

Letters from the
Orange County Transportation Authority and the
Riverside County Transportation Commission
Regarding the SR-241/91 Express Lanes Connector



AFFILIATED AGENCIES

Orange County
Transit District

Local Transportation
Authority

Service Authority for
Freeway Emergencies

Consolidated Transportation
Service Agency

Congestion Management
Agency

Service Authority for
Abandoned Vehicles

January 9, 2017

Ms. Smita Deshpande
Generalist Branch Chief
Caltrans-District 12, "Attn: 241-91 DSEIR/EIS Comment Period"
1750 East Fourth Street, Suite 100
Santa Ana, CA 92705

Subject: Draft Supplemental Environmental Impact Report/Environmental Impact Statement (SCH. 1989010410) for the State Route 241/State Route 91 Tolloed Express Lanes Connector Project (Project No. 1200020097)

Dear Ms. Deshpande: *Smita*

Thank you for providing the Orange County Transportation Authority (OCTA) with the Draft Supplemental Environmental Impact Report/Environmental Impact Statement (DSEIR/S) for the State Route 241/State Route 91 Tolloed Express Lanes Connector Project (Project). The following comments are provided for your consideration:

- On page 2-23, Section 2.2.1.2 'Permanent Project Features,' subsection 'TSM/TDM' the proposed Project is stated "to have dynamic traffic technology (toll pricing based on express lanes demand)." The analysis in the DSEIR/S did not address tolling and potential economic implications. OCTA recommends further analysis on tolling under applicable environmental factors analysis.
- On Page 5-3, Table 5.1 'Comments Received During Scoping,' states "Toll operations are being coordinated between F/ETCA, OCTA, and RCTC and are evaluated in a separate Concept of Operations report." OCTA recommends including this throughout the DSEIR/S, as applicable.
- The opening year analysis should be redone to reflect the actual opening year of 2020 rather than 2017. While Section 3.5.3.2 provides an explanation that the differences in traffic operations are nominal between 2017 and 2020, given the SR-91 Corridor Improvement Project (CIP) is scheduled to open in 2017, a thorough 2020 analysis would be appropriate.

- Given the complex nature of having multiple tolled facilities operated by different agencies, OCTA suggests that the analysis in the environmental document be updated to include traffic volume data anticipated to be available in Spring 2017 with the opening of the CIP. This would help refine the existing, opening year, and 2040 conditions analysis (throughput, speeds, and travel time).
- It appears that the environmental document had not analyzed weaving impacts along the SR-91 at the confluence of the SR-241 Express Connector merge/diverge, the OCTA 91 Express Lanes, and the RCTC 91 Express Lanes. Therefore, a more detailed weaving analysis would be appropriate.
- It appears that the complex nature of the multiple tolling options (including dynamic pricing) for the SR-241, the SR-241 Express Connector, the OCTA 91 Express Lanes, and the RCTC 91 Express Lanes are not adequately discussed with respect to the traffic impacts. These should be explored in detail.
- OCTA understands that there are complementary concept of operations studies (con-ops) underway. Some of the appropriate results from the con-ops studies should be integrated into this environmental document.
- It appears there needs to be a more thorough analysis of the construction impacts on the OCTA 91 Express Lanes, including traffic impacts, toll and revenue implications.

Thank you for providing OCTA the opportunity to review this item. Throughout the development of this proposed project, we encourage continued communication with OCTA on the matters discussed herein. If you have any questions or comments, please contact me by phone at (714) 560-5907 or by email at dphu@octa.net.

Sincerely,



Dan Phu
Environmental Programs Manager

c: Valarie McFall, TCA



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Darrell Johnson
Chief Executive Officer

September 27, 2017

Mr. Mike Kraman
Chief Executive Officer
Transportation Corridor Agencies
P.O. Box 57011
Irvine, California 92619-7011

Dear Mr. Kraman,

As a follow-up to our meeting of September 13, 2017, regarding the Proposed State Route 241 (SR-241)/91 Express Lanes Direct Connector (Project), below is my understanding of the discussion and follow-up actions to ensure our upcoming meeting is responsive to the expectations of our respective Board representatives.

During the meeting the Transportation Corridor Agencies (TCA) provided an overview of the Project background, benefits, and status of project development activities. The Orange County Transportation Authority (OCTA) shared its assessments of regional benefits, State Route 91 (SR-91) corridor impacts, and operational implications.

TCA believes the Project would improve system connectivity, reduce weaving movements on the SR-91 general-purpose (GP) lanes that could enhance safety, address congestion on the northbound SR-241 to eastbound SR-91 connector, and deliver a federal air quality conformity Transportation Control Measure.

OCTA shared the fact that we have considerable reservations on the merits of the Project in meeting the Project's stated Purpose and Need. The Project Traffic Analysis Report indicates the Project provides very minimal regional benefits, and those benefits diminish over time. In addition, the Project exacerbates eastbound SR-91 GP lane congestion. The Project also consumes capacity that may otherwise be available to eastbound SR-91 GP lane commuters wanting to enter the 91 Express Lanes at the Orange County/Riverside County access point. The Project also will not resolve congestion on the northbound SR-241 to eastbound SR-91 and there is more than adequate distance to allow merging traffic to safely enter the 91 Express Lanes at the Orange County/Riverside County access point. The principal issue causing the congestion is insufficient capacity on the SR-91 and the Project does little to address the core problem.

While OCTA understands that TCA proposes using congestion pricing to balance the impacts to SR-91, the operation is far more complex and the parties need to understand the extent of demands associated with the various movements based on observed rather than modeled data. In addition, to address concerns over potential

Mr. Mike Kraman
September 27, 2017
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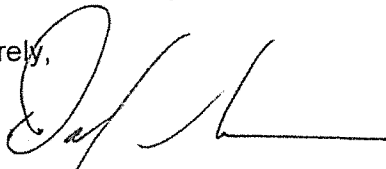
adverse impacts to the SR-91 corridor, it was agreed that a joint agency toll governance arrangement was necessary to ensure no harm to the SR-91 corridor, including the 91 Express Lanes operated by both OCTA and the Riverside County Transportation Commission.

Based on the meeting, it was agreed that the parties would work on the following assignments for the next meeting:

- TCA will update the Project's Traffic Analysis Report and Traffic Revenue Study to reflect recent socioeconomic forecasts, update timing of assumed improvements in the corridor, and use more current traffic data for operational analysis.
- TCA and OCTA will jointly evaluate observed traffic data post-opening of the 91 Express Lanes into Riverside County, and evaluate the routing of traffic that is merging in or out of the 91 Express Lanes at the Orange County/Riverside County access point.
- TCA will provide OCTA with a draft agreement that can serve as the basis for protective bond covenants to ensure the Project will not negatively impact the 91 Express Lanes toll policies.
- TCA will evaluate the use of congestion pricing as a means to ameliorate congestion on the northbound SR-241 at Windy Ridge as an alternative to the Project.

In the interest of a timely resolution of the issues identified, the group agreed to meet again in November, prior to a final meeting in February of 2018. The November meeting has since been set for Thursday, November 16. As always, my staff stands ready to work with your team on the responses and other relevant analysis.

Sincerely,



Darrell Johnson
Chief Executive Officer

c: OCTA Board of Directors
Ed Sachs, F/ETCA Chair
Melody Carruth, SJHTCA Acting Chair
Todd Spitzer, 241/91 Ad Hoc Chair



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Darrell Johnson
Chief Executive Officer

December 12, 2017

The Honorable Ed Sachs
Chairman
Transportation Corridor Agencies
125 Pacifica
Irvine, CA 92618

Dear Chairman Sachs:

At the December 11, 2017 Orange County Transportation Authority (OCTA) Board of Directors (Board) meeting, the proposed State Route 241 (SR-241)/ 91 Express Lanes Tolloed Connector Project was discussed at length. The Transportation Corridor Agencies (TCA), OCTA, and the California Department of Transportation (Caltrans) have been reviewing issues and opportunities with the project for quite some time. Recent studies have identified significant traffic issues with the proposed project, and OCTA is particularly concerned about the project merits given the increased congestion it would cause for commuters on the State Route 91 (SR-91) corridor and 91 Express Lanes during the evening rush hours.

Two actions were taken by the Board on December 11, 2017:

- Direct staff to request TCA to defer all work on the State Route 241/ 91 Express Lanes connector given the regional mobility impacts.
- Direct staff to work with the Riverside County Transportation Commission and Caltrans to evaluate opportunities to advance SR-91 corridor congestion relief projects.

This letter serves as OCTA's request to TCA to defer all work, including certification of the supplement environmental impact report/statement, until such time the proposed project can become a complementary component to the SR-91 corridor. I encourage the TCA to work with OCTA staff and all parties through the annual update of the SR-91 Implementation Plan to consider these issues and identify next steps.

The Honorable Ed Sachs
December 12, 2017
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OCTA will continue to work with all stakeholders, including TCA, to develop mobility solutions along the SR-91 corridor. If you have any questions, please contact Chief Executive Officer, Darrell Johnson at (714) 560-5343.

Sincerely,

A handwritten signature in cursive script, reading "Michael J. Hennessey", with a long horizontal flourish extending to the right.

Michael Hennessey
Chairman

MH:dp
Attachment

c: Michael Kraman, TCA
Anne Mayer, RCTC
Ryan Chamberlain, Caltrans, District 12
John Bulinski, Caltrans, District 8
Board of Directors
Darrell Johnson, OCTA



January 9, 2018

Mr. Ryan Chamberlain
District Director
California Department of Transportation, District 12
1750 East 4th Street, Suite 100
Santa Ana, CA 92705

Dear Mr. Chamberlain:

As you know, the Orange County Transportation Authority (OCTA) Board of Directors (OCTA Board) made a decision at the December 11, 2017 meeting to request the Transportation Corridor Agencies (TCA) to defer all work on the State Route 241/91 Express Lanes connector project, given the regional mobility impacts. The OCTA Board has directed staff to work with the Riverside County Transportation Commission (RCTC) and the California Department of Transportation (Caltrans) to evaluate opportunities to advance the State Route 91 (SR-91) corridor congestion relief projects.

Subsequently, a letter from OCTA Board Chairman Hennessey was sent to the TCA Board Chairman Sachs regarding this decision. Accordingly, OCTA is requesting Caltrans to defer all work, including certification of the supplemental environmental impact report/statement, until such time the proposed project can be better understood and coordinated with other complementary SR-91 corridor improvements. The parties can work together through annual updates of the SR-91 Implementation Plan to consider these issues and identify next steps.

OCTA and RCTC look forward to working with Caltrans and the TCA to develop mobility solutions along the SR-91 corridor. If you have any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Darrell Johnson'.

Darrell Johnson
Chief Executive Officer
Orange County Transportation Authority

A handwritten signature in blue ink, appearing to read 'Anne E. Mayer'.

Anne E. Mayer
Executive Director
Riverside County Transportation Commission

DJ:dp
Attachment

c: Michael Kraman, TCA
John Bulinski, Caltrans, District 8
OCTA Board of Directors

April 2, 2019

VIA U.S. MAIL & EMAIL

Smita Deshpande, Generalist Branch Chief
Caltrans-District 12, "Attn: 241-91 DSEIR/EIS Comment"
1750 East Fourth Street, Suite 100
Santa Ana, CA 92705
D12.SR241-91ELC@dot.ca.gov
241-91expressconnector@thetollroads.com

Re: RCTC's Objection to SR-241/SR-91 Tolled Express Lanes Connector Project and the Draft SEIR/EIS for the Project

Dear Ms. Deshpande:

As the California Department of Transportation ("Caltrans") knows, the Riverside County Transportation Commission ("RCTC") is the regional planning authority for traffic and transportation infrastructure throughout Riverside County. RCTC has been pleased to partner with Caltrans over the years on numerous projects that have improved regional mobility for the benefit of the public. RCTC and Caltrans worked tirelessly to bring forward the \$1.4 billion State Route 91 Corridor Improvement Project ("91 CIP"), which provided long overdue congestion relief along the State Route 91 ("SR-91") corridor and expands carpooling and ride-sharing options for commuters between Riverside and Orange Counties. RCTC considers Caltrans' collaborative efforts on this project, and many others, to be a true success story of how state and regional agencies can work together to bring forward crucial infrastructure.

Given this past positive working relationship, it is with regret that RCTC must object to the SR-241/SR-91 Tolled Express Lanes Connector Project ("Project"), which Caltrans has proposed in cooperation with the Foothill/Eastern Transportation Corridor Agency ("TCA"). Specifically, Caltrans has not complied with the procedural and substantive requirements of the California Environmental Quality Act (Pub. Res. Code, § 21000, et seq.; hereinafter, "CEQA"). Notably, the Draft Supplemental Environmental Impact Report/Environmental Impact Statement ("DSEIR/EIS") for the Project suffers from numerous defects, including an inadequate analysis of the Project's impacts on the very same transportation resources that the Project is allegedly designed to improve.

INTRODUCTION

RCTC and the Orange County Transportation Commission ("OCTA") have repeatedly requested that Caltrans not approve or commence construction of the Project—which entails the construction of a median-to-median connector between SR-241 and the tolled lanes in the median of SR-91 ("91 Express Lanes")—until steps are taken to ensure that the Project's impacts to the SR-91 corridor are fully analyzed and mitigated to the fullest extent feasible. In particular, RCTC and OCTA have requested that Caltrans delay construction of the Project until other necessary improvements can be built to facilitate movement along the SR-91 corridor. Caltrans has improperly ignored these requests.

While Caltrans' DSEIR/EIS claims that the Project will improve traffic and transportation from SR-241 to SR-91, Caltrans fails to properly analyze the Project's potential impacts along the entirety of the SR-91 corridor, from SR-55 to I-15. The Project may benefit SR-241 Toll Road users, but it appears this will be done at the expense of (i) general commuters who do not utilize the toll roads (and may be financially unable to do so), and (ii) current and future 91 Express Lanes users. Indeed, the whole purpose of the Project is to drop one more lane of traffic onto the SR-91 in an area that is already beyond capacity, creating additional congestion and back-up. These impacts could likely be mitigated—and the full benefits of the Project could be realized—if improvements adding capacity in this area and downstream of this area were completed before implementation of the Project. It is thus premature for Caltrans to move forward with the Project at this time because, absent additional improvements, the Project would create additional congestion on the eastbound SR-91's general purpose lanes and would impact the operation of the 91 Express Lanes in Riverside County.

RCTC understands the potential merit of the Project, which seeks to solve the back-up issues faced by Toll Road users at Windy Ridge as the SR-241 merges with the SR-91. The Project, however, will result in significant (and as-yet unanalyzed and unmitigated) environmental impacts should Caltrans proceed with the Project now—before additional necessary SR-91 improvements are completed.

Ultimately, RCTC urges Caltrans not to issue any project approvals until Caltrans fully complies with CEQA and properly analyzes all of the Project's potential environmental impacts. RCTC further urges Caltrans to work more closely and collaboratively with RCTC and OCTA to ensure that RCTC's concerns about the Project's scope, sequencing, and operations are satisfactorily addressed before the Project's approval. Ultimately, RCTC will do what it must to protect drivers on the SR-91 corridor—and the taxpayers and residents of Riverside County—from the impacts of this Project. For these reasons and the reasons set forth below, RCTC objects to the Project.

THE DSEIR/EIS FAILS TO COMPLY WITH CEQA

1. Caltrans' environmental analysis is fundamentally flawed because it is based upon an improper environmental baseline and inaccurate "opening year" assumptions.

"An EIR must include a description of the physical environmental conditions in the vicinity of the project," and "[t]his environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant." (State CEQA Guidelines, § 15125.) A lead agency should "generally describe physical environmental conditions as they exist at the time the notice of preparation is published." (*Ibid.*) Because analysis of environmental impacts relies on an environmental baseline, an improper baseline is a CEQA violation that permeates the entirety of an EIR.

Here, Caltrans published its Notice of Preparation ("NOP") on March 13, 2015, but Caltrans did not use this date as its environmental baseline. (DSEIR/EIS, p. 4-73.) Instead, Caltrans based its environmental baseline on data collected in 2013—two years before the NOP was published and nearly a decade before the Project will actually open. (DSEIR/EIS, p. 4-2 ["for most of the technical evaluations, the baseline conditions for comparative purposes under CEQA were the existing conditions in 2013, when the information was collected"].) Caltrans must explain why this data nonetheless constitutes a proper baseline under CEQA.

While Caltrans relies on a baseline from 2013 (two years before the NOP) as to many impacts, it relies on a "future" baseline as to other impacts. Specifically, Caltrans notes that "for the topics of transportation/traffic, air quality, noise, and energy, the evaluation compared the Build Alternative to the future No Build conditions (2017 Opening Year and/or 2040 Build Out) rather than to existing conditions in 2013." (DSEIR/EIS, p. 4-3.) Caltrans attempts to justify use of this "future" baseline because "the initial phase of the SR-91 CIP would be completed by 2017" and thus a "comparison between the 2017 Build and the 2013 Existing conditions would not be logical." (DSEIR/EIS, p. 4-4.) Even if one were to accept the need to use a future environmental baseline, Caltrans' use of 2017 as the environmental baseline is flawed for several reasons.

First, Caltrans itself recognizes that 2017 is not actually the opening year for the Project. Indeed the DSEIR/EIS provides a "revised opening year" of 2020. Second, even the use of 2020 as the baseline is flawed because Caltrans admits that it has not adjusted its analysis to reflect a revised opening year of 2020. (DSEIR/EIS, p. 1-23 ["Although the revised opening year is 2020, all of the tables and analysis still refer to 2017 as this is the year for which modeling was completed"].) Third, the DSEIR/EIS fails to support with substantial evidence its assumption that analysis of projected 2017 conditions accurately captures existing conditions in 2020.

Moreover, Caltrans' projections for the Project's "revised opening year" of 2020 is outdated. The 2020 opening year is premised on the assumption that "the Proposed Project is anticipated to take approximately 18 months to construct beginning in 2018." (DSEIR/EIS, p. 3.12-22.) Based on this assumption, and the fact that Caltrans has not yet completed the environmental review process for the Project, it is likely that the Project's opening year would not actually be until 2024 or later. Indeed, TCA indicated in a March 25, 2019 letter to OCTA

that it anticipates the Project to open on December 31, 2023—nearly seven years after Caltrans' initial projected opening date of 2017.

Finally, substantial evidence does not support Caltrans' conclusion that projected 2017 conditions based on 2013 data are comparable to conditions in 2024, when the Project is likely to open. The DSEIR/EIS justifies its use of a "future" 2017 baseline to measure the now-outdated 2020 opening year conditions by asserting that "[t]he Traffic Engineer has stated that the changes from 2017-2020 would be nominal." (DSEIR/EIS, pp. 1-23, 3.12-24.) The DSEIR/EIS, however, does not base this assertion on any substantial evidence. For example, the DSEIR/EIS asserts that the change in traffic volume between 2013 and 2017 "is projected to be 22 to 27 percent," but that the change in traffic volume between 2017 and 2020 would be negligible. (DSEIR/EIS, p. 4-3.) Moreover, the DSEIR/EIS includes no analysis of the change in traffic volume between 2017 and 2024. In other words, the DSEIR/EIS uses data from 2013 (two years before the NOP was published) to project "opening year" baseline conditions in 2017 (at least seven years before the Project will actually open), recognizes that 2017 is the wrong opening year (DSEIR/EIS, p. 3.12-24 [asserting 2020 is "revised planned opening year"]), and concedes that no analysis has been done for 2020, much less 2024 (DSEIR/EIS, p. 3.12-24 ["although the revised opening year is 2020, all of the tables and analysis still refer to 2017, as this is the year for which the modeling was completed"]).

Ultimately, Caltrans' DSEIR/EIS uses a shifting baseline without sufficiently explaining why substantial evidence supports that approach. Without an accurate baseline supported by substantial evidence, Caltrans' environmental analysis is necessarily flawed. To comply with CEQA, Caltrans must update its environmental baseline, revise its environmental analysis, and recirculate the DSEIR/EIS for another round of public review. Otherwise, certification of this SEIR/EIS would violate CEQA and constitute an abuse of discretion.

2. Caltrans failed to properly analyze the Project's traffic and transportation impacts.

- Caltrans' analysis shows that the Project will significantly impact traffic. For example, Caltrans admits that "[i]n the PM peak period in 2017, the travel time for the SR-91 eastbound general purpose lanes would slightly increase in the Build Conditions (between 1 to 2.5 minutes)." (DSEIR/EIS, pp. 1-23, 3.5-19.) Caltrans further admits that "the Build Alternative would have a slightly higher combined demand east of the SR-241/SR-91 interchange (approximately 1,800 more vehicles). This is due to an increase in demand at the SR-241 northbound-to-SR-91 eastbound movement for the Build Alternative caused by the addition of the direct-connector ramp." (DSEIR/EIS, p. 3.5-9.) Moreover, Caltrans admits that the Project will result in "increased demand on the general purpose lanes downstream of the 91 Express Lanes" and that this increased demand will result in a decrease of speeds of up to 6 miles per hour on the eastbound general purpose lanes. (DSEIR/EIS, p. 3.5-14.)
- However, rather than concede that the foregoing constitutes significant environmental impacts, Caltrans asserts without basis that "[t]he increases in travel times for the SR-91 eastbound general purpose lanes are considered nominal given the increase in

combined throughput that would be experienced in the same area.” (DSEIR/EIS, pp. 1-23, 3.5-14.) Caltrans fails to support this flat conclusion with substantial evidence and fails to explain what relevance the purported increase in combined throughput in the area would have on the undisputed fact that the Project will adversely affect traffic in the SR-91 eastbound general purpose lanes during the PM peak period. This is a violation of CEQA. (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 516 [“ultimate inquiry ... is whether the EIR includes enough detail ‘to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project’”]; State CEQA Guidelines, § 15151 [“An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences.”].) Further, and based on its unsupported conclusion, Caltrans offers no mitigation to reduce these significant impacts.

- The Project benefits drivers in Express Lanes at the expense of drivers in general purpose lanes, yet proper analysis of those impacts is not provided. The DSEIR/EIS minimizes the Project’s impacts on drivers in eastbound general purpose lanes, stating the Project will “slightly increase” the travel time for the SR-91 eastbound general purpose lanes by up to 2.5 minutes. (DSEIR/EIS, p. 3.5-19.) At the same time, the DSEIR/EIS extolls the virtue of the Project by noting that “the travel time for the SR-241 northbound to the SR-91 eastbound via the new Express Lane ramp would decrease by 2.5 minutes.” (*Ibid.*) In other words, the Project seeks to benefit toll-paying drivers by directly impacting a far greater number of non-toll-paying drivers in general purpose lanes. Caltrans must take measures to analyze and disclose the comparative magnitude of these benefits and impacts, and to mitigate the Project’s impacts on drivers traversing SR-91’s eastbound general purpose lanes.
- Caltrans finds that the Project would not have permanent adverse impacts on traffic if RCTC’s Ultimate SR-91 CIP Improvements are completed before construction of the Project. The DSEIR/EIS provides that “[t]he improvements associated with the Ultimate SR-91 CIP improvements were found to provide enough capacity in 2040 to accommodate the friction between the 91 Express Lanes and the general purpose lanes in the eastbound ingress/egress area.” (DSEIR/EIS, p. 3.5-15.) Given that Caltrans believes that the Project’s impacts on the general purpose lanes in the eastbound ingress/egress area would be alleviated after construction of the Ultimate SR-91 CIP improvements, Caltrans should revise or condition the Project such that construction of the Project would not commence until after the full completion of the Ultimate SR-91 CIP improvements. Moreover, Caltrans should further revise or condition the Project such that construction of the Project would not commence until after the full completion of other downstream eastbound improvements that would benefit the SR-91 corridor, including (1) the I-15/SR-91 Express Lanes Connector Project, which will (among other things) link the eastbound 91 Express Lanes to the northbound I-15 Express Lanes; and (2) the SR-71/SR-91 Interchange Project, which entails (among other things) (i) the construction of a two-lane direct flyover connector from eastbound SR-91 to northbound SR-71, (ii) improvement of the connection

between the eastbound SR-91 Green River Road on-ramp and the SR-71/SR-91 Interchange, and (iii) construction of an eastbound road south and parallel to SR-91 between Green River Road and the SR-71/SR-91 Interchange. Indeed, Caltrans cannot simply ignore the Project's impacts on the eastbound general purpose lanes on SR-91. CEQA requires Caltrans not only to analyze these impacts, but to mitigate them. (State CEQA Guidelines, § 15126.4.)

- Caltrans fails to properly analyze the impacts on traffic and transportation during Project construction. Caltrans concedes that “[t]raffic delays are expected during construction of the Build Alternative.” (DSEIR/EIS, p. 3.5-5.) Caltrans contends that implementation of Measure TR-1 would mitigate the Project's temporary transportation-related construction impacts to a level of less than significant. (*Ibid.*) Caltrans fails to explain, however, how or why Measure TR-1 would mitigate the Project's undisputed adverse impact on traffic and transportation during Project construction. Measure TR-1 provides:

Transportation Management Plan. Ensure that a Transportation Management Plan (TMP) is completed in consultation with the California Department of Transportation and included in the Plans, Specifications, and Estimates for implementation by the contractor prior to and during construction of any project improvements. The TMP will be prepared by a qualified traffic engineer and will address traffic impacts from temporary detours and weekend or nighttime closures to reduce traveler delays and enhance traveler safety during project construction. The TMP may include the following elements:

- Public awareness campaign
- Highway advisory radio
- Portable changeable message signs
- Temporary loop sensor/signals
- Bus or shuttle service
- Construction Zone Enhanced Enforcement Program

Measure TR-1 seems inadequate in specificity and efficacy given the magnitude of the Project, the volume of the SR-91 Corridor, and the paucity of alternatives. Moreover, Caltrans provides no evidence explaining why and how this Measure will actually mitigate the Project's adverse impacts on traffic during construction of the Project. The Measure provides that the TMP must “address” – but not mitigate to a level of less than significant – traffic impacts from temporary detours and weekend or nighttime closures to reduce traveler delays. The Measure further provides that the TMP “may,” but need not, include certain elements. In sum, Caltrans fails to provide substantial evidence that the Project's construction-related impacts on transportation will be mitigated to a level of less than significant.

- Caltrans fails to explain how its mitigation measures will actually mitigate any impact. In addition to Measure TR-1, discussed above, the DSEIR/EIS references two other mitigation measures: Measure T-13 and Measure C-15. (DSEIR/EIS, p. 3.5-39.) It is unclear, however, (1) to what impacts these measures purportedly relate; and (2) how these measures purportedly mitigate the unspecified impacts to a level of less than significant. Again, this is prejudicial error. (See *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 658.)
- Caltrans' failure to analyze the Project's impacts on local streets obfuscates the Project's temporary construction impacts. The DSEIR/EIS concedes that "temporary detours and weekend or night time closures would be required at the Gypsum Canyon Road on- and off-ramps and at the northbound SR-241 to the eastbound SR-91 connector." (DSEIR/EIS, p. 3.5-5.) Presumably, these detours would be through local streets. The DSEIR/EIS, however, does not analyze the temporary impacts these detours would have on such local streets.
- Caltrans fails to analyze the Project's impacts on the 91 Express Lanes. The DSEIR/EIS' three-paragraph discussion of the Project's temporary impacts does not consider impacts to the 91 Express Lanes during construction of the Project. For example, the DSEIR/EIS does not address whether construction of the Project would require temporary closure of the 91 Express Lanes or the opening of the 91 Express Lanes to the public as an "emergency relief valve." Moreover, the DSEIR/EIS does not discuss potential loss of revenue that would result if the 91 Express Lanes were either temporarily closed or opened to the public. RCTC relies on these revenues to make necessary transportation improvements, but Caltrans does not address these impacts at all in the DSEIR/EIS. The public and the 91 Express Lanes customers who rely on the 91 Express Lanes are entitled to this information.
- Caltrans fails to properly analyze whether the Project will substantially increase hazards due to a design feature or incompatible uses. The State CEQA Guidelines provides that a project could result in a potential significant environmental impact if it would "substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses." (State CEQA Guidelines, Appendix G, Section XVI [Transportation/Traffic], subd. (d).) Caltrans' analysis regarding this issue, however, consists almost entirely of conclusions without any explanation or factual support. (DSEIR/EIS, p. 4-15.) In particular, Caltrans' full analysis on this issue provides:

The Build Alternative would not increase hazards due to a design feature or incompatible uses because the Proposed Project would be designed and constructed in compliance with the Caltrans Design Standard Construction Specifications. The proposed improvements do not include any hazard design features or incompatible uses. No impacts would occur, and no mitigation is required.

(DSEIR/EIS, p. 4-15.) This discussion fails to comply with CEQA. (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 516 [“ultimate inquiry ... is whether the EIR includes enough detail ‘to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project’”].) For example, Caltrans does not explain how compliance with the Caltrans Design Standard Construction Specifications ensures that the Project would not increase hazards due to a design feature or incompatible use. Similarly, the discussion concludes that the Project does “not include any hazardous design features or incompatible uses,” but provides no evidence or discussion to support this conclusion. This constitutes a violation of CEQA. (*Ibid.*)

- Caltrans fails to analyze whether the Project will result in inadequate emergency access during the Project's construction. The Initial Study Checklist of the State CEQA Guidelines provides that a project could result in a potential significant environmental impact if it would “result in inadequate emergency access.” (State CEQA Guidelines, Appendix G, Section XVI [Transportation/Traffic], subd. (e).) Caltrans fails to include substantive analysis of whether the Project could result in inadequate emergency access. This failure is especially pronounced given Caltrans' admission that the Project will result in “detours and closures” that “are expected to result in some delay to the traveling public.” (DSEIR/EIS, p. 3.5-5.) Caltrans, however, fails to analyze the extent of this delay. How often will there be detours and closures? How much delay will these detours and closures cause? Will these detours and closures render some areas inaccessible from the freeway? How will these detours and closures impact emergency access? These questions are all the more pertinent given that the canyon topography of the project area and the existing 91 Express Lanes' geometry will present unique challenges regarding emergency access that must be addressed. Despite these facts, Caltrans has failed to consider—much less analyze—any of these questions. Again, this constitutes a violation of CEQA. The public has a right to this information.
- Caltrans does not analyze the Project's potential impacts along the entirety of SR-91, from SR-55 to I-15. “The Study Area for traffic includes SR-91 from west of the Weir Canyon Road interchange in Anaheim Hills to east of the Serfas Club Drive/Auto Center Drive interchange in the City of Corona. The Study Area also includes SR-241 from north of the Santiago Canyon Road interchange to SR-91 and State Route 71 (SR-71) south of the Butterfield Ranch Road interchange to SR-91.” (DSEIR/EIS, p. 3.5-1.) Caltrans fails to explain with any substantial evidence, however, why it selected this particular study area—a violation of CEQA. RCTC requests that Caltrans study the Project's potential impacts along the entirety of SR-91, from SR-55 to I-15.
- Caltrans' project description is inadequate. The DSEIR/EIS does not adequately analyze or disclose TCA's proposed restriction to limit use of the Project to only commuters using the 91 Express Lanes. The proposed restriction would prohibit eastbound egress from the Project at the County Line to SR-71 and Corona

destinations, and the proposed restriction would further require combined toll rate signing between the Project and the 91 Express Lanes. As a result, the proposed restriction could have significant impacts that are not analyzed in the DSEIR/EIS.

3. Caltrans has failed to properly analyze the Project's noise impacts.

- Caltrans fails to properly analyze the Project's construction-related noise impacts. The DSEIR/EIS concedes that "temporary detours and weekend or night time closures would be required at the Gypsum Canyon Road on- and off-ramps and at the northbound SR-241 to the eastbound SR-91 connector" during construction of the Project." (DSEIR/EIS, p. 3.5-5.) Caltrans, however, fails to consider or analyze the noise resulting from freeway traffic being directed through local streets during nighttime and weekend hours, and Caltrans further fails to explain why it believes those impacts will be less than significant. The impacts could be potentially significant, yet Caltrans failed to consider the impacts at all. This should be addressed in a recirculated DSEIR/EIS.
- Caltrans recognizes that its Project will result in a significant noise impact, but fails to explain how mitigation will reduce the impact to a level of less than significant. According to the DSEIR/EIS, "a noise impact occurs when the predicted future noise level with the project substantially exceeds the existing noise level (defined as a 12 dBA or more increase) or when the future noise level with the project approaches or exceeds the NAC [Noise Abatement Criteria]." (DSEIR/EIS, p. 3.13-1.) Caltrans admits that the Project will result in a significant noise impact. In particular, the DSEIR/EIS provides that "2040 noise levels for the Build Alternative are expected to approach or exceed the NAC at 19 of the 22 modeled receptor locations at the Canyon RV Park." (DSEIR/EIS, pp. 3.13-24.) Yet, Caltrans fails to provide any mitigation for that specific impact. Rather, Caltrans seeks to mitigate noise with a completely inapplicable mitigation measure, Measure N-1. Measure N-1 provides:

Measure N-1 Control of Construction Noise Levels. The control of noise from construction activities will conform to the California Department of Transportation (Caltrans) Standard Specifications, Section 14-18.02, "Noise Control." The nighttime noise level from the contractor's operations, between the hours of 9:00 p.m. and 6:00 a.m., will not exceed 86 A-weighted decibels (dBA) one-hour A weighted equivalent continuous sound level (Leq(h)) at a distance of 50 feet. In addition, the contractor would equip all internal combustion engines with a manufacturer-recommended muffler and will not operate any internal combustion engine on the job site without the appropriate muffler.

(DSEIR/EIS, p. 3.13-25.) Caltrans fails to explain how this mitigation measure (concerning construction impacts) serves to mitigate the Project's significant operational noise impacts in any way.

Caltrans additionally asserts that "the existing barriers along SR-91 are effective at reducing traffic noise," but Caltrans does not provide any mitigation measure other than Measure N-1 to actually mitigate the Project's significant impact. (See Pub. Res. Code, § 21081.6 [requiring mitigation measures to be "fully enforceable through permit conditions, agreements, or other measures"].) The DSEIR/EIS is thus defective and fails to comply with CEQA. (See *Lotus*, *supra*, 223 Cal.App.4th at pp. 654-658.)

- Caltrans fails to properly analyze whether the Project would result in excessive groundborne vibration or groundborne noise levels. The Initial Study Checklist of the State CEQA Guidelines provides that a project could result in a potential significant environmental impact if it would "result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels." (State CEQA Guidelines, Appendix G, Section XII [Noise], subd. (b).) Caltrans, however, fails to analyze the issue. Rather, it fully relies on the "Caltrans Standard Specifications for Construction" and trusts that compliance with these specifications will ensure there will be no significant impact. In particular, the DSEIR/EIS' "analysis" of the issue provides:

During construction, groundborne vibration and groundborne noise could be generated in conjunction with pile driving. If pile driving takes place, potential groundborne noise and vibration impacts would be minimized through compliance with Caltrans Standard Specifications for Construction, which is stipulated in Measure N-1 in Section 3.13.4. Therefore, with implementation of Measure N-1, impacts related to groundborne noise and vibration would be less than significant, and no mitigation is required.

(DSEIR/EIS, p. 4-42.) Caltrans does not make any attempt to actually analyze whether the Project could result in groundborne vibration or noise, before imposing this measure. It simply assumes that even if the Project did result in vibration or noise (no matter how intense), compliance with Measure N-1 and the Caltrans Standard Specifications for Construction would reduce the impact to a level of less than significant. In so doing, Caltrans does not analyze the impact or inform the public as required by CEQA.

4. Caltrans has failed to properly analyze the Project's impacts on air quality.

- Caltrans fails to properly analyze the impact of Project-related construction activities on air quality. The DSEIR/EIS provides that "construction-related emissions do not need to be included in regional and project-level conformity analyses" under the National Environmental Policy Act ("NEPA"). (DSEIR/EIS, p. 3.12-15.) This does not, however, excuse Caltrans from its obligation to analyze construction-related emissions under CEQA. Thus, Caltrans has failed to fulfill this obligation as the DSEIR/EIS contains inadequate analysis of Project-related construction activities.

Notably, while Caltrans sets forth the "maximum build alternative construction emissions," it does not set forth the applicable threshold of significance that would allow the public to determine whether these emissions are significant. (See (DSEIR/EIS, p. 3.12-23.) The DSEIR/EIS thus fails as an informational document under CEQA.

- Caltrans fails to properly analyze the Project's long-term impacts on air quality. Caltrans' analysis of "permanent" air quality impacts suffers from the same defects as its analysis of construction-related air quality impacts. Notably, the DSEIR/EIS fails as an informational document because it simply sets forth the Project's emissions, without providing the thresholds of significance necessary for the public to determine whether these emissions constitute a significant environmental impact and without explaining what correlation (if any) there is between those emissions and potential health impacts. (DSEIR/EIS, p. 3.12-25; *Sierra Club, supra*, 6 Cal.5th at p. 516 ["ultimate inquiry ... is whether the EIR includes enough detail 'to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project;' accordingly, a lead agency must connect raw numbers measuring an environmental impact with specific adverse effects on human health or explain why such a connection is not possible]; State CEQA Guidelines, § 15151 ["An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences."].)
- The Project would have a significant air quality impact based on the threshold set forth in the DSEIR/EIS. The DSEIR/EIS sets forth the following threshold of significance: "The project increases traffic volumes. Increases in traffic volumes in excess of 5 percent should be considered potentially significant. Increasing the traffic volume by less than 5 percent may still be potentially significant if there is also a reduction in average speeds." (DSEIR/EIS, p. 3.12-18.)

Here, Caltrans concedes that the Project will increase traffic volumes and thus reduce average speed on the SR-91. Indeed, Caltrans asserts there will be a *14.9 percent increase* in traffic on SR-241 as a result of the Project. (DSEIR/EIS, p. 3.12-19.) Despite this fact, and the correlating reduction in average speed that obviously would occur on the SR-91 as a result, Caltrans concludes that the Project will not result in air quality impacts because the Project would purportedly decrease the average delay per vehicle. (*Ibid.*) Caltrans' conclusion is baseless. Caltrans fails to actually measure (1) the increase in emissions and impacts on air quality resulting from the increase in traffic resulting from the Project; and (2) the purported decrease in emissions and air quality impacts resulting from the decrease in average delay per vehicle attributable to the Project. Without analyzing or assessing these impacts, Caltrans' conclusion about air quality impacts is speculative and improper.

- Caltrans' mitigation measures are not enforceable. This is an issue that permeates throughout the DSEIR/EIS and applies to many of Caltrans' "measures." Caltrans

does not call its measures "mitigation measures;" instead, Caltrans refers to its measures as "avoidance and minimization measures." (See, e.g., 3.12-33.) These measures, however, do not appear to be enforceable. (See *Lotus, supra*, 223 Cal.App.4th at p. 656 [Caltrans' "'avoidance, minimization and/or mitigation measures'... are not 'part of the project'"].) Indeed, if these measures are not mitigation measures implemented by a mitigation monitoring and reporting program ("MMRP"), it is unclear how Caltrans intends to implement these measures. At a minimum, Caltrans must include those avoidance/minimization measures in its MMRP to ensure that they are enforceable and actually implemented. (*Ibid.*)

In the Air Quality section of the DSEIR/EIS, this is especially problematic as Caltrans appears to rely on the measures to mitigate impacts, without disclosing the extent of certain impacts without this mitigation. (See, e.g., DSEIR/EIS, p. 4-20.) For example, Caltrans bases its analysis of the Project's PM₁₀ and PM₂₅ emissions on the assumption that there will be "50 percent control of fugitive dust as a result of watering and associated dust-control measures." (DSEIR/EIS, p. 3.12-22.) The DSEIR/EIS, however, fails to provide any evidence supporting this assumption, fails to provide the extent of these impacts without the referenced measures, and fails to explain how Caltrans intends to implement these measures. (See Pub. Res. Code, § 21081.6 [requiring mitigation measures to be "fully enforceable through permit conditions, agreements, or other measures"]; *Lotus, supra*, 223 Cal.App.4th at p. 656-658.)

Caltrans' discussion of its mitigation measures is further flawed as its discussion is paradoxical. Throughout the DSEIR/EIS, Caltrans simultaneously contends (1) the Project will have significant effects; (2) these significant effects will be mitigated to a level of less than significant with the implementation of certain measures; and (3) no mitigation is therefore required. (See, e.g., DSEIR/EIS, pp. 4-19, 4-20 ["with implementation of Measures AQ-1 through AQ-5, the Proposed Project would not result in a cumulatively considerable net increase in criteria pollutants, and no mitigation is required"].) Caltrans should not contend that mitigation is not required because the Project's significant impacts will be mitigated. This serves only to confuse the public, and further explanation of Caltrans' conclusions is needed.

- Caltrans does not properly analyze whether the Project would conflict with or obstruct implementation of the applicable air quality plan. The Initial Study Checklist of the State CEQA Guidelines provides that a project could result in a potential significant environmental impact if it would "conflict with or obstruct implementation of the applicable air quality plan." (State CEQA Guidelines, Appendix G, Section III, [Air Quality], subd. (a).) Caltrans, however, does not explicitly identify an applicable air quality plan, much less analyze whether the Project would conflict with or obstruct implementation of such a plan. Indeed, the phrase "air quality plan" does not even appear in the DSEIR/EIS' discussion of air quality, except for a bare conclusion that the "Build Alternative would not conflict with or obstruct implementation of an applicable air quality plan." (DSEIR/EIS, p. 4-

- 7.) Moreover, it is unclear what Caltrans bases this conclusion upon. (*Sierra Club, supra*, 6 Cal.5th at p. 522 [“To facilitate CEQA’s information role, the EIR must contain facts and analysis, not just the agency’s bare conclusions or opinions”].) Furthermore, the DSEIR/EIS asserts that air quality regulation in the South Coast Air Basin (where the Project is located) is administrated by the South Coast Air Quality Management District (SCAQMD), but the DSEIR/EIS does not reference any applicable air quality plan approved by SCAQMD, such as SCAQMD’s Air Quality Management Plan. (DSEIR/EIS, p. 3.12-3.) Similarly, the DSEIR/EIS fails to consider or analyze the Project’s consistency with the Climate Action Plan for Orange and Riverside Counties. For all of these reasons, the DSEIR/EIS fundamentally fails as an informational document.
- Caltrans does not properly analyze whether the Project would result in a cumulatively considerable net increase of criteria pollutants. The Initial Study Checklist of the State CEQA Guidelines provides that a project could result in a potential significant environmental impact if it would “result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard.” (State CEQA Guidelines, Appendix G, Section III [Air Quality], subd. (b).) Caltrans asserts that the Project would result in emissions of criteria pollutants for which the project region is in non-attainment, but Caltrans fails to analyze the cumulative impact of these emissions. (DSEIR/EIS, p. 4-20.) Instead, Caltrans again simultaneously asserts that these impacts will be mitigated by certain measures, and that no mitigation is required to mitigate these impacts. (*Ibid.*) The DSEIR/EIS’ unsupported assertions do not comply with CEQA.
 - Caltrans does not properly analyze whether the Project would expose sensitive receptors to substantial pollution concentrations. The Initial Study Checklist of the State CEQA Guidelines provides that a project could result in a potential significant environmental impact if it would “expose sensitive receptors to substantial pollutant concentrations.” (State CEQA Guidelines, Appendix G, Section III [Air Quality], subd. (c).) Caltrans’ discussion of whether the Project could result in such an impact violates CEQA for the same reasons discussed immediately above—i.e., Caltrans admits the Project could have an impact, asserts that the impact will be mitigated to less than significant levels, and asserts that no mitigation is required. (DSEIR/EIS, p. 4-20.)

Moreover, and this applies to every instance in which Caltrans discusses its mitigation measures, the DSEIR/EIS fails to include any discussion of the substantial evidence showing how the referenced mitigation measures (e.g., Measures AQ-1 through AQ-5) will actually mitigate the referenced impacts to a level of less than significant. This constitutes a violation of CEQA. (*Lotus, supra*, 223 Cal.App.4th at pp. 656-658.)

- Caltrans fails to rely on a Health Risk Assessment to ascertain the Project's air quality impacts on human health. An EIR's analysis of air quality impacts is inadequate where it does not connect the raw particulate numbers and their effect on air quality with specific adverse effects on human health. (*Sierra Club, supra*, 6 Cal.5th at p. 516.) Here, Caltrans does not prepare a Health Risk Assessment to ascertain the Project's air quality impacts on human health, as many EIRs do. Instead, Caltrans contends that it cannot study air quality impacts on human health due to technological limitations. (SEIR/EIS, p. 4.12-26.) Further discussion of those technological limitations would be helpful in clarifying this issue to the public.
- Caltrans does not properly analyze whether the Project would result in odors affecting people. The Initial Study Checklist of the State CEQA Guidelines provides that a project could result in a potential significant environmental impact if it would "result in other emissions (such as those leading to odors) adversely affecting a substantial number of people." (State CEQA Guidelines, Appendix G, Section III [Air Quality], subd. (c).) Here, Caltrans' discussion of whether the Project would result in odors consists entirely of conclusions. (*Sierra Club, supra*, 6 Cal.5th at p. 522 ["To facilitate CEQA's information role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions"].) Caltrans fails to reference any facts to support its conclusion that "impacts related to odors would be less than significant." For example, Caltrans concedes that the Project could result in certain odors, but concludes that "[s]uch odors would be quickly dispersed below detectable thresholds as distance for the site(s) increases." Caltrans, however, offers no analysis or facts to support this conclusion.

5. Caltrans has failed to properly analyze the Project's impacts on greenhouse gas emissions.

- Caltrans makes no effort to analyze the Project's greenhouse gas emissions. CEQA requires Caltrans to analyze whether the Project would (1) generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment, and/or (2) conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases. (State CEQA Guidelines, Appendix G, Section VIII [Greenhouse Gas Emissions].) The DSEIR/EIS, however, fails to answer these questions. Indeed, Caltrans makes no attempt to analyze the Project's greenhouse gas emissions. Instead, the DSEIR/EIS provides that "it is Caltrans' determination that in the absence of further regulatory or scientific information related to GHG emissions and CEQA significance, it is too speculative to make a significance determination regarding the Proposed Project's direct and indirect impact with respect to climate change." (DSEIR/EIS, p. 4-67.) The DSEIR/EIS should be revised to include an analysis of the Project's GHG emissions.
- Caltrans does not explain why it believes analysis of GHG emissions is not possible. A lead agency must connect raw numbers measuring an environmental impact with

specific adverse effects or explain why such a connection is not possible. (*Sierra Club, supra*, 6 Cal.5th at p. 516.) Here, Caltrans not only abdicates its duty to provide the raw numbers measuring the Project's GHG emissions, it also fails to explain why it contends the analysis is not possible. It is surprising that Caltrans would stand behind such a statement without analysis, given several recently-enacted state laws and regulations that declare a heightened state of urgency on climate change.

- Caltrans' own guidance documents suggest the Project will have a significant environmental impact relating to GHGs. Caltrans' *Interim Guidance: Determining CEQA Significance for Greenhouse Gas Emissions for Projects on the State Highway System* ("Interim Guidance") from March 2019 provides that Caltrans must analyze a Project's impacts on GHGs. Moreover, the Interim Guidance provides that capacity-increasing projects—such as the Project here—are generally considered to have significant GHG impacts if future build emissions are greater than existing conditions. (Interim Guidance, p. 14.) Here, Caltrans contends that the Project's future build emissions are greater than existing and future no-build conditions. (DSEIR/EIS, p. 4-66.) Per Caltrans' own guidance document, the Project thus has a significant environmental impact on GHG emissions. The DSEIR/EIS' failure to disclose this significant impact on the environment constitutes a violation of CEQA.
- Caltrans' use of unenforceable quasi-mitigation measures is improper and does not excuse Caltrans' failure to analyze the Project's GHG emissions. Caltrans contends that certain measures "will also be included in the Proposed Project to reduce the GHG emissions and potential climate change impact from the Proposed Project." (DSEIR/EIS, p. 4-69.) These include measures to provide for an undefined amount of landscaping and to recommend—not require—more energy-efficient lighting. (DSEIR/EIS, p. 4-69 through 4-71.) While RCTC lauds the inclusion of these measures, it also believes that Caltrans must further explain how these vague features operate as specific and enforceable mandates under CEQA. Otherwise, the public will be deprived of knowing how much these mitigation measures will actually reduce the Project's GHG emissions, and whether the mitigation measures will reduce the emissions to a level of less than significant.

6. Caltrans has failed to properly analyze the Project's aesthetic impacts.

- Caltrans improperly concludes the Project's construction-related aesthetic impacts are not significant simply because they are temporary. A significant environmental impact resulting from Project-related construction is not less than significant simply because the impact is temporary. (See, e.g., *City of Arcadia v. State Water Resources Control Bd.* (2006) 135 Cal.App.4th 1392 [CEQA documentation inadequate where lead agency "ignore[d] the temporary impacts of the construction"].) Caltrans concedes that Project-related construction activities could have aesthetic impacts. (DSEIR/EIS, p. 3.6-8.) Nevertheless, Caltrans concludes: "Construction activities would be temporary, and the visual impacts related to views of the construction

activities would cease after completion of construction; therefore, no substantial impacts would occur.” (See SDEIR/EIS, p. 3.6-8, 3.6-9, & 4-17.) Accordingly, Caltrans must provide an explanation supported by substantial evidence as to why temporary impacts are less than significant.

- Caltrans fails to properly analyze the Project's impact on scenic resources. CEQA requires Caltrans to analyze whether the Project would substantially damage scenic resources, regardless of whether the resources are within a state scenic highway. In particular, CEQA provides that a lead agency must analyze whether a project will substantially damage scenic resources, including, but not limited to, (i) trees, (ii) rock outcroppings, and (iii) historic buildings within a state scenic highway. (State CEQA Guidelines, Appendix G, Section I [Aesthetics], subd. (b).) Caltrans, however, improperly limits its analysis to whether the Project would “degrade scenic resources along a State-designated scenic highway.” (DSEIR/EIS, p. 4-17.) In doing so, Caltrans ignores impacts to scenic resources that it acknowledges elsewhere in the DSEIR/EIS—e.g., temporary impacts to 8 coast live oak trees, 15 sycamore trees, and 3 California Black Walnut trees, and permanent impacts to 6 oak trees. (DSEIR/EIS, p. 3.6-10.)
- Caltrans fails to properly analyze whether the Project would create a new source of substantial light or glare that would adversely affect day or nighttime views in the area. Caltrans' analysis of this issue is effectively limited to pointing towards certain “measures”—not mitigation measures—that would purportedly mitigate the Project's impacts relating to this issue, but there is no explanation as to why this is the case. (DSEIR/EIS, p. 4-17 through 4.7-18.) As discussed throughout this letter, this is improper and violates CEQA. (*Lotus, supra*, 223 Cal.App.4th at pp. 656-658.)

7. **Caltrans has failed to properly analyze the Project's impacts on biological resources.**

- Caltrans fails to provide mitigation measures for the Project's potentially significant adverse impacts on candidate, special status, and sensitive plant species. CEQA requires mitigation measures to reduce a Project's *potentially* significant impacts on the environment. (See, e.g., *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 732.) Here, Caltrans determines the Project “may affect, not likely to adversely affect” various candidate, special status, or sensitive species and their critical habitats, including, among others: (1) Braunton's Milk-vetch, (2) Thread-leaved Brodiaea, (3) Santa Ana sucker, (4) coastal California gnatcatcher, (5) Least Bell's Vireo, and (6) Southwestern Willow Flycatcher. Caltrans' determination that the Project “may affect” these species constitutes a finding that the Project will have potentially significant impacts on these species; mitigation is thus required. Yet, Caltrans does not propose mitigation measures to minimize these impacts. Rather, Caltrans sets forth unenforceable “measures” to minimize the Project's impacts, but Caltrans fails to explain how these measures will be implemented and fails to explain how these measures will actually mitigate the

Project's identified potentially significant impacts. (DSEIR/EIS, pp. 3.19-10 through 3.19-21, 4-49 through 4-56; Pub. Res. Code, § 21081.6; State CEQA Guidelines, § 15126.4; *Lotus, supra*, 223 Cal.App.4th at pp. 656-658.)

- Caltrans fails to mitigate impacts to coastal sage scrub outside of the NCCP/HCP Plan Area. Caltrans recognizes that the Project will adversely impact coastal sage scrub outside the Coastal Subregion Natural Community Conservation Plan/Habitat Conservation Plan/Habitat Conservation Plan ("NCCP/HCP") Plan Areas, but concludes that "[w]ith the implementation of Measures NC-1 through NC-6..., which address construction activities in and adjacent to coastal sage scrub, the Build Alternative would not result in substantial temporary impacts to coastal sage scrub habitat during construction." (DSEIR/EIS, pp. 3.15-55, 4-51.) Measures NC-1 through NC-6, however, suffer from the same defects that plague Caltrans' other measures, discussed above. The measures are not enforceable mitigation measures, and Caltrans fails to explain how implementation of the measures would mitigate the Project's impacts on coastal sage scrub outside the NCCP/HCP Plan Areas to a level of less than significant. (Pub. Res. Code, § 21081.6; see also *Lotus, supra*, 223 Cal.App.4th at p. 656.)

Moreover, Caltrans' contention that "[i]mpacts to non-NCCP/HCP areas within Caltrans right-of-way will be covered through mitigation measures in the new Biological Opinion for the Proposed Project" fails to comply with CEQA's informational requirements. In particular, Caltrans does not disclose the contents of "the new Biological Opinion" and does not explain what actual mitigation measures will be implemented to mitigate impacts to the coastal sage scrub and the species—like the California gnatcatcher—that depend on the coastal sage scrub. This constitutes an improper deferral of mitigation.

- Caltrans fails to mitigate impacts to coast live oak woodland. The DSEIR/EIS asserts that the Project "would temporarily impact 8 coast live oak and 15 sycamores and permanently impact 6 coast live oak trees." (DSEIR/EIS, p. 4-56, 3.15-57.) Again, Caltrans seeks to mitigate these impacts with unenforceable measures; at the very least, Caltrans fails to explain how the measures will be enforced. (Pub. Res. Code, § 21081.6; see also *Lotus, supra*, 223 Cal.App.4th at pp. 656-658.)
- Caltrans fails to properly analyze whether the Project will interfere with the movement of wildlife species. CEQA requires Caltrans to determine whether the Project would "interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites." (State CEQA Guidelines, Appendix G, Section IV [Biological Resources], subd. (d).) The DSEIR/EIS provides that the Project's construction activity around the Windy Ridge Wildlife Crossing "may cause animals to avoid this wildlife corridor." Despite this, the DSEIR/EIS concludes that "no substantial temporary impacts to wildlife corridors would occur during construction in that area" with the implementation of Measures

NC-9, NC-11, NC-13, and NC-14. The discussion is insufficient because Caltrans does not explain how these mitigation measures—or any of its mitigation measures—are enforceable. (Pub. Res. Code, § 21081.6; *Lotus, supra*, 223 Cal.App.4th at pp. 656-658.)

- Caltrans does not properly mitigate impacts to jurisdictional waters. The DSEIR/EIS provides that the Project would result in temporary and permanent impacts to certain waters. (DSEIR/EIS, pp. 3.16-10 through 3.16-15, 4-21.) Caltrans contends that these impacts would be less than significant with the implementation of Measures WET-1 through WET-3, which require a nationwide permit from the US Army Corps of Engineers, a Streambed Alteration Agreement from CDFW, and Section 401 Water Quality Certification from the Regional Water Quality Control Board (“RWQCB”). Caltrans fails to explain, however, what nexus exists between obtaining these permits and mitigating the identified impacts. Indeed, it is entirely unclear, based on the DSEIR/EIS, how obtaining these permits would reduce the identified impacts to a level of less than significant.

8. **Caltrans has failed to properly mitigate the Project's impacts on paleontological resources.**

- Caltrans recognizes that the Project may have a significant environmental impact on paleontological resources, but Caltrans defers mitigation of this impact. Deferral of mitigation is not permissible under CEQA. State CEQA Guidelines section 15126.4 provides:

Formulation of mitigation measures shall not be deferred until some future time. The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project's environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure.

(State CEQA Guidelines, § 15126.4.) Here, Caltrans improperly defers mitigation with Measure PAL-1, which provides that a Paleontological Mitigation Plan will be prepared in the future during “final design.” (DSEIR/EIS, p. 3.10-14.) Deferral of mitigation is impermissible. (State CEQA Guidelines, § 15126.4.) Thus, RCTC requests that Caltrans set forth the enforceable performance standards that will be included in such a plan.

9. Caltrans has failed to properly analyze the Project's impacts on cultural resources.

- Caltrans does not explain how Measures CR-1 and CR-2, if implemented, would reduce the Project's potential significant impacts on cultural resources. (See DSEIR/EIS, pp. 3.7-7 through 3.7-8, 4-24 through 4-25.) For example, Measure CR-1 provides: "If cultural materials are discovered during construction, all earthmoving activity within and around the immediate discovery area will be diverted until a qualified archaeologist can assess the nature and significance of the find. At that time, the Caltrans District 12 Environmental Branch Chief will be contacted to ensure that Section 106 compliance is maintained." (DSEIR/EIS, p. 3.7-8.) It is unclear how this would mitigate any impacts. What happens after the archaeologist assesses the nature and significance of the find? Does earthmoving activity commence after the archaeologist makes his or her assessment, regardless of what that assessment is? How does contacting the Environmental Branch Chief mitigate any potential impacts? How would compliance with Section 106 mitigate any potential impacts? Again, enforceable performance standards should be specified.
- Measures CR-1 and CR-2 do not address "preservation in place." (See DSEIR/EIS, pp. 3.7-7 through 3.7-8.) "Public agencies should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. The following factors shall be considered and discussed for a project involving such an archaeological site: (A) Preservation in place is the preferred manner of mitigating impacts to archaeological sites. ..." (See State CEQA Guidelines, § 15126.4(b)(3).) Caltrans, however, does not explain whether this is the preferred manner of mitigating, or how feasibility of preserving in place would be assessed.

10. Caltrans has failed to properly analyze the Project's impacts on geology and soils.

- Caltrans offers incomplete analysis regarding whether the Project could have a potentially significant impact due to its location on a geologic unit or soil that is unstable. CEQA requires Caltrans to analyze whether the Project would be "located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse." (State CEQA Guidelines, Appendix G, Section VI [Geology and Soils], subd. (c).) As an initial matter, Caltrans fails to properly analyze the Project's potential to result in any of these impacts, except for liquefaction. (DSEIR/EIS, p. 4-28.) Moreover, Caltrans notes that the Project is mapped as being within a "Liquefaction Zone of Required Investigation" by the California Division of Mines and Geology, that "potentially liquefiable layers are present within Santa Ana Canyon," and that "liquefaction potential in the Project Area is considered low-to-medium." (DEIS/EIR, p. 4-28.) Caltrans, however, stops its analysis here. It does not conclude that the Project will result in a significant environmental impact as a result, and it does not reach a contrary conclusion. Such an omission must be remedied.

- Caltrans fails to support its conclusions with facts and analysis. The DSEIR/EIS' discussion of geology and soils largely consists of conclusions unsupported by facts. For example, as to expansive soils, the DSEIR/EIS provides: "The soils within the Project Area can be somewhat expansive and compressible; however, hazards associated with compressible and expansive soils are considered low." (DSEIR, p. 3.9-11, 4-28.) Caltrans fails to explain the basis for this conclusion and conclusions like it throughout its discussion of geology and soils. (*Sierra Club, supra*, 6 Cal.5th at p. 522 ["To facilitate CEQA's information role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions"].)

11. Caltrans has failed to properly analyze the Project's hydrology and water quality impacts.

- Caltrans fails to properly analyze whether the Project will violate any water quality standards or waste discharge requirements. The DSEIR/EIS does not identify any water quality standards or waste discharge requirements and thus does not analyze whether the Project will violate any such standards or requirements. (See DSEIR/EIS, p. 4-32.)
- Caltrans fails to explain how its "measures" will mitigate potential impacts. Caltrans concludes (without analysis) that "[w]ith the implementation of Measures WQ-1 through WQ-5, impacts related to violation of water quality standards of waste discharge requirements would be less than significant, and no mitigation is required." (DSEIR/EIS, p. 4-33.) Caltrans, however, fails to explain how it will implement these measures. Moreover, these measures generally relate to compliance with various permits, but Caltrans does not explain how compliance with these permits will mitigate any of the Project's hydrology-related impacts. (DSEIR/EIS, p. 3.8-18 through 3.8-19.)
- Caltrans' reliance on unenforceable measures to mitigate impacts is improper. This comment applies to every instance throughout the DSEIR/EIS in which Caltrans relies on measures to mitigate impacts while simultaneously explaining that mitigation measures are not necessary. Caltrans routinely does this, and it is improper. (*Lotus, supra*, 223 Cal.App.4th at pp. 656-658.) The practice makes it difficult to understand whether a Project will have a significant impact or not. Moreover, Caltrans does not explain (i) how it will enforce the mitigation measures, (ii) what precise impacts a given measure seeks to mitigate, or (iii) how the mitigation measures actually address the impact at issue. More must be done.

12. Caltrans does not sufficiently analyze the Project's growth-inducing impacts.

- Caltrans does not support its conclusion that the Project would not result in growth-inducing impacts. The DSEIR/EIS concludes: "The improved travel times expected to be achieved as a result of the [Project] could have a slight influence on demand for residential and nonresidential uses in the Project Area or nearby cities; however, it

would not be expected to be sufficient to result in the need to modify adopted General Plans to allow for greater levels of development (residential and nonresidential).” There are at least four defects in this analysis. First, the DSEIR/EIS does not support its conclusion with any facts or any analysis. For example, the DSEIR/EIS does not attempt to actually determine the Project’s potential to result in an estimated increase in demand for residential and nonresidential uses in the Project Area or nearby cities; without such analysis, it is unclear on what basis Caltrans concludes that the Project would not result in growth-inducing impacts. Second, the DSEIR/EIS does not consider the Project’s potential to induce population growth in areas beyond the Project Area or nearby cities, but further along the SR-241. Third, the DSEIR/EIS uses an improper threshold of significance to determine whether the Project’s growth-inducing impacts would be significant—i.e., whether the Project’s growth-inducing impacts would result in the need to modify adopted General Plans to allow for greater levels of development. Fourth, Caltrans merely speculates that the Project would not result in such impacts. For all of these reasons, Caltrans’ speculative analysis of growth-inducing impacts fails to comply with CEQA.

13. Caltrans does not sufficiently analyze the Project’s impacts on tribal cultural resources.

- The DSEIR/EIS does not address tribal cultural resources as required by the State CEQA Guidelines. (See State CEQA Guidelines, Appendix G, Section XVII [Tribal Cultural Resources].) Caltrans omits this discussion entirely. To remedy this CEQA violation, Caltrans must analyze and discuss this issue in a revised DSEIR/EIS. After making the revision, Caltrans must recirculate the DSEIR/EIS.

14. Caltrans does not sufficiently analyze the Project’s impacts on utilities and service systems.

- Caltrans’ conclusion that there are sufficient water supplies to serve the Project is not supported by facts or analysis. The DSEIR/EIS concludes that the Project would have sufficient water supplies available to serve the project from existing entitlements or resources because “the demand for water during construction and operation of the Build Alternative would represent only a very small percentage of total demand for water in the area and would not exceed existing entitlements.” (DSEIR/EIS, 4-48.) Caltrans, however, does not specify (1) how much water the Project would require during construction; (2) how much water the Project would require during operation; (3) the amount of total water demand in the area; (4) the amount of total water available in the area; or (5) the extent of the existing entitlements. Rather, Caltrans concludes—without supporting facts and analysis—that sufficient water supplies are available to serve the project from existing entitlements. (See *Sierra Club*, *supra*, 6 Cal.5th at p. 522.)
- Caltrans’ conclusion that the Project will be served by a landfill with sufficient capacity is not supported by facts or analysis. Caltrans concludes that “[t]he amount

of waste materials generated during construction and operation of the [Project] that would be disposed of in landfills would represent only a very small percentage of the total amount of waste generated in the region and disposed of at the landfills." Again, this is a conclusion unsupported by facts or analysis. (See *Sierra Club, supra*, 6 Cal.5th at p. 522.) Notably, Caltrans fails to specify (1) the amount of waste materials that would be generated during construction and operation of the Project, and (2) the capacity of nearby landfills to handle that amount of waste. Absent this information, Caltrans' conclusion is based on speculation, not substantial evidence.

15. Caltrans fails to properly analyze the Project's cumulative impacts.

- The DSEIR/EIS improperly dismisses less than significant impacts as incapable of being cumulatively considerable. Caltrans concludes that the Project "does not have impacts that are individually limited but cumulatively considerable because the only project impacts that require mitigation are related to biological and paleontological resources." (DSEIR/EIS, p. 4-58.) Putting aside the fact that many of the Project's impacts appear to require mitigation as discussed above, Caltrans appears to fundamentally misunderstand the purpose of a cumulative impacts analysis. The purpose is not to determine whether *significant* impacts cumulatively would have a significant cumulative impact, but rather to determine whether *less than significant* impacts, when analyzed with impacts from other projects, could result in a significant impact. Caltrans apparently fails to engage in any such analysis because it dismisses all less than significant impacts from its cumulative impacts analysis. This is a patent violation of CEQA; revision and recirculation of the DSEIR/EIS are required.
- Caltrans' cumulative impacts analysis is fundamentally flawed because it does not discuss other projects. "The following elements are *necessary* to an adequate discussion of significant cumulative impacts: (1) either (A) a list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, (B) a summary of projects contained in an adopted local, regional, or statewide plan, or related document, that describes or evaluates conditions contributing to the cumulative effect." Here, Caltrans' cumulative impacts discussions lacks both of these elements, and further lacks all of the other necessary elements enumerated in State CEQA Guidelines section 15130. (DSEIR/EIS, p. 4-58.)

For all of the foregoing reasons, the DSEIR/EIS must be revised and recirculated so the public can understand the Project's true impacts.

REQUEST FOR NOTICES

RCTC also requests to be added to the notification and distribution lists for all CEQA-related notices for the Project, public meeting notices, and public meeting/hearing notices issued pursuant to state and local law, including CEQA, the Ralph M. Brown Act, and the Bagley-Keene Act. The satisfaction of this written request is required by CEQA (Public Resources Code,

precluded." (State CEQA Guidelines, § 15088.5.) Accordingly, RCTC requests that the DSEIR/EIS be recirculated for public review after Caltrans revises the DSEIR/EIS consistent with CEQA.

RCTC appreciates Caltrans' thoughtful consideration of these comments and concerns.

Sincerely,



Anne Mayer, Executive Director
Riverside County Transportation Commission

cc: Mike Beauchamp, CT District 8 Director
Ryan Chamberlain, CT District 12 Director
Darrell Johnson, OCTA CEO
Mike Kraman, TCA CEO
Michele Nissen, Interim Corona City Manager
George Johnson, Riv Co CEO



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CHIEF EXECUTIVE OFFICE

Darrell E. Johnson
Chief Executive Officer

April 23, 2019

Ms. Smita Deshpande
Generalist Branch Chief
Caltrans-District 12, "Attn: 241-91 DSEIR/EIS Comment Period"
1750 East Fourth Street, Suite 100
Santa Ana, CA 92705

Subject: Follow-up to Draft Supplemental Environmental Impact Report/Environmental Impact Statement (SCH. 1989010410) Comments for the State Route 241/91 Tolled Express Lanes Connector Project (Project No. 1200020097)

Dear Ms. Deshpande:

This letter is a follow-up to the Orange County Transportation Authority (OCTA) January 2017 comments on the Draft Supplemental Environmental Impact Report/Environmental Impact Statement (DSEIR/S) for the State Route 241/91 Tolled Express Lanes Connector Project (Project). While the California Department of Transportation (Caltrans) is the lead agency in accordance to the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA [through NEPA assignment]), the Transportation Corridor Agencies (TCA) is the sponsoring agency for the Project. OCTA applauds Caltrans' intent to adhere to the CEQA/NEPA processes to afford the public an opportunity to provide input on the Project. As a public agency, OCTA believes in the importance of disclosing the benefits/impacts of projects to facilitate meaningful public input.

TCA has been working extensively with OCTA to provide additional traffic information for a better understanding of the potential impacts to the 91 Express Lanes and the general-purpose lanes. TCA conducted additional analyses related to traffic operations on the Project and included information that was not previously available or known at the time of the public review of the DSEIR/S. This included multiple iterations of the traffic analysis and a traffic operations model, rather than a traffic demand model that was originally used to support the Project. In addition, the Riverside County Transportation Commission began operations on its 91 Express Lanes in spring 2017 that changed the landscape of traffic patterns on the State Route 91 (SR-91) corridor. Finally, the Project's base year has been updated to 2018, from 2013[DP1] in the DSEIR/S. The opening year and no-build year were updated to 2025,[DP2] from 2020 in the DSEIR/S. In December 2018, TCA provided OCTA with the *SR-241/SR-91 Tolled Express Lanes Connector DRAFT Traffic Analysis for Response to Comments on the SR-241/SR-91 Express Lanes Connector Draft Supplemental EIR/EIS* (dated December 20, 2018).

Ms. Smita Deshpande
April 23, 2019
Page 2

OCTA believes the updated traffic analysis could materially change the outcome of the analysis in the DSEIR/S. Therefore, for the reasons stated, we believe it is in the best interest of Caltrans to recirculate the DSEIR/S to allow the public an opportunity to review the updated information. Given the SR-91 freeway is a major east-west corridor that traverses through several counties, OCTA believes Caltrans has the responsibility to update the traffic information in the DSEIR/S accordingly, which will allow the public to fully vet the Project. Caltrans, as the lead agency, has the discretion to certify the final SEIR/S. However, that decision should not be taken lightly, or without careful consideration, to afford the public to review the new information.

In addition, Caltrans has yet to provide responses to numerous comments/concerns raised in the January 2017 comment letter on the DSEIR/S (Attachment). CEQA technically allows the lead agency to provide written responses to public agencies who had commented on a draft document no less than ten days prior to certifying an environmental impact report. However, given the magnitude of the potential impacts to the traveling public in the general-purpose lanes and 91 Express Lanes alike, we believe Caltrans needs to engage OCTA in resolving its concerns prior to recirculating the DEIR/S and ultimately certifying the final environmental impact report.

In summary, Caltrans should work closely with OCTA to address input from the January 2017 comment letter on the DSEIR/S. Caltrans must recirculate the DSEIR/S in light of significant new information that has been presented since the 2016 public circulation of the DSEIR/S. As the agency which acquired the 91 Express Lanes from the California Private Transportation Company to eliminate the non-compete clause on the SR-91 corridor, OCTA has the responsibility to protect the users of the 91 Express Lanes and general-purpose lanes from being negatively impacted by the Project. Furthermore, OCTA is considered a responsible agency under CEQA for the Project since any connection to the 91 Express Lanes would require approval from OCTA.

If you wish to discuss the concerns discussed herein, feel free to contact me at (714) 560-5907 or at dphu@octa.net.

Sincerely,



Dan Phu
Environmental Programs Manager

Attachment

c: Valarie McFall, TCA



AFFILIATED AGENCIES

Orange County
Transit DistrictLocal Transportation
AuthorityService Authority for
Freeway EmergenciesConsolidated Transportation
Service AgencyCongestion Management
AgencyService Authority for
Abandoned Vehicles

January 9, 2017

Ms. Smita Deshpande
Generalist Branch Chief
Caltrans-District 12, "Attn: 241-91 DSEIR/EIS Comment Period"
1750 East Fourth Street, Suite 100
Santa Ana, CA 92705

Subject: Draft Supplemental Environmental Impact Report/Environmental
Impact Statement (SCH. 1989010410) for the State Route
241/State Route 91 Tolloed Express Lanes Connector Project
(Project No. 1200020097)

Dear Ms. Deshpande: *Smita*

Thank you for providing the Orange County Transportation Authority (OCTA) with the Draft Supplemental Environmental Impact Report/Environmental Impact Statement (DSEIR/S) for the State Route 241/State Route 91 Tolloed Express Lanes Connector Project (Project). The following comments are provided for your consideration:

- On page 2-23, Section 2.2.1.2 'Permanent Project Features,' subsection 'TSM/TDM' the proposed Project is stated "to have dynamic traffic technology (toll pricing based on express lanes demand)." The analysis in the DSEIR/S did not address tolling and potential economic implications. OCTA recommends further analysis on tolling under applicable environmental factors analysis.
- On Page 5-3, Table 5.1 'Comments Received During Scoping,' states "Toll operations are being coordinated between F/ETCA, OCTA, and RCTC and are evaluated in a separate Concept of Operations report." OCTA recommends including this throughout the DSEIR/S, as applicable.
- The opening year analysis should be redone to reflect the actual opening year of 2020 rather than 2017. While Section 3.5.3.2 provides an explanation that the differences in traffic operations are nominal between 2017 and 2020, given the SR-91 Corridor Improvement Project (CIP) is scheduled to open in 2017, a thorough 2020 analysis would be appropriate.

OCTA has not been provided any information related to economic implications resulting from the Project.

OCTA has not received a response to this comment.

Opening year has been updated to reflect 2025 per the latest traffic analysis provide by TCA.

Orange County Transportation Authority
550 South Main Street / P.O. Box 14184 / Orange / California 92663-1584 / (714) 560-OCTA (6282)

Ms. Deshpande
January 9, 2017
Page 2

- Given the complex nature of having multiple tolled facilities operated by different agencies, OCTA suggests that the analysis in the environmental document be updated to include traffic volume data anticipated to be available in Spring 2017 with the opening of the CIP. This would help refine the existing, opening year, and 2040 conditions analysis (throughput, speeds, and travel time).
- It appears that the environmental document had not analyzed weaving impacts along the SR-91 at the confluence of the SR-241 Express Connector merge/diverge, the OCTA 91 Express Lanes, and the RCTC 91 Express Lanes. Therefore, a more detailed weaving analysis would be appropriate.
- It appears that the complex nature of the multiple tolling options (including dynamic pricing) for the SR-241, the SR-241 Express Connector, the OCTA 91 Express Lanes, and the RCTC 91 Express Lanes are not adequately discussed with respect to the traffic impacts. These should be explored in detail.
- OCTA understands that there are complementary concept of operations studies (con-ops) underway. Some of the appropriate results from the con-ops studies should be integrated into this environmental document.
- It appears there needs to be a more thorough analysis of the construction impacts on the OCTA 91 Express Lanes, including traffic impacts, toll and revenue implications.

Thank you for providing OCTA the opportunity to review this item. Throughout the development of this proposed project, we encourage continued communication with OCTA on the matters discussed herein. If you have any questions or comments, please contact me by phone at (714) 560-5907 or by email at dphu@octa.net.

Sincerely,



Dan Phu
Environmental Programs Manager

c: Valarie McFall, TCA

Requested information has been updated. However, it was done through multiple iterations and in a traffic operations model, rather than a traffic demand model. OCTA requests an updated traffic demand model.

Current and future weave movements were provided. However, a separate, standard Highway Capacity Manual weaving analysis is requested. Future weave movements should be further updated to show a more intuitive analysis.

OCTA has not received a response to this comment.

OCTA has not received a response to this comment.

OCTA has not received a response to this comment.