

April 24, 2019

Cristin Hallissy  
Senior Environmental Planner  
California Department of Transportation, District 4  
111 Grand Ave, MS 8B  
Oakland, CA 94612

Dear Ms. Hallissy:

Thank you for providing the California Air Resources Board (CARB) the opportunity to provide comments to the California Department of Transportation (Caltrans) on the Initial Study/Environmental Assessment (IS/EA) and proposed Negative Declaration (ND) for the MacArthur Maze Vertical Clearance Project (Project).

The goal of the Project is to allow for larger freight vehicles to travel through the MacArthur Maze by increasing vertical clearances at three locations. The MacArthur Maze is directly adjacent to the West Oakland community, and CARB is concerned that the Project has the potential to increase community exposure to harmful diesel particulate matter (diesel PM) and other air pollutant emissions.

Recent legislation has placed additional emphasis on the need to address community-scale impacts. Assembly Bill (AB) 617 (C. Garcia, Chapter 136, Statutes of 2017) established a new, community-focused framework to address air pollution disparities at the neighborhood level. Among other provisions, AB 617 requires CARB to identify communities with high cumulative exposure burdens to air pollution and select communities for community-specific emissions reduction programs and/or community air monitoring.

In September 2018, CARB's Governing Board selected West Oakland as one of the initial 10 communities for this community-focused action, recognizing the cumulative exposure from air pollution sources impacting the community like freight, freeways, industry, and seaport operations. The West Oakland Environmental Indicators Project (WOEIP) and the Bay Area Air Quality Management District (BAAQMD) are actively engaged in a planning process under AB 617 to develop and implement a community-specific action plan to reduce exposure to air pollution in West Oakland.

AB 617 underscores the need for public agencies to collaborate with communities, industry, and each other to avoid further exacerbating elevated air pollution levels in communities across the State. Caltrans has indicated that the environmental process for the Project is on pause to allow Caltrans to review community, city, and other stakeholder feedback on the Project and determine what additional information and analysis is needed to address questions and concerns. CARB commends Caltrans for this decision. As Caltrans undertakes its new process to work with the community and other stakeholders, we submit the following comments for Caltrans to consider:

1. Community Engagement

In pausing the Project, Caltrans has taken an important first step towards addressing community concerns. Moving forward, Caltrans should continue to work closely with the community to understand potential impacts and identify mechanisms to improve outreach and public engagement associated with the Project, as well as future efforts.

2. California Environmental Quality Act (CEQA)

Caltrans prepared the IS/EA to examine the potential environmental impacts of the alternatives being considered for the Project. Although Caltrans has paused the environmental review, Caltrans expected to determine that the Project would not have a significant effect on the environment, including air quality, while also stating that the Project was not be required to include an air quality analysis. Caltrans cites title 40 CFR section 93.126 to support its assertion that it is exempt from seeking a determination that its Project conforms with the State Implementation Plan (SIP) and therefore does not need to conduct an air quality study. As an initial matter, an exemption from conformity, even if applicable, does not speak directly to whether a project need not conduct a separate state-law CEQA analysis – the two regimes are distinct. Caltrans would need to point to an applicable CEQA exemption if it wishes to avoid an analysis.

Moreover, the exemption does not appear to be applicable: Title 40 CFR section 93.126 provides an exemption for conformity determinations for bridge replacement projects when there are relatively urgent safety risks to the general public related to the existing bridge's structural integrity. The Project's stated purpose is to enable a small population of freight vehicles that currently exceed the height limits of the MacArthur Maze to use the interchange, rather than remedying an alleged deficiency in the interchange's structural integrity that could put the general public, as a whole, in danger. As such, CARB believes that the exemption in title 40 CFR section 93.126 does not apply to the Project and that Caltrans must, instead, pursue a conformity determination.



In addition, even if the exemption in title 40 CFR section 93.126 applied to the Project, the exemption would only relate to national standards for criteria air pollutants subject to SIP measures, not toxic air contaminants (TACs) such as diesel PM or California criteria air pollutant standards.<sup>1</sup> These pollutants could still create locally significant impacts in a community that already experiences increased air pollution, even if the project did not affect regional criteria pollutant compliance. The IS/ND is currently deficient in informing the public and decision makers of the Project's generation of emissions, including TACs, during construction and beyond, until the end of the useful life of the project. This is especially important in areas, such as the Bay Area, where the air basin is in non-attainment for several criteria air pollutants.<sup>2</sup> Further, the California Supreme Court recently reaffirmed the requirement that when a lead agency prepares its CEQA document, it must make "a reasonable effort to discuss relevant specifics regarding the connection between two segments of information already contained in the EIR [or IS/ND], the general health effects associated with a particular pollutant and the estimated amount of that pollutant the project will likely produce."<sup>3</sup>

### 3. Project Justification

Caltrans has indicated that one of the primary goals of the project is to reduce the number of trucks that detour off of highways and onto local streets because of insufficient vertical clearance at the MacArthur Maze. To date, however, Caltrans has not provided information as to the scale of the current problem. Without information on the current number of trucks detouring onto local streets because of insufficient vertical clearance, it is unclear to CARB whether the Project is necessary or appropriate. Before moving forward with a new environmental analysis for the Project, CARB urges Caltrans to collect, analyze, and disseminate data that describe the number and type of trucks that are currently detouring that would otherwise use the MacArthur Maze. If these results demonstrate that there is not a large problem to address, Caltrans should consider not pursuing the Project.

More broadly, as Caltrans is aware, road capacity expansions tend to lead to increased vehicle miles travelled (VMT) and ultimately increased congestion as road use expands to match capacity. Caltrans should carefully review the Office of Planning and Research's guidance on these topics and ensure that they have been weighed both in

---

<sup>1</sup> See *Mission Bay Alliance v. Office of Community Investment and Infrastructure* (2016) 6 Cal.App.5th 160, 203, which provides a discussion of the evaluation of a project's TACs in the CEQA impact analysis context.

<sup>2</sup> <http://www.baaqmd.gov/about-air-quality/research-and-data/air-quality-standards-and-attainment-status>.

<sup>3</sup> *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 521.

the project justification and considered to the extent they bear upon any CEQA areas of analysis (for instance, increased traffic might lead to increased air pollution).

#### 4. Air Quality Impacts and Mitigation

As Caltrans looks towards a new environmental review process, CARB is concerned about localized increases in air pollution exposure from several elements of the Project. Caltrans should carefully consider air quality issues in these areas and work towards fully mitigating any potential impacts should the Project move forward.

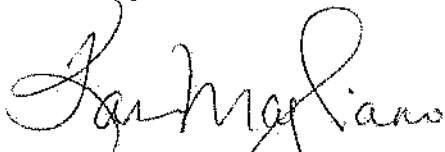
- a. **Construction:** Construction equipment and operations can contribute to increased air pollution in the community and greenhouse gas emissions. Although the IS/EA identifies a set of project-level strategies to reduce greenhouse gas emissions from construction (e.g., including compliance with applicable air quality rules and regulations, proper tuning and maintenance, and limiting construction equipment idling time to two minutes), it does not discuss associated air quality impacts and does not consider the full set of feasible mitigations. For example, to maximize diesel emissions reductions from construction equipment, Caltrans should ensure that the cleanest possible construction practices and equipment are utilized. Caltrans should also only contract with construction companies capable of meeting this requirement. CARB staff are available to further discuss technology availability and potential construction mitigation measures with Caltrans.
- b. **Traffic detours during construction:** Although traffic detours during construction would be temporary, the increased freight and passenger traffic on local streets has the potential to increase air pollution exposure in West Oakland, a community that already experiences a high cumulative exposure burden to air pollution. Even these temporary increases in exposure can create health impacts, particularly for vulnerable populations. CARB urges Caltrans to work with the community and technical experts to identify construction schedules and detour routes that would minimize exposure increases in the community. CARB staff are available to assist with this analysis as needed.
- c. **Increased freight traffic through the MacArthur Maze:** The goal of the Project is to allow for larger freight vehicles to travel through the MacArthur Maze. While there may be some exposure benefits associated with the Project if it successfully moves freight traffic currently driving on local streets onto the highway, the Project may have the consequence of increasing capacity for larger freight vehicle traffic, leading to increased concentration and duration of toxic air contaminant, criteria air pollutant, and greenhouse gas emissions. This

Ms. Hallissy  
April 24, 2019  
Page 5

would potentially exceed the baseline air pollution and congestion challenges in the area. Caltrans should consider these potential impacts in deciding whether to move forward with the Project and consider feasible mitigations.

Thank you again for the opportunity to comment. We appreciate the coordination with your staff to date and are available to participate as appropriate in any interagency working groups that Caltrans convenes. If you have questions, please contact Ms. Heather Arias, Chief, Community Planning Branch, at 916-322-6054 or by email at [heather.arias@arb.ca.gov](mailto:heather.arias@arb.ca.gov).

Sincerely,



Karen Magliano, Director  
Office of Community Air Protection

cc: Ms. Margaret Gordon  
Brian Beveridge  
Co-Directors  
West Oakland Environmental Indicators Project  
349 Mandela Parkway  
Oakland, California 94607

Jack Broadbent  
Chief Executive Officer/Air Pollution Control Officer  
Bay Area Air Quality Management District  
375 Beale Street, Suite 600  
San Francisco, California 94105

Henry Hilken, Director  
Planning and Climate Protection  
Bay Area Air Quality Management District  
375 Beale Street, Suite 600  
San Francisco, California 94105