UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

July 3, 2012

Eric Eidlin
Federal Transit Administration, Region IX
201 Mission Street, Suite 1650
San Francisco, California 94105

Subject: Supplemental Draft Environmental Impact Statement for the Capitol Expressway Light Rail Project, Santa Clara County, California (CEQ #20120149)

Dear Mr. Eidlin:

The Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. Our detailed comments are enclosed.

We provided comments on the Notice of Intent (NOI) for the original draft environmental impact statement (DEIS) on November 1, 2001, on the DEIS on June 25, 2004, and on the Supplemental NOI on October 15, 2009. This Supplemental DEIS (SDEIS) assesses a smaller project than that assessed in the original DEIS, a 2.3 mile extension of the existing light rail line along the Capitol Expressway from the existing Alum Rock Station to the Eastridge Transit Center in the City of San Jose.

While EPA supports the project's goal of providing improved transit service, which could increase transit mode share and reduce air quality impacts from automobile emissions, we have concerns about various aspects of the proposed project based on our review of the DEIS in 2004 and following our review of the SDEIS. Our concerns are based on the project's transportation impacts, and subsequent air quality and environmental justice impacts. We also continue to recommend that additional information regarding alternatives analysis be included in the Final EIS. Therefore, we have rated this document EC-2, *Environmental Concerns, Insufficient Information.* Please see the attached *Rating Factors* for a description of our rating system.

EPA is particularly concerned that FTA and VTA are planning to remove high-occupancy vehicle (HOV) lanes from a congested corridor that currently benefits from an HOV lane option for travelers. The decision to remove HOV lanes, and the statement that less severe traffic impacts would result from doing so than from removing mixed-flow lanes, should be justified in the FEIS with a summary of data used to make this determination. The FEIS should include a discussion of the current connectivity of the HOV lanes in this corridor to HOV lanes on other

roads, and to the greater HOV network, to determine potential regional impacts. Any adverse impacts to the regional HOV network should be identified, and the FEIS should clarify whether the removal of HOV lanes associated with this project would impact the regional air quality conformity determination.

We appreciate the opportunity to review this SDEIS and the coordination during our review to discuss our questions and concerns. When the Final EIS is released for public review, please send one hard copy and one electronic copy to the address above (mail code: CED-2). If you have any questions, please contact Carolyn Mulvihill, the lead reviewer for this project, at 415-947-3554 or mulvihill.carolyn@epa.gov.

Sincerely,

Connell Dunning

Connell Dunning, Transportation Team Supervisor
Environmental Review Office
Communities and Ecosystems Division

Enclosures:
Summary of EPA Rating Definitions
EPA's Detailed Comments

cc: Christina Jaworski, VTA

EPA DETAILED COMMENTS ON THE SUPPLEMENTAL DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE CAPITOL EXPRESSWAY CORRIDOR, JULY 3, 2012

Alternatives Analysis

Our comments on the draft environmental impact statement (DEIS) requested that the Final Environmental Impact Statement (FEIS) provide a justification for eliminating the range of alternatives analyzed through the 1999 Major Investment Study (MIS) as well as other previously studied alternatives. The DEIS stated that nine alternatives, the no-project alternative, and a Transportation System Management alternative were advanced for further study in 1999. It was unclear in the DEIS, and in the Supplemental DEIS (SDEIS), why some of these alternatives were eliminated from further analysis. Communication with FTA and VTA has clarified that some of these alternatives were eliminated as a result of a decision to focus on the Capitol Expressway corridor over other potential corridors, for planning and construction of improved transit infrastructure to serve the surrounding area.

Recommendation:

- Clarify in the FEIS the reasoning for elimination of previous alternatives, including the decision to focus on the Capitol Expressway corridor over other corridors. Include the reasoning for that decision, including a summary of transportation and other benefits, and potential impacts, of the various corridors that have been considered.

In response to our request that the range of alternatives include the continuation of HOV lanes after construction of the project, the SDEIS states that this alternative was evaluated in the DEIS and was rejected because it would have more severe traffic impacts than the alternative with six mixed-flow lanes. EPA is concerned that FTA and VTA are planning to remove HOV lanes from a congested corridor that currently benefits from an HOV lane option for travelers. The decision to remove HOV lanes, and the statement that less severe traffic impacts would result from doing so, should be justified in the FEIS with a summary of data used to make this determination.

Recommendation:

- Include a summary of the results of traffic impact studies in the FEIS to justify the statement that the alternative with four mixed-flow lanes and two HOV lanes would have more severe traffic impacts than the alternative with six mixed-flow lanes.

EPA's previous recommendation for an alternative with additional express bus service is being addressed through the bus rapid transit (BRT) service planned for the corridor. EPA recommends that FTA and VTA clearly describe in the FEIS the value of light rail service in this region in addition to planned BRT service, in light of the impacts that light rail would have on bus service and other HOV users.

Recommendation:

- Include a discussion in the alternatives analysis chapter of the FEIS that clarifies the benefits of the proposed light rail extension over the planned BRT service, in relation to the project's purpose and need.

Transportation Impacts

As we stated in our comments on the DEIS, the removal of two HOV lanes could have impacts on both local circulation and on the regional transportation network, since completion of a regional HOV lane network has been a regional goal to facilitate express bus service and to provide overall congestion management. The SDEIS discusses the impacts on HOV users and BRT riders in the corridor, but does not discuss potential impacts to the regional HOV network.

Recommendations:

- The FEIS should include a discussion of the current connectivity of the HOV lanes in this corridor to HOV lanes on other roads, and to the greater HOV network, to determine potential regional impacts. Any adverse impacts to the regional HOV network should be identified.
- Clarify in the FEIS whether the removal of HOV lanes associated with this project would impact the regional air quality conformity determination. In addition, if the HOV lane is currently considered a Transportation Control Measure for determining transportation conformity, discuss the implications of its removal.

Air Quality

While we commend FTA and VTA for performing a quantitative mobile source air toxics (MSAT) analysis, we remain concerned that hot-spot impacts may occur at the two intersections where adverse traffic effects would occur and where the SDEIS states that no mitigation is feasible. The FEIS should state whether any sensitive receptors (homes, schools, hospitals, etc) exist in the vicinity of these intersections. If so, we recommend that dispersion modeling be performed to determine whether adverse MSAT impacts would occur at the locations of these sensitive receptors. This is particularly important because the project area has been identified as an environmental justice community.

Recommendation:

- Include a discussion in the FEIS of whether sensitive receptors (homes, schools, hospitals, etc) exist in the vicinity of adversely impacted intersections. If so, EPA recommends that dispersion modeling be performed to determine whether adverse MSAT impacts would occur at the locations of these sensitive receptors. Results of this modeling, and mitigation for any adverse impacts should be reported in the FEIS.

In our comments on the DEIS, we stated that the assumptions of mode shift of HOV users was unclear, including the percentages of users who would shift to light rail versus those who would

shift to single occupant vehicles. These factors impact the projections of vehicle miles traveled (VMT) for each alternative, and subsequent air quality analyses.

Recommendation:

- Clarify in the FEIS the assumptions regarding the determination of mode shift of HOV lane users to the proposed light rail, to single occupant vehicles on the mixed-flow lanes, or to alternate routes within the area once HOV lanes are removed. Justify the reasonableness of those assumptions based on other examples or best practices.

It appears that some of the data in Table 3.18-1 is not accurate. As written, construction activities would result in air emissions that exceed Bay Area Air Quality Management District (BAAQMD) thresholds. We understand from communication with VTA that these figures will be revised in the FEIS.

Recommendation:

- Verify the relevant BAAQMD thresholds in Table 3.18-1 in the FEIS. If thresholds will be exceeded, revise the conclusion that construction activities are not anticipated to exceed BAAQMD thresholds, and include mitigation for that impact.

Environmental Justice

The SDEIS states that adverse effects to environmental justice populations in the areas of transportation and noise/vibration would result from the project, but that no feasible mitigation exists. EPA encourages FTA and VTA to identify mitigation measures to minimize these impacts.

The U.S. Department of Transportation is signatory to the August 4, 2011 Memorandum of Understanding (MOU) on Environmental Justice and Executive Order 12898. In addition to reinforcing the Federal government's commitment to environmental justice, the MOU focuses on NEPA and Title VI of the Civil Rights Act. In light of this renewed commitment and focus, we recommend that FTA, in its role as the NEPA lead, and VTA, as recipient of Federal funds, carefully consider changes to alternatives that would minimize impacts and adoption of mitigation measures, to avoid or further mitigate the project's disproportionately high and adverse impacts. Further efforts to reduce environmental justice impacts could assist FTA and VTA in meeting obligations under Title VI.

Recommendations:

- EPA encourages VTA to select design options that would minimize adverse impacts to environmental justice communities.
- EPA encourages all feasible mitigation of adverse impacts, including noise, vibration, and potential air quality impacts resulting from transportation impacts, to environmental justice communities.
- EPA supports and encourages the use of community liaisons, including those familiar with the local community and those who speak the language of any significant non-English-speaking communities in the area.

Land Use and Connectivity

EPA commends FTA and VTA for including urban design principles, including pedestrian and bicycle linkages along and across the corridor to support multimodal connections, in plans for the project, and encourages FTA and VTA to include commitments to these principles in the record of decision (ROD). We also support FTA and VTA's proposal to explore shared parking opportunities with nearby commercial and residential properties, as this would minimize the adverse impacts of constructing additional parking, and allow for more potential transit-oriented development.

Recommendations:

- The FEIS should include a discussion of how VTA is working with the City of San Jose to encourage connectivity between the proposed stations and the surrounding neighborhoods, and encourage future transit-oriented development, including any zoning or land use policy changes.
- EPA encourages VTA to coordinate with the identified pedestrian enhancements project to minimize any adverse impacts to the current and future pedestrian environment.

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement (EIS).

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

ADEQUACY OF THE IMPACT STATEMENT

"Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment.