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gray;visibility: hidden;color: black;text-decoration: none;}.hoverbot span img{ /*CSS for enlarged
image*/border-width: 0;padding: 2px;}.hoverbot: hover span{ /*CSS for enlarged image on
hover*/visibility: visible;top: 0;left: 60px; /*position where enlarged image should offset
horizontally */} if (document.addEventListener) {
document.addEventListener("DOMContentLoaded", window.print(), false); } // for Internet
Explorer (using conditional comments) /*@cc_on @*/ /*@if (@_win32) document.write("");
var script = document.getElementById("__ie_onload"); script.onreadystatechange = function() {
if (this.readyState == "complete") { window.print(); // call the onload handler } }; /*@end
@*/
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AB 32 Scoping Plan Comments of a Land Use & Environmental Attorney without Portfolio

Posted by: Joel in [Transit](#) , [Sustainability](#) , [SB 375](#) , [Politics & Government](#) , [Land Use](#) , [Global Warming - Greenhouse Gas Reduction](#)

, [Economics & Planning](#)

, [California Air Resources Board \(CARB\)](#)

, [AB 32](#)

on
Dec 2, 2008

To: California Air Resources Board

Subject: Comments on Scoping Plan - Regional Transportation Target

Submitted online on December 2, 2008

As a land use and environmental attorney I have followed the development of the Scoping Plan and the regional transportation target closely. I am not commenting on behalf of a client and I am not representing any particular interest group or organization. I am stating my own personal views and professional opinion.

SB 375 requires CARB to participate in a collaborative process to set regional targets for 2020 and 2035. The variables between the diverse regions of California are so extreme that without being fully informed about them it would be presumptuous to set targets that are either too high or too low for the state in the aggregate.

The basis for setting CARB's projected overall goal for 2020 has serious flaws, in that it is based on a "business as usual" projection from the 2002-2004 average level of emissions to 2020. The projections for GhG emissions for the transportation sector are made using the EMFAC2007 program, and it incorporates an assumed increase in VMT in excess of population, which has been a historical trend.

The data from CARB's GhG inventory from the last period of sustained economic distress in California, 1990-1996, shows that GhG from the transportation sector actually declined by 4% during that period, and adjusting for population growth, per capita GhG emissions declined by 10%. Presumably the same trends in per capita VMT growth and population used in projections for the Scoping Plan were still functioning -- why then did GhG in absolute terms and in per capita decline in this period?

I inquired about the availability of data for 2005 and 2006, which would begin to reflect the slow-down in the housing market, before its precipitous drop that occurred in 2007-2008. I am told that data won't be available until January. If history is any predictor of what we might expect to learn from more current data, the sharp decline in the economy will result in a significant decrease in VMT and GhG, whether or not any tighter regulatory programs are adopted. When gasoline prices peaked earlier this year, Sacramento Regional Transit reported a 25% increase in ridership over the previous year. Now that gas prices have declined, fewer workers in large sectors of the economy in construction, real estate, finance and related fields are commuting because many have no jobs to which to commute.

It is difficult to predict how long the current slump will last, but the scope of the problem appears to be much greater than the fundamentals involved in the 1990-1996 downturn. Many experts are predicting that housing will not begin to recover for at least another 3 to 5 years.

One implication of this sobering reality is probably good news, insofar as the predicted increase in GhG in the "business as usual" scenario is likely significantly overstated. This will provide more time to get a broad-based and locally fine-tuned program to maximize benefits from transportation and land use changes put in place for each region. Some regions are prepared to initiate a higher target from within than its proportionate share of an arbitrary state-wide target. Other regions will face much more serious challenges finding the resources to develop the systems to support the changes needed. Forcing higher targets across the board when serious questions exist about the need and the ability to achieve meaningful results due to slow rates of growth is poor policy.

There is considerable confusion about what measures will be expected to change VMT growth and land use development patterns that can result in significant GhG reductions. For the 2020 time frame, land use will not have had time to make a significant change in the built environment because of lower rates of growth. Other measures in the transportation policy toolkit that could have a more rapid impact, such as congestion pricing, restrictions on parking and improved transit and ride share programs in part funded by the revenues from those charges, a "carbon tax" floor on gasoline prices, are not within the legal authority of counties, cities or regional transportation planning agencies to impose. That will require new legislation.

The slow-down significantly effects the amount of GhG reduction that can be realized from new patterns of development (or forecast from continuing sprawl development) because the fraction of the addition to the existing built environment that occurs annually will be cut by about 1/2, or even more. There are about 13 million dwelling units in California. At the most recent peak of residential construction in 2004, only about 150,000 single family homes and 60,000 multi-family units were built , altogether less than 2% annual addition to the existing housing stock. By 2006, single-family home production dropped about 104,000 units and less than 100,000 in 2007. October of 2008 residential building permits were 27% below the prior year amount for month and the lowest level since records began to be kept in 1979, In 1993 and 1995 the total number of new dwelling units constructed was only about 85,000. That level of production of new units appears likely to continue for at least another year or two.

The relative benefits of GhG reduction from leveling or decline in VMT from new development and population growth also shrink as the vehicle fleet becomes more efficient. Although the

forecasts show that fuel economy and other technological fixes in gasoline powered vehicles is overwhelmed if per capita increases in VMT continue to exceed the rate of population growth, it also assumes that development will continue to follow less efficient, auto dependent sprawl development patterns and the vehicle fleet continues to be mostly gasoline powered. A number of structural changes in the housing market soften the viability of this assumption. The shock of high gasoline prices, however temporary in the short run, and the tightening of credit, plus the aging of the baby boom generation as "empty nesters" all have resulted in turning market demand to smaller units on smaller lots and other higher density product with urban amenities. If we switch to non-carbon-based fueled vehicles VMT is irrelevant as a factor in GhG emissions.

In short, "business as usual" is seldom "usual" for very long. Events have occurred in the economy and finance sector which were not included in the forecasting assumptions used to project emissions growth from the 2002-2004 average (a market cycle peak) to 2020 are clearly not valid. The maxim to "drive 'till you qualify" that fed the exurban residential growth boom and explosion of VMT is now inoperative. The forces that impelled that type of development (high land costs and difficulty and cost of development in existing urbanized areas meaning home prices exceed consumer ability to pay) will not be addressed by policies that drive up the cost of exurban housing above the realm of relative affordability. To be effective, policies must be put in place that greatly reduce costs of infill development. Proponents of the view that the problem and solution is merely a choice in urban form fail to account for these fundamental economic realities. Suburban and exurban green field development was the path of lowest cost and least resistance to providing the housing that Californians could afford. Putting a cork on that bottle will only increase pressure of an already inadequate supply to meet the ever increasing level of demand.

There is another major structural flaw in the Scoping Plan. Generally speaking, emission source sectors are assigned responsibility for internalizing the cost of reduction measures, thus squandering the opportunity to make the most efficient use of scarce resources by prioritizing relatively efficient, low-cost reduction measures for early implementation in one sector while longer acting and more costly strategies are developed and refined in other sectors. One example is the potential to achieve significant reductions from increasing the energy efficiency of the existing built environment. Many existing structures were built well before the implementation of energy code Title 24 efficiency standards. The reductions possible from insulating and replacing windows and outmoded heating and cooling units (about \$12,000) are potentially much greater and could be achieved at a much lower unit cost than would be achieved from pushing relatively efficient new construction to Tier II with photovoltaic standards (approximately \$25,000). But because structural energy consumption is not included in the transportation/land use sector, but is classified in the utilities sector, the potential for maximizing these gains will not likely be realized because the participants with the most control and the most to gain -- local governments controlling land use and building codes and the construction industry -- have no incentive or investment to make it happen.

Shouldn't the Scoping Plan prioritize the most cost-effective means of rapid reduction, while phasing in the costlier, less efficient and more complex reduction measures over a longer time frame? However, the Scoping Plan places retrofitting the built environment for higher efficiency in the GhG reduction budget of the utilities sector. Segregating sector budgets divides the natural synchronicity that could occur if all elements of the built environment were factored together. Homebuilders have the skills and the means to retrofit the built environment, but if that is not linked with their efforts in new development, an opportunity is lost. If carbon credits could be aggregated and sold across sectors to help provide a revenue stream to fund the more efficient, least-cost solutions without further price pressure on the housing sector many social policy goals could be served. The additional unit cost of Tier II with photovoltaic standards for new home construction could be in part absorbed with carbon credit revenues, not government or utility rebates that are funded by the taxpayer or rate-paying consumer.

More compact development and integration of uses to reduce VMT will only accomplish so much without a huge public investment in transit. New development cannot alone bear the cost, without again dampening the level of development to that for which fewer more affluent consumers can afford to pay. Local and state governments do not have the means to make this investment without significant changes in California's Constitutional restrictions on public finance. (Props 13 and 218).

The San Joaquin Air Quality Enforcement District's experiment with the Indirect Source Rule amounts to a "sprawl tax" to discourage less efficient, more auto-centric development projects. What it is missing (aside from clear legal authority to impose such fees) is the dedication of the fee revenues to improvements in transit systems and other public improvements that are the essential other half of the equation for the full promise of decreased auto-dependency to be realized. It is also a form of regulation of the design of development that would more appropriately be exercised by counties' and cities' planning and building departments, where it can be integrated with the planning of the supportive infrastructure more compact development requires. The last thing builders and homebuyers need is another regulatory counter to cross and set of fees to pay in California's already incoherent land use regulatory regime.

Big changes that require establishment of new laws and many complex and interactive factors need time, better sources of data, improved modeling tools and more careful evaluation of the data which justify them. It is important to begin the process, but not to assume we can fully understand and can provide for all inter-dependencies and contingencies that may be required. Regional transportation and land use targets for GhG reduction need to be based on broad public support and suited for the particular challenges and opportunities of each region. The biggest GhG reduction challenge will come after 2020. Just getting to the 2020 goal will require about a 30% cut in per capita GhG to meet 1990 levels. If the population forecasts prove

accurate, Californian's per capita GhG emission rate must be cut by 90% of the 1990 rate by 2050, to 1.4 metric tons per person per year, which is about the current per capita emissions rate in Columbia, South America. There is time and unmet need enough to set transportation and land use targets for 2035 and beyond, rather than precipitously set targets for 2020 that preempt the process the legislature mandated be followed in SB 375.