



San Francisco  
Water Power Sewer  
Operator of the Hetch Hetchy Regional Water System

**SAN FRANCISCO  
PLANNING DEPARTMENT**

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June 1, 2017

MTC Public Information  
Re: Plan Bay Area 2040 Public Comment  
375 Beale Street, Suite 800  
San Francisco, CA, 94105  
eircomments@mtc.ca.gov

**Subject: Draft Plan Bay Area 2040 Draft EIR, April, 2017; State Clearinghouse No. 2016052041**

To Whom It May Concern:

Over the past few years, the City and County of San Francisco has been involved in providing input to the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) on Plan Bay Area 2040 (Plan). The Draft Plan Bay Area 2040 and Draft EIR were published in April 2017. The San Francisco Planning Department and Public Utilities Commission (SFPUC) has reviewed these documents and we appreciate the opportunity to provide the following comments.

The San Francisco Planning Department is the Lead Agency responsible for implementing the California Environmental Quality Act (CEQA) within San Francisco. Several provisions of CEQA (Public Resources Code Sections 21000 *et seq.*) and the CEQA Guidelines (Cal. Code Regs. Sections 15000 *et seq.*) provide for streamlining the CEQA process when considering a specific project consistent with a previously approved land use plan for which an EIR or negative declaration was certified or adopted. We have particular experience in applying one of these streamlining processes in an area with an approved community plan or zoning plan, codified in CEQA Section 21083.3 and CEQA Guidelines Section 15183. (See also CEQA Sections 21081.2, 21094, 21159.20-21159.24, 21159.28.) Based on this experience, we offer the following comments, which are intended to provide greater clarity to lead agencies seeking to streamline the environmental review process for approval of individual projects by relying on the Plan EIR.

1. *Significance of impacts after Mitigation.* Throughout the Draft EIR, the analysis finds that if a project adopts and implements identified mitigation measures, the impact would be less than significant with mitigation. In our experience, it is important that the EIR adequately support whether each mitigation measure would ensure that impacts would be mitigated to below significance levels. Alternatively, the EIR would need to satisfy CEQA's requirement to identify significant and unavoidable impacts even with implementation of mitigation. We suggest you review the EIR to clarify, as necessary, the supporting basis for concluding that any impact would be less than significant with mitigation.
2. *Transportation – Future reliance on the Plan for analyzing the significance of transportation impacts in land use plans.*

On page 2.1-19, the Draft EIR provides the significance criteria related to vehicles miles traveled (VMT) and defines a significant increase in VMT per capita of 5 percent.

The Office of Planning and Research (OPR) released a draft proposal for changes to the CEQA Guidelines on January 20, 2016. This document provides guidance on analyzing transportation impacts. It states that

vehicles miles traveled (VMT) is generally the most appropriate measure of transportation impacts. The guidance does not address how regional plans such as the Plan should evaluate transportation impacts, but as the Draft EIR uses significance criteria that considers VMT, the criterion appears consistent with the guidance. Our concern, however, is that it is unclear whether the Plan could be relied upon in the future for determining whether new land use plans have significant transportation impacts.

While the guidance primarily focuses on analyzing the transportation impacts of specific development proposals, the guidance also addresses the evaluation of land use plans. For individual projects, it finds that per capita or per employee VMT 15 percent below that of existing development is both reasonably ambitious and generally achievable and recommends this criterion for determining the significance of transportation impacts. For evaluating land use plans, such as specific plans or general plans, the guidance states that such plans might be considered to have a less than significant effect at the plan level if they are consistent with an adopted sustainable community strategy. The Plan does not include a VMT goal. Without a stated VMT goal, it is unclear how land use plans in the region would be evaluated based on the OPR proposed Guidelines. We urge the inclusion of a clear VMT goal in the Plan to enable local lead agencies preparing land use plans in the future to evaluate those plans for consistency with the Plan's VMT goal.

On page 2.1-32, it is recommended to revise Mitigation Measure 2.1-3-3(a) as follows (additions in underline):

“MTC, in its role as a funding agency, and implementing agencies shall support the advancement of corridor-level plans and implementation of projects that prioritize person throughput located on severely congested (LOS F) facilities.”

Furthermore, to assist with mitigating regional VMT impacts given that transportation demand management will not reduce impacts sufficiently in many locations, we recommend that the EIR include an additional mitigation measure such as a regional VMT fee on residential and commercial development based on the project's geographic location, square footage, and projected VMT. The fee should apply in high VMT settings. In those settings where the fee would apply, the expenditure program should go towards supporting multimodal transportation improvements in the region. The fee could be implemented by the Bay Area Air Quality Management District as part of an indirect source rule and could serve as a feasible mitigation measure for development projects.

Moreover, it is recommended that the EIR provide maps and data to indicate VMT for different land use types throughout the transportation analysis zones (TAZs) in the region. The EIR should also provide comparisons of these VMTs to the regional averages. Jurisdictions can then use these maps and associated data for implementing Senate Bill 743 provisions (which the OPR Guidance cited above address).

3. *Air Quality*. CEQA Section 21155.1 provides for an exemption from CEQA for transit priority projects that meet specified requirements and are consistent with a sustainable community strategy such as the proposed Plan. The specific requirements for an exemption for a Transit Priority Project under CEQA Section 21155.1 do not include consideration of the project being located in an area with higher levels of toxic air contaminants (TACs) or PM<sub>2.5</sub>, but it does require that mitigation measures from a prior EIR be incorporated into the project. In the *California Building Industry Association (CBIA) v. Bay Area Air Quality Management District (BAAQMD)* case decided in 2015,<sup>1</sup> the California Supreme Court held that CEQA does not generally require lead agencies to consider how existing environmental conditions might impact a project's occupants, except where the project would exacerbate an existing environmental condition. Impact 2.2-6 finds that the Plan would result in an increase in PM<sub>2.5</sub> levels and finds this impact to be significant. Mitigation Measure

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<sup>1</sup> *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal.4th 369. Opinion Filed December 17, 2015.

2.2-5a on page 2.2-53 identifies mitigation for this impact, requiring certain actions whenever a project is located in TAC risk areas. We recommend you clarify the mitigation measure to limit its application to those areas where PM<sub>2.5</sub> impacts would increase as a result of the Plan. For areas where the Plan would not increase localized health risks (TACs or PM<sub>2.5</sub> concentrations) because the Plan would not exacerbate the existing environmental condition with respect to TACs, CEQA would not require mitigation. The Planning Department agrees that as a policy matter, it is undesirable to site new sensitive land uses in TAC risk areas that do not implement the measures identified in Mitigation Measure 2.2-5a, but rather than through CEQA mitigation measures, we suggest that the Plan include policies and recommendations to work with local agencies to develop regulations similar to San Francisco's Health Code Article 38. These code provisions require high efficiency ventilations systems designed to remove fine particulate matter for sensitive use projects located in areas with poor air quality. Furthermore, it is recommended that text on page 2.2-54 be modified to state that this mitigation measure only applies in areas where the Plan would increase local health risks, as analyzed under Impact 2.2-6.

In addition, on page 2.2-55, Table 2.2-15, *Percent Change in On-Road Mobile Source Exhaust Emissions, Years 2015 - 2040* is missing information for San Francisco's CARE community.

4. *Climate Change and Greenhouse Gases.* On page 2.5-42, Impact 2.5-3 assumes that Senate Bill 32 requires a 40% reduction in greenhouse gas (GHG) emissions for all GHG sectors equally. In actuality, and as with the Scoping Plan, each sector may need to meet lower or higher targets in order for the State to achieve the 40 percent GHG reduction goal. As shown on page 2.5-43, the Renewable Portfolio Standard (RPS) requires utilities to provide 50 percent of their electricity from renewable sources by 2030. Applying a 40 percent reduction target by 2030 for a project or plan may not be consistent with the intent of Senate Bill 32.

Similar to the discussion in Air Quality above, Impacts 2.5-5 and 2.5-6 address the impacts of placing transportation facilities and new development in areas subjected to future sea level rise. However, the Plan, including subsequent development that could tier off or streamline CEQA review using the Plan Bay Area EIR would not exacerbate sea level rise. The Plan would reduce GHG emissions below existing baseline conditions on a per capita basis and thus, the Plan would not exacerbate the potential for sea level rise. Although mitigation measures requiring subsequent transportation or land use projects under the Plan to account for sea level rise and incorporate sea level rise adaptation strategies are important considerations, they have a questionable nexus as CEQA mitigation requirements. The Planning Department suggests that these measures not be characterized as CEQA mitigation measures, but improvement measures or policy recommendations in the Plan that project sponsors of subsequent development projects are encouraged to implement, but are not required to implement to satisfy CEQA requirements.

5. *Noise.* On page 2.6-17, Criteria 2 and 3 identify a significance standard for noise that calls for determining whether the Plan would increase noise by 1.5 dBA in areas where the applicable noise thresholds are already exceeded and 3 dBA in all other areas. A noise level increase of less than 5 dBA is not reliably "perceptible" in outdoor environments and thus, a 5 dBA increase is an appropriate standard in areas where the existing noise environment is satisfactory. A 3 dBA noise level increase is "barely perceptible" in outdoor environments and thus, an appropriate standard in a degraded noise environment. In our view, a 1.5 dBA noise level increase is not perceptible in outdoor environments and thus not an appropriate threshold to base significant environmental impacts.
6. *Cultural Resources.* On page 2.11-35, we recommend an addition to Mitigation Measure 2.11-5 to address the preservation of the resources in place (in-situ). This measure could be augmented by requiring an archeological resource preservation plan (ARPP) produced in coordination with affiliated Native American

tribal representatives and approved by the applicable jurisdiction. The ARPP plan could be required to guide an interpretive program, identify proposed locations for installations or displays, the proposed content and materials of those displays or installation, the producers or artists of the displays or installation, and a long-term maintenance program. The ARPP program could include artist installations, preferably by local Native American artists, oral histories with local Native Americans, artifacts displays and interpretation, and educational panels or other informational displays.

7. *Section 2.8, Water Resources.* On page 2.8-16, we recommend that the Regional and Local Regulations setting describe Water Quality Control Plans. These plans are relevant, particularly the San Francisco Bay-Sacramento/San Joaquin Delta Estuary (Bay-Delta Plan). Changes are currently being proposed by the State Water Resources Control Board (SWRCB) that would decrease the amount of water that the SFPUC could withdraw from the Tuolumne River and thus supply to its retail and wholesale service areas in the Bay Area.

Additionally, on page 2.8-22, paragraph 2, please clarify whether the Draft EIR correctly refers to the California Groundwater Management Act or if it should refer to the Sustainable Groundwater Management Act (SGMA). The SGMA is introduced on page 2.8-12 in the Water Resources section, whereas the California Groundwater Management Act is introduced on page 2.12-23 in the Public Utilities and Facilities section. There are several instances in the Draft EIR where the Groundwater Management Act is referenced alongside Executive Order B-29-15 (page 2.8-22 and in Section 3.1). If the statement on page 2.8-22 is correctly referring to the California Groundwater Management Act, please introduce the California Groundwater Management Act in the Section 2.8 regulatory setting. If the statement should be referring to SGMA, please replace "Groundwater Management Act" with "SGMA". Please also review the text in Section 3.1 where the Groundwater Management Act is also discussed.

8. *Section 2.12, Public Utilities and Facilities.* On page 2.12-4, paragraph 5, the primary water source for San Mateo County is not the SFPUC's Peninsula System. The primary source is the SFPUC's Regional Water System (RWS), which combines supply from Hetch Hetchy with supplies from local Alameda and Peninsula watersheds. The following revision is suggested: "The primary water source for San Mateo County is the RWS Peninsula System. In addition to supplies from Hetch Hetchy, the system utilizes two reservoirs in San Mateo County, Crystal Springs and San Andreas, which collect runoff from the San Mateo Creek Watershed. Crystal Springs Reservoir also receives water from the Hetch Hetchy System. Water from the Pilarcitos Reservoir, on Pilarcitos Creek, directly serves one of the wholesale customers, the Coastside County Water District (which serves Half Moon Bay, Miramar, Princeton By The Sea, and El Granada), and can also deliver water to Crystal Springs and San Andreas Reservoirs. San Mateo County Wholesale customers of the SFPUC Peninsula System include: the cities of Brisbane, Burlingame, Daly City, East Palo Alto, Menlo Park, Millbrae, San Bruno, Redwood City, the Town of Hillsborough, the Coastside County Water District, the Cordilleras Mutual Water Association, the Estero Municipal Improvement District, the Guadalupe Valley Municipal Improvement District, the Mid-Peninsula Water District, and the North Coast County Water District, and the Westborough Water District. The SFPUC also serves the California Water Service Company Bear Gulch and Bayshore Districts."

On page 2.12-4, paragraph 6 through page 2.12-5, paragraph 1, the description the Santa Clara Valley Water District (SCVWD) should note that SCVWD's and SFPUC's wholesale service areas overlap. The City of Palo Alto and Purissima Hills Water District are not the only agencies with supplies that are mostly from SFPUC. The following text from SCVWD's 2015 Urban Water Management Plan (UWMP), page 6-7, could be adapted for use in the Draft EIR: "Eight retailers in the county have contracts with the San Francisco Public Utilities Commission (SFPUC) to receive water from the SFPUC Regional Water System. The eight retailers, considered to be wholesale customers of SFPUC, are the cities of Palo Alto, Mountain View, Sunnyvale, Santa Clara, San José, and Milpitas; Purissima Hills Water District; and Stanford University. The District

does not control or administer SFPUC supplies in the county, but the supply reduces the demands on District sources of supply."

On page 2.12-7, paragraphs 6 – 7, the description of the Bay Area Regional Desalination Project is outdated ("The five largest water agencies in the Bay Area [...] each agency's changing water supply and demand picture through 2030 (BARDP 2016).") Please replace text with the following, possibly under a heading other than "Desalination": "Eight water agencies in the Bay Area (ACWD, BAWSCA, CCWD, EBMUD, MMWD, SFPUC, SCVWD and Zone 7 Water Agency) are working together to investigate opportunities for collaboration. The purpose of this planning effort, known as Bay Area Regional Reliability (BARR), is to identify projects and processes to enhance water supply reliability across the region, leverage existing infrastructure investments, facilitate water transfers during critical shortages, and improve climate change resiliency. Projects to be considered will include interagency interties and pipelines; treatment plant improvements and expansion; groundwater management and recharge; potable reuse; desalination; and water transfers. While no specific capacity or supply has been identified, this program may result in the addition of future supplies that would benefit Bay Area customers."

On page 2.12-9, paragraph 2, any reference to the California Urban Water Conservation Council should note that as of January 1, 2017, the California Urban Water Conservation Council has become the California Water Efficiency Partnership. This organization is currently in transition and is being reshaped. It may be moving away from BMPs. For more information, see its web site or factsheet at: [https://www.cuwcc.org/Portals/0/CalWEP%20Fact%20Sht%201\\_033117\\_03.pdf?ver=2017-04-12-125941-540](https://www.cuwcc.org/Portals/0/CalWEP%20Fact%20Sht%201_033117_03.pdf?ver=2017-04-12-125941-540).

On page 2.12-13, paragraph 2, please consider revising the first sentence so that it reads "... SWRCB adopted a an emergency water conservation regulation..."

On page 2.12-13, paragraph 3, at the end of or after the third paragraph, please add a description of the Governor's and SWRCB's actions in April 2017 to lift the drought emergency and related emergency conservation regulation. Key information is available in this SWRCB press release: [http://www.waterboards.ca.gov/press\\_room/press\\_releases/2017/pr042617\\_regulation\\_repeal.pdf](http://www.waterboards.ca.gov/press_room/press_releases/2017/pr042617_regulation_repeal.pdf)

On page 2.12-23, paragraph 3, the description of the Water Conservation Act of 2009 should note that new water use efficiency targets that go beyond those established under this Act will be developed as part of a long-term conservation framework for urban water agencies per Executive Order B-37-16. Executive Order B-37-16 should be introduced somewhere in this regulatory setting.

On page 2.12-25, paragraph 4, the Model Water Efficient Landscape Ordinance (MWELo) description should note a local agency may adopt a local ordinance that is at least as effective in conserving water as MWELo.

On page 2.12-25, paragraph 6, the description of Executive Order B-29-15 should be updated or expanded to reflect Executive Order B-37-16 issued on May 9, 2016, which sets forth numerous directives aimed at long-term water use efficiency.

On page 2.12-28, paragraph 1, future water supply challenges are associated not only with climate change-related periods of drought, but also regulatory actions. Future actions affecting the SFPUC's water supply and demand are described in Section 7.7 of the SFPUC 2015 UWMP. In addition, as noted in an earlier comment, changes to the Bay-Delta Plan that are currently proposed by the SWRCB would decrease the SFPUC's supplies from the Tuolumne River. Water supply availability can also be limited by institutional factors and contractual obligations (e.g., water transfer agreements, wholesale contracts).

On page 2.12-28, Table 2.12-17, the table notes should be numbered to correspond to the superscripted numbers in the table.

On page 2.12-29, paragraph 1, Mitigation Measure 2.12-1(a) states that measures shall be implemented based on project- and site-specific considerations. Many of the considerations in the bullet list are already required by either state and or local law and thus will not result in additional mitigation (e.g., State's MWEL0; California Plumbing Code; San Francisco's ordinances related to green building, water efficiency, recycled water, and non-potable water). We suggest you clarify that state and local laws addressing these considerations already exist, but for locations or scenarios where state and local laws are not applicable, the considerations in the bullet list should be made.

9. *Section 3.1, Alternatives to the Proposed Plan.* On page 3.1-11, Table 3.1-7, please specify the unit of measure for the footprint area.

On page 3.1-65, paragraph 5; page 3.1-67, paragraph 2; page 3.1-68, paragraph 4; and page 3.1-69, paragraph 6, Table 3.1-7, please see the earlier comment on *Section 2.8, Water Resources* regarding clarification of the Groundwater Management Act vs. SGMA.

On page 3.1-81, paragraph 9 and page 3.1-82, paragraphs 1 and 7, we find the following statement problematic: "However, the land use growth footprint is greater [...], which would result in a less efficient water supply system (e.g., greater areas of irrigated landscaping)." It implies that existing landscaping irrigation systems are less efficient than water systems in new construction, and that by replacing existing landscapes with new construction, water supply systems would be more efficient. It also implies that new growth would directly replace irrigated landscapes, which may not be the case if growth occurs in currently vacant areas or wildlands that are not irrigated. It does not acknowledge that the volumetric demand could increase depending on the nature of new construction (e.g., 10-story apartment building vs. open space). It also appears speculative and disregards the value of landscaping and vegetation to communities. If this statement is trying to say that there would be more suburban sprawl under the No Project Alternative, resulting in less density and less efficient use of water, it needs to be revised to make this point clear.

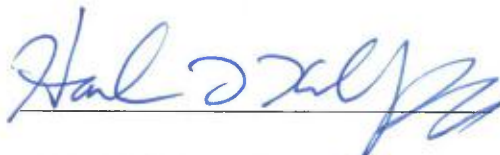
On page 3.1-82, paragraphs 3 and 5, please clarify the following sentence: "However, the land use growth footprint is smaller under the [...] Alternative than under the proposed Plan, which would result in a more efficient water supply system (e.g., greater areas of irrigated landscaping)." Should the term "greater areas" read "less area"? Please see previous comment regarding problematic nature of this argument and suggestion to revise it for clarity.

10. *Section 3.2.4, Other CEQA Considerations – Cumulative Impacts.* On page 3.2-16, paragraph 5, the Public Utilities and Facilities cumulative impacts analysis should acknowledge that regulatory actions could also affect supplies and demands. For example, as noted in an earlier comment, changes to the Bay-Delta Plan that are currently proposed by the SWRCB would decrease the SFPUC's supplies from the Tuolumne River, affecting the availability of water in the Bay Area. Water supply availability can also be limited by institutional factors and contractual obligations (e.g., water transfer agreements, wholesale contracts).

Thank you for the opportunity to provide comments on the Plan Bay Area 2040 Draft EIR. Please do not hesitate to contact Alesia Hsiao of the Planning Department (Alesia.Hsiao@sfgov.org) if you have any questions.



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