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Mr. Christopher Calfee, Special Counsel  
Attn: CEQA Guidelines  
California Natural Resources Agency  
1017 L Street, #2223  
Sacramento, CA 95814

Dear Mr. Calfee:

On behalf of Fox Strategy LLC, a California-based firm with knowledge and experience in environmental research and consulting, I hereby submit written comments on the Proposed Amendments to the CEQA Guidelines for greenhouse gas emissions.

This letter addresses the proposed elimination of the existing Checklist question considering whether a project would “Result in inadequate parking capacity” (*Text of Proposed Guideline Amendments*, Appendix G “Environmental Checklist Form,” Section XVI Transportation/ Traffic, question (f)). In summary, this letter recommends that the existing parking question remain in the CEQA Checklist.

This letter provides detailed evidence to challenge the three reasons given by the California Natural Resources Agency (the “Agency”) for eliminating the parking question from the Checklist, as mentioned in its *Initial Statement of Reasons* (July 2009, p. 68):

... the proposed amendments would eliminate the existing question (f) relating to parking capacity. [1] Case law recognizes that parking impacts are not necessarily environmental impacts. (San Franciscans Upholding the Downtown Plan v. City and County of San Francisco, 102 Cal. App. 4<sup>th</sup> at 697.) [2] Therefore, the question related to parking is not relevant in the initial study checklist. [3] As noted above, however, if there is substantial evidence indicating adverse environmental impacts from a project relating to parking capacity, the lead agency must address such potential impacts regardless of whether the checklist contains parking questions. (*Ibid.*)

**1. California case law does recognize environmental impacts from inadequate parking capacity.**

The Agency’s assertion that “case law recognizes that parking impacts are not necessarily environmental impacts” is a half-truth. In the particular case cited, *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal. App. 4<sup>th</sup> 656, the Court

explicitly separated the social and economic impacts of inadequate parking capacity *from* the environmental impacts of parking. The Agency blurs this distinction between primary and secondary impacts to justify the proposal to eliminate parking considerations from the CEQA Environmental Checklist Form.

The Court in the above case specifically addresses this distinction by noting that CEQA *requires* addressing the secondary physical impacts on the environment triggered by the social impact of inadequate parking capacity (at 697-698),

Contrary to the appellants' apparent assumption, there is no statutory or case authority requiring an EIR to identify specific measures to provide additional parking spaces in order to meet an anticipated shortfall in parking availability. The social inconvenience of having to hunt for scarce parking spaces is not an environmental impact; the secondary effect of scarce parking on traffic and air quality *is*. Under CEQA, a project's social impacts need not be treated as significant impacts on the environment. An EIR need only address the *secondary physical* impacts that could be triggered by a social impact. (Guidelines Sec. 15131, subd. (a).)

... The EIR then fulfilled its CEQA-mandated purpose by identifying ways in which the secondary *environmental* impacts *resulting from* the projected parking deficits could be mitigated, in keeping with the specific environmental strictures imposed by the City's own transit-first policy. It is not our place to reweigh the evidence or impose our opinion that the identified adverse effects could be better mitigated than as suggested in the EIR. ...

The Court indeed acknowledged that the City of San Francisco's EIR had identified adverse environmental impacts from the project's projected shortfall of 1,250 parking spaces and recommended specific mitigations to reduce parking demand near the project site,

We also note that the City required the developer, Foster City, to pay \$1.5 million for the development of parking solutions in SOMA [South of Market Street area], and at least \$1.25 million more for improvements to the BART/MUNI station at Powell Street and other improvements to facilitate public transit.

The Court also recognized that further parking mitigations were necessary and appropriate,

To mitigate the secondary *environmental* impacts for parking, the EIR suggested reducing the number of monthly spaces rented at the neighboring City public parking garage at Fifth and Mission Streets to increase the number of available short-term spaces; proposed various traffic-related measures to mitigate increased congestion; and noted that City agencies were concurrently undertaking feasibility studies for the expansion of the Fifth and Mission garage.

In summary, the Court ruled in this case that while there is no authority to require a *specific* mitigation (such as constructing additional parking spaces to meet an anticipated parking deficit from a project), CEQA does require that the *environmental* impacts from inadequate parking capacity be mitigated in appropriate ways.

Therefore, the Agency's statement "parking impacts are not necessarily environmental impacts" is misleading and should be reframed to state "parking impacts can result in environmental impacts."

## 2. The parking question is relevant to the Initial Study Checklist.

The Agency concludes in its *Initial Statement of Reasons* (July 2009, p. 68), “Therefore, the question related to parking is not relevant in the initial study checklist.” This conclusion is incorrect and can be challenged on several grounds.

The Agency’s underlying contention appears to be that inadequate parking capacity is a social inconvenience and not an environmental impact. As noted the previous citations, the Court explicitly contradicted this rationale in *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal. App. 4th 697-698. California case law simply does *not* support the contention that inadequate parking capacity has no relevance to environmental impacts.

On the contrary, there are many types environmental impacts resulting from inadequate parking capacity that are of potential significance. For example, recent studies in New York City reported by Transportation Alternatives (June 2008) have shown “an exponential relationship between curbside occupancy and illegal parking (the fuller a curbside gets, the more cars double-park and obstruct crosswalks, bus stops, and fire hydrants.)” On behalf of the Association of Environmental Professionals (AEP), Kent Norton also wrote to the Governor’s Office of Planning and Research (in a letter dated February 2, 2009) noting different adverse environmental impacts.

AEP is also concerned about the amendment that would eliminate the checklist question relating to parking. Potential impacts from inadequate parking, i.e., double and illegal parking, blocked roadways to accommodate parallel parkers, slower circulation speeds as people hunt for parking spaces, etc. do have a measured impact on traffic and circulation. AEP requests that the consideration of whether a proposed project would “Result in inadequate parking capacity” remain in the CEQA Guidelines checklist.

Rather than cataloging environmental effects of inadequate parking capacity, this letter instead highlights one key environmental impact – the impact from greenhouse gas emissions, such as carbon dioxide, from drivers hunting for scarce parking spaces (so called “*cruising*”).

In “Cruising for Parking” published in *Access* (Spring 2007), Donald Shoup reports on “sixteen studies of cruising behavior conducted between 1927 and 2001 in the central business districts of eleven cities on four continents” (p. 17). He observes, “The average time it took to find a curb space was eight minutes, and about 30% of cars in the traffic flow were cruising for parking.” These results are quite typical; recent studies in New York City by Transportation Alternatives found between 28% and 45% of the traffic on some streets were cruising to find parking.

Cruising adds significantly to traffic congestion and produces huge levels of carbon dioxide emissions. For example, in a study of four different sites in Westwood Village, Shoup (2007, p. 19) reported,

The average cruising time to find a curb space was 3.3 minutes, and the average cruising distance was half a mile (about 2.5 times around the block). The small distances cruised by individual drivers add up quickly, because the turnover rate for curb parking was seventeen cars per space per day. With 470 metered parking spaces in the Village, almost 8,000 cars park at the curb each day (17 x 470). Because so many cars park at the curb, a short cruising time for each driver creates an

astonishing amount of traffic. Although the average driver cruises only a half mile before parking, cruising around the 15 blocks in the Village creates almost 4,000 VMT every weekday (8,000x0.5).

Over a year, cruising in Westwood Village creates 950,000 excess VMT ... Because drivers average about 10 miles per hour in the Village, cruising 950,000 miles a year wastes about 95,000 hours (eleven years) of drivers' time every year. And ... wastes 47,000 gallons of gasoline and produces 730 tons of CO<sub>2</sub> emissions in a small business district.

Transportation Alternatives (2008, p. 3) conducted a similar research study on Columbus Avenue, a major commercial corridor on Manhattan's Upper West Side, and found drivers cruised a total of 366,000 excess miles a year looking for parking in the 15-block area. "Drivers searching for curbside parking in the survey area generate 325 tons of carbon dioxide annually." Similar environmental impacts from inadequate parking supply have been reported recently in Vancouver, Washington DC, Chicago, San Francisco, and several other cities. The cumulative effects of such GHG emissions from cruising for parking are astonishingly large across California.

The parking question is therefore quite relevant to the CQEA Initial Study Checklist. There is substantial evidence that inadequate parking capacity can result in secondary environmental impacts, such as cruising for parking, which can potentially generate significant amounts of carbon dioxide and other dangerous pollutants. Citing various CEQA cases, the Agency itself notes (p. 44) that CEQA Guidelines section 15144 require a lead agency to "meaningfully attempt to quantify the Project's potential impacts on GHG emissions and determine their significance." Therefore, the existing parking question should rightfully be retained in the CEQA Checklist.

### **3. It is unreasonable to eliminate the parking question from the Checklist because a lead agency must nevertheless address any adverse environmental impacts from parking.**

The Agency offers a puzzling explanation for eliminating the parking question from the CEQA checklist (*Initial Statement of Reasons*, July 2009, p. 68):

... If there is substantial evidence indicating adverse environmental impacts from a project relating to parking capacity, the lead agency must address such potential impacts regardless of whether the checklist contains parking questions.

The purpose of a formal checklist is to reduce human errors in critical situations. If the potential exists for environmental impacts from inadequate parking, then eliminating this item from the CEQA checklist will make it *more* difficult for the lead agency and others to conduct a thorough environmental review.

Charles Eccleston's book *NEPA and Environmental Planning: Tools, Techniques, and Approaches for Practitioners* (2008, p. 113) makes this very point. "The simplicity of a checklist can also be its undoing. Their frequent use discourages critical thinking (i.e., [produces] tunnel vision) and may provide a false sense of a complete assessment; *an incomplete checklist can result in a flawed analysis in which important impacts are overlooked*" (italics added).

Human factors studies of the use of checklists in other field settings, such as flight safety, surgical procedures, and military operations, show that adverse effects can be reduced by more than 30%

when the proper set of items are included in the checklist. Likewise, human error rates increase dramatically when items are missing from checklists.

The Agency makes this point elsewhere in its *Initial Statement of Reasons* (July 2009, p. 67) in explaining its rationale for *adding* two questions on GHG emissions to the CEQA Checklist.

The proposed additions also include two questions related to GHG emissions. These questions are necessary to satisfy the Legislative directive in section 21083.05 that the effects of GHG emissions be analyzed under CEQA. The questions are intended to provoke a full analysis of such emissions where appropriate. More detailed guidance on the context of such an analysis is provided in other sections throughout the Guidelines. Despite the detailed provisions in the Guidelines themselves, questions related to GHG emissions should also appear in the checklist because some lead agencies will not seriously consider an environmental issue unless it is specifically mentioned in the checklist. (*Protect the Historic Amador Waterways*, supra, 116 Cal. App. 4th at 1110.)

But the Agency offers a contradictory explanation for not including the parking question. On the one hand, the Agency argues, “Despite the detailed provisions in the Guidelines themselves, *questions should appear in the checklist because some lead agencies will not seriously consider an environmental issue unless it is specially mentioned in the checklist.*” (p. 67, italics added). On the other hand, the Agency later claims there is no harm in eliminating the parking question from the Checklist (p. 68).

The Agency’s reason for eliminating questions from the Checklist, however, is inconsistent with commonly observed practice, empirical evidence on checklists, and the knowledgeable opinions of environmental experts (including the Agency itself). Therefore, one must conclude the inclusion of the existing parking question is necessary to satisfy the Legislative directive in section 21083.05 that the effects of GHG emissions be analyzed under CEQA, and to insure that lead agencies give *serious* consideration to the environmental impacts of inadequate parking capacity.

The City of San Diego’s Director of Engineering and Capital Projects, Patti Boekamp, summarized this point quite well in her January 26, 2009 letter to the Governor’s Office of Planning and Research,

Deleting parking capacity is essentially ignoring parking demand in our communities. Providing too much parking or not enough parking can both be a problem for communities and a region, but neglecting to acknowledge a need is not recommended. We propose to maintain the “Result in inadequate parking capacity” measure as originally stated.

#### **4. Including the parking question leads to more ways to mitigate the effects of inadequate parking capacity.**

Maintaining the existing parking question in the Initial Study Checklist furthers environmental compliance with CEQA. By identifying adverse environment impacts of inadequate parking capacity through the CEQA process, projects may choose to promote socio-economic changes to decrease parking demand as an alternative to building new spaces to increase parking supply. Community and regional policies can provide incentives to help this effort, too.

For example, the parking mitigations cited in the case earlier, *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal. App. 4th 656, included repurposing existing parking spaces for short-term use and contributing nearly \$3 million to encourage transit usage. According to the Court (p. 696), the 2000 EIR reported this “Project would result in 95% occupancy of available spaces in the vicinity generally, and 100% occupancy during peak holiday periods and major events” nearby. “By 2015, the parking demand in the Project area would exceed capacity due to cumulative development.” San Francisco had a challenging parking problem to tackle.

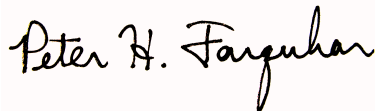
With an \$18.4 million grant from the U.S. Department of Transportation, the City of San Francisco is starting an 18-month pilot program in Fall 2009 to test the effectiveness of variable price parking policies. The goal is to manage the supply of curb parking by adjusting parking meter rates to maintain an 85% occupancy level to assure parking availability and thus reduce cruising. The San Francisco Planning and Urban Research Association estimates this SFPark Program will save the City approximately 24,000 metric tons of carbon dioxide emissions annually. The impetus for this Program started with the CEQA case above. Similar efforts are ongoing elsewhere to develop better parking management programs and reduce GHG emissions.

In the City of Claremont, California, some of the Claremont Colleges are addressing their parking supply problems by banning freshman cars beginning in Fall 2009 to reduce parking demand on their campuses. New parking facilities will also be located on the periphery of the Colleges to reduce cruising on private and public streets and improve pedestrian safety on the inner campus. Other California cities are adopting policies to encourage public transportation, ride sharing, bicycling, walking, and other transportation demand reduction measures.

These evolving initiatives by California communities and regions need the continued focal attention on parking impacts from CEQA and other environmental review processes; otherwise, many programs will not succeed.

In conclusion, I recommend that the Agency retain the existing question regarding whether a project would “result in inadequate parking capacity” in the amended CEQA Checklist.

Very truly yours,

A handwritten signature in black ink that reads "Peter H. Farquhar". The signature is written in a cursive, flowing style.

Peter H. Farquhar, member  
Fox Strategy LLC