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Arthur T. Leahy
Chief Executive Officer

February 2, 2009

Ms. Cynthia Bryant
Director, Office of Planning and Research
P.O. Box 3022
Sacramento, CA 95812-3044

Dear Ms. Bryant:

The Orange County Transportation Authority (OCTA) appreciates the opportunity to comment on the Governor's Office of Planning and Research (OPR) Preliminary Draft California Environmental Quality Act (CEQA) Guideline Amendments for Greenhouse Gas (GHG) emissions. Acknowledging the complexity involved in creating new guidelines that effectively analyze the impacts of greenhouse gas emissions, while taking account of the unique regional nature of these emissions, OCTA commends the OPR for its recognition of the use of program level documents to both create mitigation strategies to reduce GHG emissions, and analyze the impacts of such emissions.

Specifically, the emphasis on the use of a programmatic approach for analyzing GHG emissions recognizes the value of analyzing GHG emissions at the regional level, and its greater effectiveness at balancing projects to reduce overall emissions. This method will specifically work well with the development of a sustainable communities strategy in the next cycle of regional transportation plan development, where agencies will balance projects to meet GHG reduction targets to be adopted by the California Air Resources Board. Although SB 375 (Chapter 728, Statutes of 2008) is not specifically referred to within the guidelines, the flexibility granted in various sections, specifically under Section 15152(i), is broad enough to include such a framework as well as encompassing other program level plans and documents that demonstrate reductions in greenhouse gas emissions.

In addition, the guidelines acknowledge that prescribing specific tools and methodologies for analysis and mitigation would limit the ability of agencies to explore and innovate more accurate methods of measurement and mitigation. OCTA supports the ability to consider regional factors and needs in the development of these methods and models and the guidelines provide that flexibility.

However, there are specific sections of the guidelines that need added clarification or consistency. For instance, cumulative impacts analysis section

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15130(d) states that when a project is consistent with a sustainable communities strategy, it does not need to do an analysis of cumulative impacts at the project level. This statement appears to conflict with Section 15064(h)(3), which states that if a project's impacts are still significant, as supported by substantial evidence, then the project must consider cumulative impacts at the project level. Section 15064(h)(3) should specifically state that if a sustainable communities strategy meets the regional targets, cumulative analysis at the project level is not needed. A sustainable communities strategy takes into account the balance of projects that will be provided to meet the targets. Allowing a project to be challenged on its own for this reason does not recognize and may undermine the balancing that occurs to meet the targets. Each project will contribute to meet the targets and must go through the process of being included in the sustainable communities strategy.

In addition, further elaboration should be given on how to do a project-level cumulative impacts analysis in situations where a program-level document is not available from which to determine consistency. Section 15130(f) states that an EIR is to consider past projects. The issue is that the methods for analyzing GHG emissions have greatly evolved over the last few years. Thus, the analysis done in past EIRs may not meet the standards of today's analysis, thereby not providing the details needed to effectively analyze cumulative impacts in this manner.

Finally additional clarifications should be added under Appendix G, Section XVI, dealing with transportation and traffic. Question (a) should also include a reduction in vehicles hours traveled and improved vehicle mix as methods of reducing emissions. In addition to the mechanisms specified in the draft guidelines, these mechanisms are also reliable indicators of reduced greenhouse gas emissions.

Furthermore, in relation to the proposed deletion of the question (b) that references level of service (LOS) standards established by county congestion management agencies, it should be pointed out that existing law still requires congestion management agencies to establish these standards and local jurisdictions to maintain these standards. The CEQA guidelines should not overlook this requirement. The deletion of this section would place local agencies in a difficult position of balancing what is required by the CEQA guidelines with what is required under statute. Until these obligations are changed by legislation, CEQA should continue to recognize this requirement.

OCTA looks forward to continuing to collaborate with OPR, as well as all state agencies involved in the development of guidelines to analyze GHG emissions under CEQA. Through this collaborative effort, there is confidence that guidelines will be created that will allow for accurate analysis and mitigation of GHG emissions, as well as discretion to allow regions to best decide how to reduce emissions while meeting regional transportation needs. If you have any questions please contact me at (714) 560-5584 or Wendy Villa, State Relations Manager, at (714) 560-5595.

Sincerely,

Arthur T. Leahy

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Chief Executive Officer

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c: Terry Roberts, OPR State Clearinghouse Director and CEQA-GHG Project Manager