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*Via email*

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Re: *Sierra Club Comments on Plan Bay Area 2040 and its Draft  
Environmental Impact Report*

To whom it may concern:

On behalf of the Loma Prieta, Redwood, and San Francisco Bay Chapters of the Sierra Club and their more than 62,000 members in the nine-county San Francisco Bay Area Region, Earthjustice submits these comments on Plan Bay Area 2040 (PBA 2040 or “the Plan”) and its Draft Environmental Impact Report (DEIR).

At a time when the Bay Area’s transit agencies, such as BART and MUNI, are bursting at the seams, the streets and highways are clogged with cars, the cost of housing is skyrocketing and residents are seeing the value of their income shrink or in many instances are forced to move away, MTC and ABAG propose to spend \$303 billion dollars on a plan that does little to change the driving-centric status quo. Among other things, the Plan includes investments in 460 miles of freeway expansion projects, an eight percent increase.<sup>1</sup>

Rather than developing a “Sustainable Communities Strategy” (SCS) that reforms the transportation infrastructure of the Bay Area and decreases the region’s reliance on carbon-intensive modes of transit, the Plan continues to rely on automobiles as a mode of transit and even expands highways. In 2040, weekday bicycling trips decrease by .1 percent per mode share, walking stays the same and transit trips increase by only .5 percent per mode share.<sup>2</sup>

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<sup>1</sup> DEIR, p. 2.1–22, Table 2.1-12.

<sup>2</sup> DEIR, p. 2.1-26, Table 2.1-15 (fn. omitted).

The Plan lacks sufficient expenditures for walkable communities, and the funding for transit service, which is already suffering the strains of overcrowding, fails to accommodate projected new ridership. Further, the Plan fails to prevent displacement of vulnerable families, which creates likely undesirable outcomes of increased traffic, congestion, and sprawl. By 2040, the combined cost of housing and transportation for lower-income households will increase from 54 percent to 67 percent.<sup>3</sup>

It's disappointing that this second round of Plan Bay Area represents only a minor update to the Plan Bay Area adopted in 2013. Sierra Club had hoped that the outcomes of the first Plan Bay Area would serve as a "beta version" and that lessons learned from the first round would be incorporated into a more aggressive successor. It would have been beneficial to the public and decisionmakers for MTC and ABAG to present a comprehensive analysis of what PBA 2013 actually accomplished, what trends are observed leading toward reductions in greenhouse gases (GHGs) and vehicle miles traveled (VMT), and what steps or policies have been determined to be counter-productive, and why. Avoiding this crucial information in the current update merely guarantees limited improvements in building and moving a better Bay Area.

The Plan establishes thirteen "performance targets" that are intended "to measure Plan Bay Area 2040's effectiveness in addressing the major challenges facing the region."<sup>4</sup> Eight of these targets will not meet the goals of PBA 2040.

Sierra Club urges that the draft plan be revised to prevent displacement, to steadily reduce automobile travel, and to substantially reduce greenhouse gas emissions from the transportation sector. It is unlikely that such a revision can be done within the projected schedule. However, rather than adopting a Plan for the next four years that would make it more difficult to achieve the 2035 greenhouse gas reduction targets, it is preferable to begin exploring and addressing these issues immediately.

Under the California Environmental Quality Act (CEQA), a major purpose of the DEIR is to "inform decision-makers, responsible and trustee agencies, and members of the public as to the range of the environmental impacts of the Plan."<sup>5</sup> For the reasons in this letter, Sierra Club believes that the DEIR fails in this mission.

## **1. The Plan Must Comply with CEQA and SB 375.**

CEQA requires the EIR to provide full and accurate information about the ability of the Plan Bay Area to achieve the greenhouse gas reductions targeted by the Plan, as well as to consider alternatives which might provide a better means of attaining those objectives. (Cal. Pub. Res. §§21000-21002.)

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<sup>3</sup> Plan Bay Area 2040 Equity Analysis, p. 5-3; see also p. 5-2, Table 5-1 (lower-income households earn less than \$60,000 a year).

<sup>4</sup> PBA 2040, p. 26.

<sup>5</sup> DEIR, p. ES-2.

CEQA was intended to promote California's policy to "[d]evelop and maintain a high-quality environment now and in the future, and take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state."<sup>6</sup> CEQA must "be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language."<sup>7</sup> Among the goals of CEQA are to "inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities," and to "identify ways that environmental damage can be avoided or significantly reduced."<sup>8</sup>

The EIR is "the heart of CEQA," and functions as an "environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return."<sup>9</sup> Furthermore, "it is a document of accountability," which provides the public with a basis for understanding the decision-making process of public agencies.<sup>10</sup>

To that end, the EIR must contain a statement of "all significant effects on the environment of the proposed project," as well as statements relating to unavoidable and/or irreversible effects, mitigation measures to minimize impacts on the environment, alternatives to the proposed project, and the "growth-inducing impact" of the proposed project.<sup>11</sup> It must contain 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."<sup>12</sup>

According to the DEIR, "[t]he Sustainable Communities and Climate Protection Act of 2008, commonly known as Senate Bill 375 (SB 375 Steinberg, 2008), requires California's 18 metropolitan planning organizations (including MTC) to develop an SCS as an element of the federally mandated RTP ["Regional Transportation Plan"]. The SCS demonstrates [or is supposed to demonstrate] how the region will meet its greenhouse gas (GHG) reduction targets established by the California Air Resources Board (ARB) through integrated land use, housing and transportation planning. In the Bay Area, MTC and ABAG are jointly responsible for this planning effort."<sup>13</sup>

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<sup>6</sup> Cal. Pub. Res. §21001(a).

<sup>7</sup> *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal. 3d 376, 390 (quoting *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259).

<sup>8</sup> 14 C.C.R. §15002(a)(1) and (2).

<sup>9</sup> *Laurel Heights*, 47 Cal. 3d at 392 (internal citations omitted).

<sup>10</sup> *Id.*

<sup>11</sup> Cal. Pub. Res § 21100(b)(1); 14 C.C.R. §§15120-15132.

<sup>12</sup> CEQA Guidelines, §15151.

<sup>13</sup> DEIR, p. ES-2.

## 2. The Plan Fails to Provide Substantial Evidence to Support the Projected Greenhouse Gas Emissions Reductions from Plan Bay Area.

The DEIR claims that the Plan meets SB 375’s GHG reduction mandates, but a close examination of the DEIR reveals a different story. Rather than develop an integrated land use and transportation plan to reduce greenhouse gas emissions,<sup>14</sup> the Plan proposes transportation policies, “Climate Policy Initiatives,” that generally attempt to reduce greenhouse gases without fundamentally changing land use or driving patterns. In fact, VMT continue to increase during the Plan. “[B]etween 2015 and 2040, the Bay Area is projected to add about 1.9 million people (a 26 percent increase) and 688,000 jobs (a 17 percent increase). Based on expected future growth, the total vehicles miles traveled would increase by 21 percent, which means that VMT is projected to grow at a slightly slower rate than population, but at a faster rate than jobs in the region.”<sup>15</sup>

MTC projects that its Climate Initiative Programs will reduce fewer GHGs in 2040 than it does in 2035.<sup>16</sup> The corresponding projected increase of GHGs from 2035 to 2040 indicates that the Plan fails to fundamentally integrate land use and transportation policy because an integrated plan would result in continued downward projection of GHG emissions.

Consistent with this failure, projections for transit, bicycling and walking barely change if at all under the Plan. This mode share chart from the DEIR reveals Plan Bay Area’s failure to fundamentally change Bay Area transportation:<sup>17</sup>

**Table 2.1-15 Typical Weekday Daily Person Trips, by Mode (2015-2040)**

Purpose	2015		2040 Plan	
	Trips	% of Total	Trips	% of Total
Drive Alone	12,310,000	47.6%	14,880,100	46.6%
Carpool	8,917,700	34.4%	11,138,800	34.9%
Transit	1,660,900	6.4%	2,208,500	6.9%
Walk	2,695,600	10.4%	3,320,700	10.4%
Bike	305,500	1.2%	359,100	1.1%
Total Trips	25,889,700	100%	31,907,200	100%

<sup>14</sup> See DEIR, p. 2.5-17 (“SB 375 requires regional planning agencies to include a Sustainable Communities Strategy (SCS) in their regional transportation plan (RTP) that demonstrates how the region could achieve GHG emissions reductions set by ARB through integrated land use and transportation planning.”)

<sup>15</sup> DEIR, p. 2.5-33.

<sup>16</sup> DEIR, p. 2.5-36.

<sup>17</sup> DEIR, p. 2.1-26, Table 2.1-15 (fn. omitted).

The DEIR fails to provide substantial evidence that the Climate Initiatives Programs will achieve the claimed emission reductions. Although the EIR claims specific GHG reductions for each of the programs,<sup>18</sup> the DEIR and its related travel modeling report fail to show that these programs work in practice. PBA 2013 included 7 climate initiatives that have been similarly included in this Plan: Commuter Benefit Ordinance, Car-Sharing, Vanpool Incentives, Clean Vehicles Feebate Program, Smart Driving Strategy, Vehicle Buy-Back & Plug-in Electric Vehicle Purchase Incentive, and Regional Electric Vehicle Charger Network.<sup>19</sup> The DEIR and related travel modeling report fail to describe the time frame for these programs, success to date or even whether they have been started or funded, and MTC's Transportation Improvement Program (TIP) shows little evidence of any such funding.

The EIR's purported GHG reductions are "the sorts of speculative mitigation measures that do not comply with CEQA."<sup>20</sup> In *Clean Energy*, the Court of Appeal held that the City's final EIR was inadequate, in part, because the call for a strategic plan and implementation strategy appeared in the DEIR with little discussion or analysis.<sup>21</sup> The City's plan stated vague goals without obligating it to "undertake any actual mitigation," just as the MTC's EIR does here in mentioning the Climate Policy Initiatives Program without substantial evidence that it will achieve said emission reductions.<sup>22</sup> The calculations in the Travel Modeling Report do not appear to be based on real world experience in implementing these initiatives from Plan Bay Area 2013.

Climate Initiatives, such as the "Vehicle Buyback Program" that increase the number of cars, need to be reconsidered, because successful Priority Development Areas (PDAs) require VMT reductions; built up urban areas contain no room for road capacity expansion. The DEIR estimates an increase in more than 1.1 million cars in the Bay Area by 2040.<sup>23</sup> Put simply, the streets in many of the PDAs have no room for these additional cars.

Furthermore, the Plan's claim that more than 8% of the GHG reductions will result from "Smart Driving" fails to pass the straight face test. With this measure, the Plan proposes an education and media program to encourage "smooth acceleration and deceleration." MTC calculates its estimated GHG reductions based on a study with an admittedly

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<sup>18</sup> DEIR, p. 2.5-36, Table 2.5-6.

<sup>19</sup> Cf. Plan Bay Area (2013), pp. 87-89; see also DEIR, p. 2.5-36, Table 2.5-6.

<sup>20</sup> *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 198.

<sup>21</sup> *Id.* at 197.

<sup>22</sup> See *id.*

<sup>23</sup> See DEIR, p. 2.1-21, Table 2.1-11 (each new household will have an average of 1.7 cars).

small sample size of 18 people.<sup>24</sup> Rather than reducing VMT, MTC claims that drivers can be retrained to drive better for the environment.

The DEIR acknowledges that implementation of the Plan could potentially conflict with the goals of Senate Bill 32 (Chapter 249, Statutes of 2016) to reduce GHGs.<sup>25</sup> Sierra Club continues to urge MTC and ABAG to focus on practical strategies to meet the long-standing State policy goal to achieve an 80% reduction in greenhouse gas emissions by the year 2050.

### **3. Lack of Sufficient Funding for Mass Transit Impedes Achievement of Plan's Performance Targets.**

Sierra Club continues to be very supportive of the goals of SB 375—to reduce GHG emissions and VMT. To accomplish these ends, viable PDAs must be made successful, and must include levels of transit service that will make travel by single-occupancy auto generally unnecessary. The projected regional transit costs in “Transit Operating and Capital Needs and Revenue Assessment” show that the Plan does not fund enhanced levels of service in the PDAs.<sup>26</sup> The existing transit service cannot be fully operated with a 14.6 billion dollar residual capital shortfall (31% of total capital needs).<sup>27</sup> There appears to be no strategy to eliminate this shortfall.

The funding shortfall calls into question how existing levels of services can be maintained through the life of PBA 2040. A key aspect of PBA 2040 should be the operation and maintenance of the existing mass transit system, plus the provision of an increased level of service to be able to provide for increased passenger ridership of the expected number of new residents. In fact, the 2010 RTP Guidelines call for addressing “short and long-range transit plans along with the capital finance plans for the 20-year period of the RTP.”<sup>28</sup> It stretches the imagination to fathom how a projected 6.9 percent increase in typical weekday daily person trips, or more than a half a million trips, will be able to be successfully added to Bay Area transit systems, some of which currently operate at capacity during peak time.<sup>29</sup> The Plan will not meet its target of “[r]educ[ing] per-rider transit delay due to aged infrastructure” without addressing the transit funding shortfall.<sup>30</sup>

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<sup>24</sup> Travel Modeling Report, pp. 57-59.

<sup>25</sup> DEIR, p. ES-21, Table ES-2, Impact 2.5-3.

<sup>26</sup> PBA 2040 Supplemental Report “Transit Operating and Capital Needs and Revenue Assessment,” p. 1.

<sup>27</sup> *Id.*

<sup>28</sup> 2010 California Regional Transportation Plan Guidelines, § 6.10, p. 106.

<sup>29</sup> See DEIR, p. 2.1-26, Table 2.1-15.

<sup>30</sup> See DEIR, p. 3.1-19, Table 3.1-12.

#### **4. A Robust and Enforceable Complete Streets Program Would Help Address MTCs Failure to Meet Some of the Plan's Performance Targets.**

The Plan's lack of progress in implementing Complete Streets programs in the PDAs contributes to the Plan's failure to meet the GHG targets as well as the Plan's performance targets. For example, the Plan fails to meet its target of "[i]ncreas[ing] non–auto mode share by 10%."<sup>31</sup> This shortfall is due to the Plan's failure to reform land use and transportation. Table 2.1-15, above, shows that drive-alone car trips in 2015 were 47.6% of all trips (including walking) and that by 2040 drive-alone car trips will have only been cut to 46.6% of all trips—almost no change from the \$303 billion dollar Plan. Similarly, the Plan's funding of additional highway miles is counter-productive. The DEIR indicates that 460 miles of Freeway Lanes and 60 miles of Expressway Lanes will be constructed with PBA 2040.<sup>32</sup> Freeway Lanes lead to an increase in VMT, and a recent report released by MTC also shows Expressway Lanes increase VMT.<sup>33</sup>

The Plan targets could be better achieved by focusing the Plan on a campaign to implement and fund a Complete Streets treatment within each PDA. For example, the Plan's target is to "[r]educe adverse health impacts associated with air quality, road safety, and physical inactivity by 10%,"<sup>34</sup> but it is only reduced by one percent. Some of this shortfall most likely results from a projected 21 percent increase in VMT through 2040.<sup>35</sup> Similarly, the Plan does not meet the target to "[r]educe vehicle operating and maintenance costs due to pavement conditions."<sup>36</sup> Bicycles, buses, and pedestrians, as wells as cars, need well-maintained streets.

MTC's resources should be spent integrating land use and transportation policy by developing more "Complete Streets." MTC needs to develop and adopt coherent and effective programs that are consistently applied toward realizing the Plan's targets. For example, incentives should be used to encourage jurisdictions to get the pot holes repaired as part of a campaign to implement a Complete Streets treatment within each PDA. MTC has discretionary authority over significant amounts of Federal, State, and local funding that can be allocated to help achieve desired outcomes. Any recipient

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<sup>31</sup> See PBA 2040, p. 65.

<sup>32</sup> The DEIR, p. 2.1-22, Table 2.1–12.

<sup>33</sup> MTC, "Effect of MTC Express Lanes on Interregional Travel" (March 2017), p. 30 [VMT increase 1.1% with express lanes], available at [http://www.planbayarea.org/sites/default/files/mtc\\_expresslanes\\_finalreport\\_2017\\_03\\_24\\_v2.pdf](http://www.planbayarea.org/sites/default/files/mtc_expresslanes_finalreport_2017_03_24_v2.pdf).

<sup>34</sup> PBA 2040, p. 65.

<sup>35</sup> DEIR, p. 2.5-33; see also Kevin Fang and Jamey Volker, "Cutting Greenhouse Gas Emissions Is Only the Beginning: A Literature Review of the Co-Benefits of Reducing Vehicle Miles Traveled (March 2017) A White Paper from the National Center for Sustainable Transportation, available at [https://ncst.ucdavis.edu/wp-content/uploads/2017/03/NCST-VMT-Co-Benefits-White-Paper\\_Fang\\_March-2017.pdf](https://ncst.ucdavis.edu/wp-content/uploads/2017/03/NCST-VMT-Co-Benefits-White-Paper_Fang_March-2017.pdf).

<sup>36</sup> PBA 2040, p. 65.

jurisdiction that fails to meet such directives should be required to return regionally approved funds or, at a minimum, be determined ineligible to receive additional funds until compliance is documented. This will require strengthening the “Action Plan” through clear metrics and robust monitoring and oversight.

## **5. The Plan Fails to Adequately Address the Housing Crisis.**

Given the magnitude and political sensitivity of “The Regional Housing Crisis,” the Plan does not sufficiently address this pressing issue. The plan fails to meet, and in fact moves in the opposition direction of, its target of “not increase[ing] the share of low- and moderate-income renter households in PDAs, TPAs, or high-opportunity areas that are at risk of displacement.”<sup>37</sup> The Regional Housing Needs Allocations figures for the first year of the current eight-year cycle show an insufficient amount of permits issued.<sup>38</sup>

More attention and detail need to be presented to address the housing crisis. In particular, allocation of One Bay Area Grant (“OBAG”) and other regional discretionary funds need to be tied directly to achievement of Regional Housing Needs Allocations “numbers” for each jurisdiction—measured in terms of actual construction, not merely permits issued. If a jurisdiction has received funding from MTC (e.g., an OBAG grant) and the jurisdiction is not getting the housing production needed, it should be possible to claw back the grant funds.

The “Housing Principles for MTC and ABAG 2017 State and Federal Legislative Advocacy” provide a good basis from which to start a coordinated approach to address regional and housing needs, and do not increase either displacement or into-region commutes. MTC and ABAG need to work with local jurisdictions to present a coherent information program on what PDAs are, how they can benefit a community, and how they can enhance opportunities for residents of all levels of income to live and work locally. MTC and ABAG should educate elected and appointed officials about PDAs.

The Plan’s Housing Elements action plan in Table 5.1 should be accelerated,<sup>39</sup> because the Bay Area suffers from an acute housing crisis. The Plan explains that “...the foundation of the [housing] crisis is simple: there simply isn’t enough housing, whether market-rate or affordable, given the growing number of residents and jobs.”<sup>40</sup> With this back drop, the Plan must do more to meet its performance targets. For example, the Plan seeks to “[d]ecrease the share of lower-income residents’ household income

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<sup>37</sup> PBA 2040, p. 65.

<sup>38</sup> See Association of Bay Area Governments, “San Francisco Bay Area Progress in Meeting 2015-2023 Regional Housing Need Allocation (RHNA)” available at <http://abag.ca.gov/abag/events/agendas/r020117a-Item%2005%20Attch%201%20RHNAProgress%20with%20deed%20restricted%20units.pdf>.

<sup>39</sup> See PBA 2040, p. 74.

<sup>40</sup> *Id.* at p. 7.



consumed by transportation and housing by 10%.”<sup>41</sup> However, the Equity Analysis shows that low income household expenditures of the combination of transportation and housing rise by 13% by 2040.<sup>42</sup> This increase contradicts the Plan’s claimed success that the Plan meets its target to “house region’s projected growth by income level without displacing current low-income residents and with no increase in in-commuters over the Plan baseline year.” The Plan also fails to meet its target of “increas [ing] the share of jobs accessible within 30 minutes by auto or within 45 minutes by transit in congested conditions by 20%.” This can be attributed to the regional housing crisis as well as lack of progress with land use and transportation reform.

## **6. The Plan and DEIR Need to Better Consider Sea Level Rise and Drought.**

The Plan fails to fully acknowledge the impacts of two inevitable climate change outcomes: sea level rise and drought. Between now and 2040, sea level rise and drought are likely to deter the planned growth in major areas of the Region; the Plan does not appear to offer any contingency plan.

The foreseeable water issues that must be addressed include:

- Major infrastructure already faces inundation dangers, which is likely to impede PDA development in some areas. For example, the well-documented closing of State Highway 37 in the northern counties due to this past winter’s floods.
- Drought and sea level rise will put stress on water supplies, especially from the Delta. Several PDAs on the Peninsula are already stymied by lack of water supply. The Plan and DEIR should analyze how and if these water supplies can be secured.
- Drought will exacerbate water supply issues and result in water-related growth restriction in additional communities.

## **7. The Plan DEIR Should Better Address Quality of Life.**

The Plan does not adequately preserve and enhance the quality of life factors that have made the Region so desirable. A Bay Area Ambient Air Quality Management District study forecasts pollution to worsen, especially in basins such as Livermore<sup>43</sup> and near freeways and industrial facilities, leading to adverse health impacts.<sup>44</sup>

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<sup>41</sup> PBA 2040, p. 65.

<sup>42</sup> Equity Analysis, p. 5-2, Table 5-1, Item 5; see *a/so* p. 5-1, Analysis of Equity Measures No. 2.

<sup>43</sup> DEIR, p. 2.2-2.

<sup>44</sup> DEIR, pp. 2.2-9, 23.

The Plan envisions that open space will be located where the air pollution problem is minimized by distance<sup>45</sup> and anticipates substantial legislative and regional cooperation for mitigation, but it fails to define implementation. The Plan is expected to deteriorate trail networks where they exist<sup>46</sup> with no performance criteria for mitigation or alternatives.

**8. The Plan Should Consider Goods Movement on the “M-580 Marine Highway.”**

Sierra Club remains disappointed at MTC’s refusal to consider opportunities presented by the Port of Stockton’s “M-580 Marine Highway” approach to Goods Movement improvement. While, overall, Sierra Club policy favors transport of non-hazardous cargo by rail rather than by truck, Sierra Club believes that innovative approaches such as transferring goods to barge transport should be considered as an alternative.

**CONCLUSION**

The Plan and DEIR should be changed in accordance with the comments in this letter.

Sincerely,

  
William Rostov

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<sup>45</sup> DEIR, p. ES-17.

<sup>46</sup> DEIR p ES-19, Impact 2.3-2.