone
Town Hall



2014 CTP Executive
Summary Public
Review Draft



2014 CTP Vol. 1 Public
Review Draft



2014 CTP Vol. 2 Public
Review Draft



2014 CTP Vol. 3 Public
Review Draft



Flyer: How to
Participate



2014 DRAFT SEIR



Comment Period
Extension Notice



2014 Issues and
Opportunities
Brochure



Notice of Preparation
April 2014



2014 Public Scoping
Meeting



2009 CTP



2009 Mitigation Report



2009 CTP EIR

TRANSDEF CTP DSEIR COMMENTS

EXHIBIT D

Transportation Solutions Defense and Education Fund

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

October 15, 2014
By E-Mail

Kevin Romick, Chair
Contra Costa Transportation Authority
2999 Oak Road, Suite 100
Walnut Creek, CA 94597

Re: Draft 2014 Countywide Comprehensive Transportation Plan

Dear Mr. Romick:

The Transportation Solutions Defense and Education Fund, TRANSDEF, is a non-profit environmental group advocating for the regional perspective in the planning of transportation, land use and air quality. In the past few years, we have focused on reducing the impacts of transportation on climate change.

Introduction

We write to commend staff for an excellent analysis of the constraints facing CCTA. The Draft 2014 Countywide Comprehensive Transportation Plan ("Plan") is very up-to-date in its understanding of the trends of travel demand for millennials, for example. (ES-8, Note: all citations are to pages of the Plan.) However, as will be detailed below, the list of projects and programs in the Plan is completely disconnected from that analysis. That disconnect is exquisitely captured by the following statement in the "Finding the Right Balance" discussion:

Where feasible and beneficial, improve the throughput capacity of roadways while recognizing that these improvements will not, in the long run, eliminate congestion. (I-28.)

Contra Costa residents and their elected officials seem driven by a naive faith that suburbia can somehow be made to work. That faith blocks them from recognizing the obvious reality that traffic keeps getting worse as CCTA "improve[s] the throughput capacity of roadways."

In short, the "Right Balance" for CCTA has meant believing in the traffic fairy. County residents bought there on the promise of convenient solo commuting--something that is unrealistic for large communities of primarily low-density development. CCTA's core problem is that it is driven by the politics of mass fantasy to spend its resources on

projects that its staff knows are only short-term fixes. In this era of climate change, the time has come to align the planned investments with realistic planning.

It would be unfortunate if the County had to descend into total gridlock before there is a willingness to commit to a realistic transportation system. This comment letter will attempt to lay out what such a system would look like. Interestingly, much of the needed analytical work is already in place.

Constraints

The Plan did an excellent job of identifying the factors that constrain future action:

- It is clear that CCTA has only half the financial resources that it wants to spend over the Plan period. (ES-20) Thoughtful strategic choices must be made.
- "Our ability to expand the roadway system is extremely limited. (1-37)
- **"[E]xpanding roadway capacity to meet demand is no longer an option in Contra Costa."** (1-37) This is perhaps the most important sentence in the Plan.
- "Building new facilities and expanding existing ones face increasing opposition." (1-37)
- "In most areas, even major projects represent only minor increases in total capacity." (1-37)
- "Climate change will have to be considered in our growth management plan due to the California Governor's order mandating an 80 percent reduction of greenhouse gases below 1990 levels by 2050, as shown in Figure E-5" (ES-11) Note that there is no follow-up in terms of Plan recommendations for how climate change should be considered. This is a serious oversight.
- "Will increased frequency of storm surges harm our rail lines and roadways?" (ES-9) It's good planning to recognize these vulnerabilities.

The projected 35% growth in VMT (1-12) indicates a failure to ask the fundamental question: "What transportation investments and policies and land use investments and policies do we need to maintain (or better yet, to reduce) current levels of VMT as we grow?" That 35% growth in VMT is profoundly irresponsible given (1) the inability to expand roadway capacity to accommodate that increase in vehicular travel, leading to massive and inevitable congestion (2) existing state policy to reduce GHGs, in recognition of impending catastrophic climate change.

Contra Costa is like an army with overextended supply lines. Its auto-dependent transportation system is very vulnerable to shifts in conditions, such as the price of gas. The 2006 foreclosure crisis began when gas prices spiked. As identified in the film *The End of Suburbia*, sharply rising gas prices put pressure on family budgets. Commuting costs became unaffordable, resulting in mortgage delinquencies and foreclosures, especially in exurbs like East County. With this systemic vulnerability to price rises, and inevitability of higher gas prices, current transportation patterns are unsustainable.

Refocus the Plan on Responsive Solutions

The Plan already contains most of the needed action elements that are appropriate responses to the constraints cited above:

- CCTA Goal #3, "Expand safe, convenient and affordable alternatives to the single-occupant vehicle." (ES-7) Make it the only priority for system expansion funding. Please note that the extension of conventional BART technology does not qualify as "affordable." We prefer the term "cost-effective."
- Real-time ridesharing. (ES-9) This is a very hopeful technology that harnesses vast unused capacity in Single Occupant Vehicles (SOVs) at a tiny public cost.
- "The Authority also requires each jurisdiction to adopt and implement a transportation demand management (TDM) ordinance or resolution that encourages greater transit use." (1-45)
- Collaboration with Alameda County on planning for the Tri-Valley. (ES-16)
- "[O]ur emphasis has shifted instead to improvements in how we operate, manage and maintain the facilities that we now have." (1-37)
- "By carrying more people per vehicle, buses can make more efficient use of the capacity of existing roadways." (1-41)
- "By providing faster and more reliable travel times to carpools and transit, carpool lanes, also known as high-occupancy vehicle (HOV) lanes, can encourage a shift away from solo commuting..." (1-46)
- "Support land use patterns within Contra Cost that make more efficient use of the transportation system..." (I-30) Land use is key to a future policy redirection. Unfortunately, the quoted statement in the Plan ends with the problematic phrase "consistent with the General Plans of local jurisdictions." Local General Plans that promote conventional suburban development are the heart of the problem.

Land Use

In planning, one takes observed trends and constraints, and attempts to optimize future conditions. In this "plan" responding to the identified challenges was replaced by catering to the public's misunderstandings and fantasies. That is how the observed congestion at the plan horizon came to be treated as inevitable, rather than recognized to be the result of politicized planning-avoidant decisions. The key unaddressed decisions involve land use.

Despite profound changes in the policy environment in the last decade, suburbia has continued to grow, with congestion moving in lockstep. If Contra Costa residents all stayed home during the day, there would be no transportation problems, and no need for transportation plans. Congestion arises, however, when residents want to commute to all parts of the Bay Area. Had the transportation system capacity for that travel been planned, funded and constructed prior to the massive development of suburban housing, Contra Costa would be a very different place now. Mistakes were made...

The projected 35% increase in VMT (I-12) is indicative of a new round of planning mistakes. The increase in VMT/capita implies even lower-density auto-dependent land use practices. If the transportation plan is to improve--or even to maintain--the quality of life--it must strongly influence the pattern of new development. There simply is no alternative: the consequences of continued suburban growth cannot be mitigated.

Now that CCTA has acknowledged it cannot catch up with needed highway capacity (1-37), the First Law of Holes applies:

When stuck in a hole, the First Law of Holes is to stop digging.

The commonsense policy response to today's congestion would be to not make it worse. To protect the existing transportation network, CCTA needs to make it clear to local jurisdictions that land use patterns for new development must change. New jobs and housing need to be located in relation to transit, with adequate density. (I-13) The agency made itself an excellent role model by locating its offices in a new transit-oriented neighborhood.

Because of the congestion crisis and the climate crisis, solo driving cannot and must not remain the foundation of transportation for new development. Instead, CCTA needs to promote creative solutions. The goal needs to be not increasing auto trips as new jobs and housing are built. That requires a convenient, cost-effective, well-coordinated, well-marketed and well-promoted transit network, one that can appeal to existing residents as well. New development needs to be planned simultaneously with the cost-effective transit needed to serve it, such as Bus Rapid Transit.

What's Wrong in the Plan?

- "As the region grows, so will the demands on our roadway system and need to expand and make better use of its capacity. The CTP incorporates a broad range of roadway projects, programs and strategies to meet the needs of growth." (I-36) Sisyphus could have written that. As a strategy, it is doomed to failure. Operational improvements can add only limited capacity. (I-37) While the "make better use of its capacity" was identified above as a solution, expanding capacity is already known to not work in the long-term. What's needed instead is a focus on transit-oriented development, coupled with cost-effective transit. It's clear the author of the quoted text was unwilling to leap to the obvious conclusion that the development of auto-dependent land uses cannot continue.
- "In recent years, focus has shifted from mobility for automobiles to mobility for all modes and for all types of users. The 2014 CTP reflects that shift." (I-21) The projected increase in VMT and flat SOV mode split indicate that, while the rhetoric may have shifted, the funding priorities haven't changed at all.
- The time has arrived to dump Goal #1: "Support the efficient, safe, and reliable movement of people and goods using all available traffic modes." (ES-7) This goal is only a fig leaf for continued status quo dependence on the auto.

- The enthusiasm for technological innovations for the automobile (ES-10) is misplaced. Technology will not be able to preserve suburban mobility if land use planning continues to encourage more driving (although real-time ridesharing could help those willing to abandon their cars).
- "Continue to invest wisely to maximize the benefits of available funding." (I-29) This is not a goal, it is merely a strategy for achieving goals.
- "Improve the highway and arterial system to influence the location and nature of anticipated growth..." (I-29) In 2014, the location of anticipated growth must be influenced by transit investments, not highway investments.
- "Agencies will assign staff to monitor the operation of the HOT lanes and the amount of toll charged, to ensure that the lanes continue to benefit carpools and buses." (I-49-50) Express lanes explicitly discourage carpooling. They are a massive financial commitment to keep the fantasy of solo driving alive.
- "In addition to reducing congestion, HOV and carpool strategies can help reduce greenhouse gases." (I-51) Note how HOT lanes have been mixed into discussions of HOV lanes (I-51 & I-29). This is obfuscation: the two strategies are in direct conflict. HOT lanes--aka Express Lanes--facilitate solo driving, thus discouraging a shift away from solo commuting. With all the policy reasons to not support solo driving, this is a crystal-clear example of politics trumping policy.
- "The increased use of electric vehicles will increase the need for charging infrastructure." (ES-10) If people are only commuting moderate distances to work, this is untrue. Charging will be done at home. Public charging networks (I-30) will prove to be far less important than public agencies believe.

Climate Change

This conflict between policy and politics is sharpest on climate change. The Plan contains an exemplary section on "Managing the Effects of Greenhouse Gases." However, the absence of any implementation makes this nothing more than window dressing. As currently written, the Plan predicts 2040 Vehicle Miles Travelled (VMT) to increase by 35% (I-12), with a parallel increase in GHGs. The projected 28% increase in population (I-12) makes this a 5.5% increase over current VMT/capita. **In the age of climate change, these figures indicate a total policy failure.**

Figure E-5 (ES-12) shows the statewide reductions in GHG emissions needed by 2050. Oddly, there is no corresponding chart for CCTA emissions. The Plan does nothing to change the Forecast 2050 Emissions trendline within the County. By implication, some other agency must be responsible for that... There's a complete disconnect between this Climate Change section and where actual dollars are directed.

All of this is very troubling in the context of the recent U.N. Climate Conference and Peoples' Climate Rally. The world is coming to understand that deep systemic change is needed if the human species is going to survive in coming centuries. What will it take for Contra Costa policy makers to decide to take responsibility for the largest source of the County's GHG emissions and join the worldwide effort to protect future generations?

Additional Recommendations

- Provide a breakdown of how the funding is allocated between the four goals. (I-28-29) Note the comment above that the fifth "goal" is really only a strategy. The funding breakdown is critical information for evaluating Plan coherence: Does the allocation of funding match the policy framework?
- A modern transportation plan must show the current and projected VMT/capita.
- The agency needs to focus on preventing the displacement of lower-income residents as older areas redevelop. Note the overlap on Figure 1-8 (I-23) between Communities of Concern and Infill Opportunity Zones.
- Work with other jurisdictions to encourage the truck freight system to operate at night.
- Increase the use of the Richmond BART station by sponsoring security there, especially at night.
- TDM ordinances (I-45) should include such features as transit passes, car share, unbundled parking in leases and real property sales, and reform in parking ratios.
- Incentives are needed for the implementation of SB 375.

Textual Corrections

- I-31: Does "Link transit investment to increased coordination and integration of public transit services, and improved connections between travel modes" mean "condition" transit investment? The meaning of the text is unclear.
- I-43-44: "And for most trips, a car will get one to a destination faster, for less money "out-of-pocket" and with no waiting other than in congestion. Transit can, however, compete as if the differences between travel time, out-of-pocket cost, and convenience between the two modes are reduced."
- I-45: "And finally, Measure J ~~is~~ funds ..."

TRANSDEF appreciates this opportunity to comment on the Plan. We would be pleased to assist staff in the implementation of any of the ideas offered here.

Sincerely,

/s/ DAVID SCHONBRUNN

David Schonbrunn,
President

CC:

Amy Rein Worth, MTC Representative
Federal Glover, MTC Representative
John Gioia, BAAQMD & ARB Representative