

VMT Implementation



cog

San Bernardino
Council of Governments



FEHR & PEERS



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Regional VMT Implementation Approach



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CEQA/Legal Concerns with VMT Implementation



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The San Diego Story

Ensure that the environmental impacts of traffic, such as noise, air pollution, and safety concerns, continue to be properly addressed and mitigated through CEQA.

More appropriately balance the needs of congestion management with statewide goals related to:

- *Infill development*
- *Promotion of public health through active transportation (e.g., walking, biking)*
- *Reduction of GHG emissions*

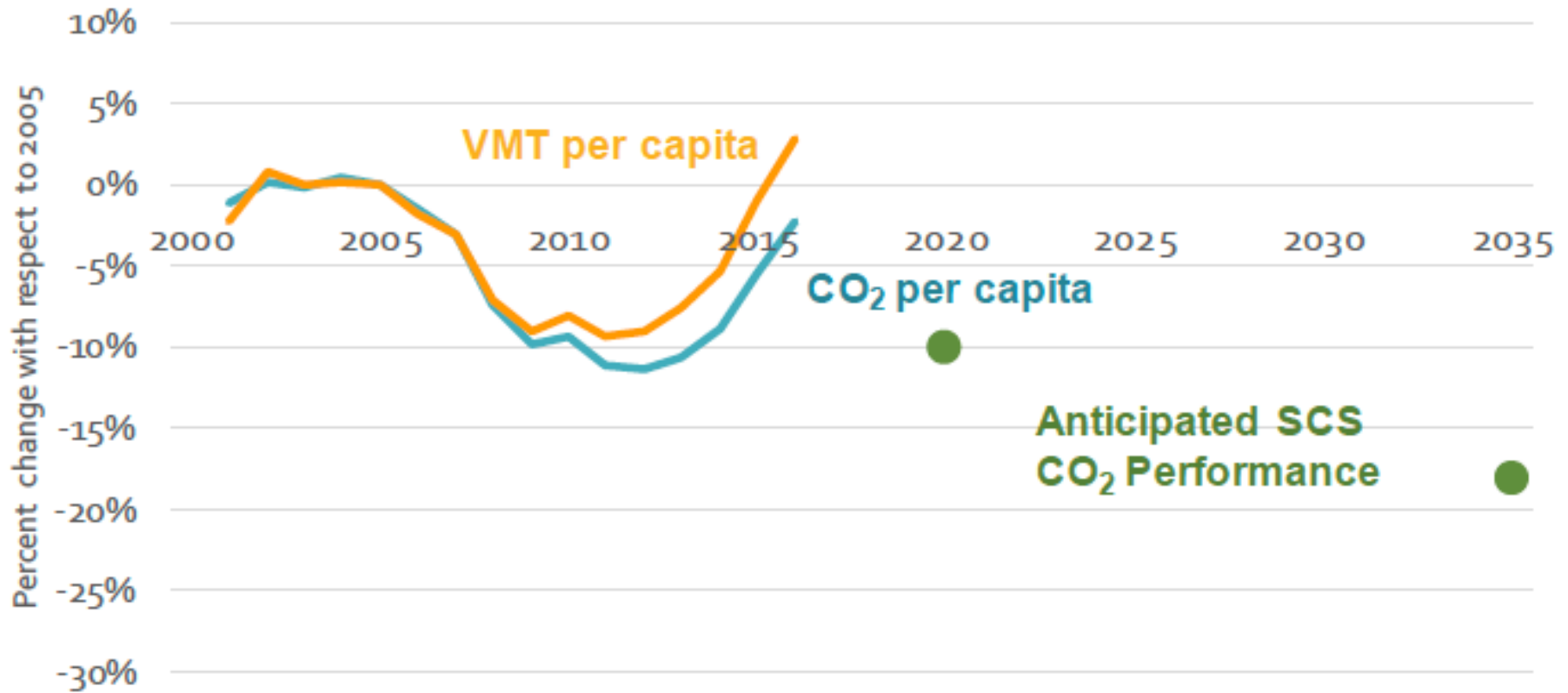


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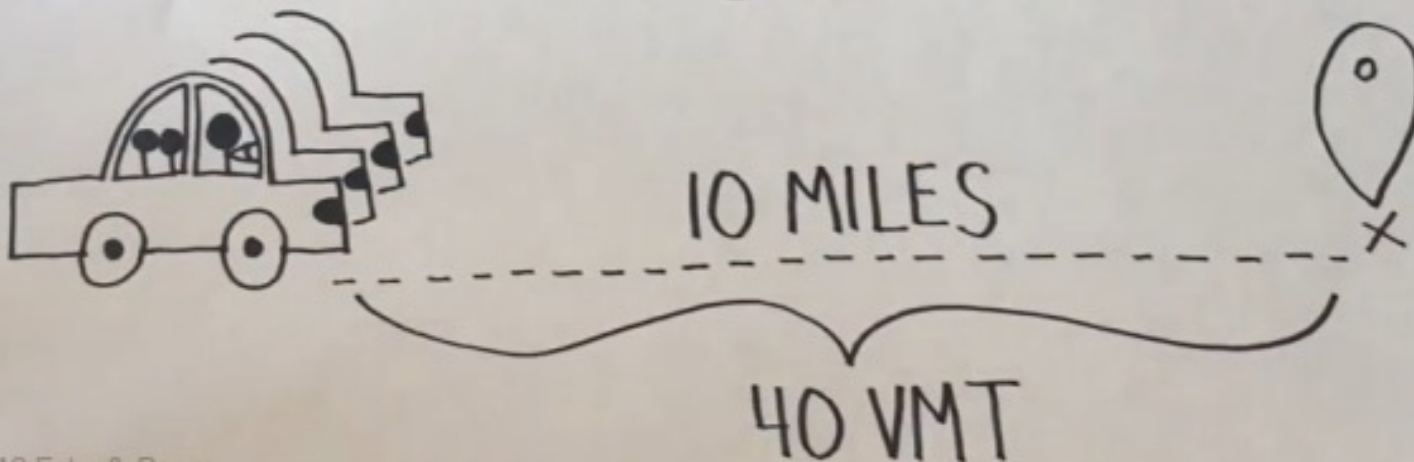
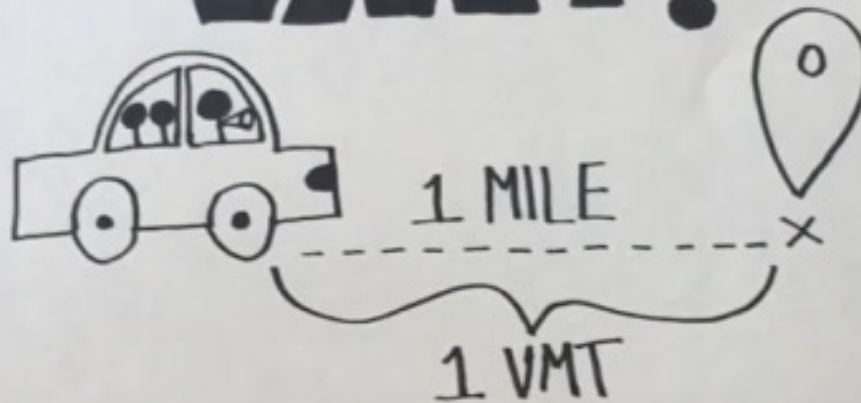
Legislative Intent SB-743

Statewide CO₂ and Vehicle Miles Traveled (VMT) Per Capita Trend with Respect to Anticipated Performance of Current SB 375 SCSs²



Source: CDTFE, U.S.EIA, U.S.EPA, CARB

VMT?



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New Transportation Metric VMT

September 2013
– Governor
Signed Bill

November 2017
– OPR Finalized
Guidelines

December 2018
– Natural
Resources
Agency updated
CEQA Guidelines

July 2020 - Opt-
in Period Ended



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Why it Matters

1. What is the preferred methodology for estimating and forecasting VMT considering that this metric is a required input for air quality, energy, GHG, and now transportation impact analysis in CEQA?
2. What are the significance thresholds for VMT impacts under 'baseline' and 'cumulative' conditions?
3. Does the lead agency want to take advantage of VMT impact screening?
4. What mitigation does the lead agency consider to be feasible for VMT impacts?

Added Lanes = Induced Travel

Caltrans will require projects to fully mitigate their VMT impact

How do we mitigate VMT Impacts?

- Ad-Hoc Approach
- Regional Approach – VMT Bank/Exchange

California Induced Travel Calculator Calculator FAQ About

Overview

This calculator allows users to estimate the VMT induced annually as a result of adding general-purpose lane miles, high-occupancy vehicle (HOV) lane miles, or high-occupancy toll (HOT) lane miles to publicly owned roadways, like those managed by the California Department of Transportation (Caltrans), in one of California's urbanized counties (counties within a metropolitan statistical area (MSA)). The calculator applies only to facilities with Federal Highway Administration (FHWA) functional classifications of 1, 2 or 3. That corresponds to interstate highways (class 1), other freeways and expressways (class 2), and other principal arterials (class 3).

How to Use

To obtain an induced VMT estimate for a roadway capacity expansion project, enter the project length (in lane miles added), the geography (MSA for additions to interstates; county for additions to other Caltrans-managed class 2 or 3 facilities), and the base year (2016, 2017, 2019, or 2019). The base year indicates which year of VMT and lane mile data will be used to estimate the induced VMT.

[More about this calculator](#)

Calculator

1. Select Year
2019
2. Select facility type
 Interstate highway (class 1 facility)
 Class 2 or 3 facility
3. Select MSA
Riverside-San Bernardino-Ontario
4. Input total lane miles added
1 miles

[Calculate Induced Travel](#)

Results

5 million additional VMT/year
(Vehicle Miles Traveled)

In **2019**, **Riverside-San Bernardino-Ontario MSA** had **3466 lane miles** of Interstate highway on which **17.5 billion** vehicle miles are travelled per year.

A project adding **1 lane miles** would induce an additional **5 million** vehicle miles travelled per year.

Riverside-San Bernardino-Ontario MSA consists of 2 counties (Riverside and San Bernardino).

This calculation is using an elasticity of **1.0**.

[Read more about this calculator](#)

The calculator was developed by researchers at the National Center for Sustainable Transportation at the University of California, Davis.
The online version of the tool was programmed by BlinkTag Inc.



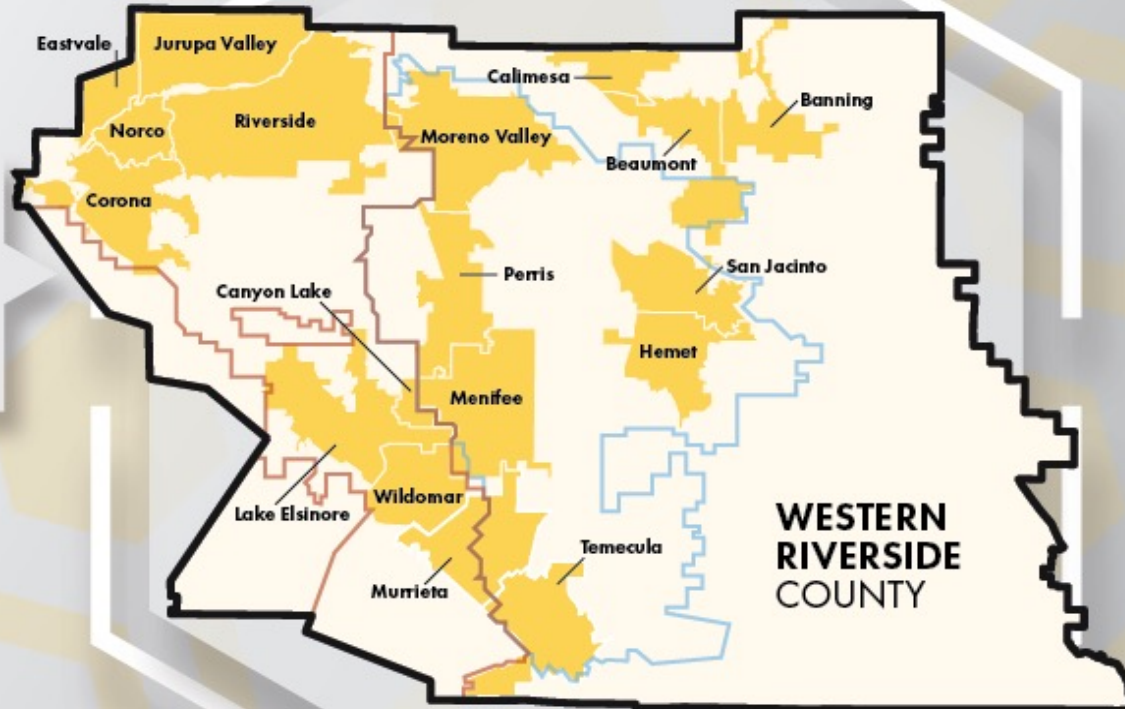
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Regional VMT Implementation Approach



WE ARE WRCOG

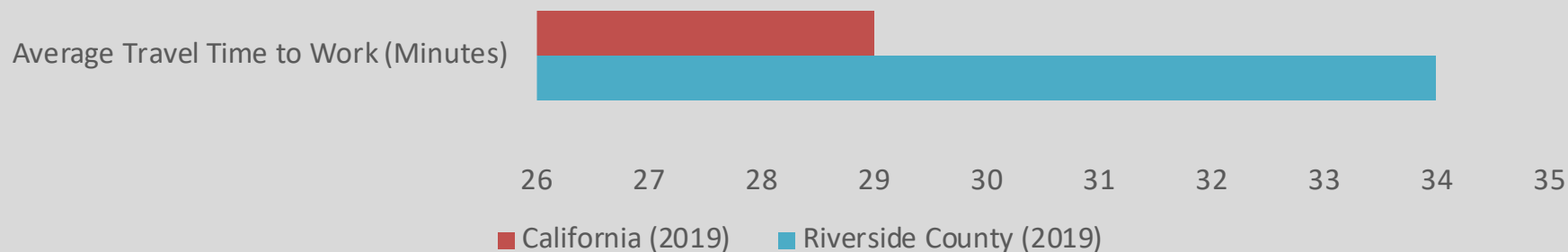
MEMBER AGENCIES

- ▶ Eastern Municipal Water District
- ▶ Western Municipal Water District
- ▶ County of Riverside
- ▶ Riverside County Superintendent of Schools



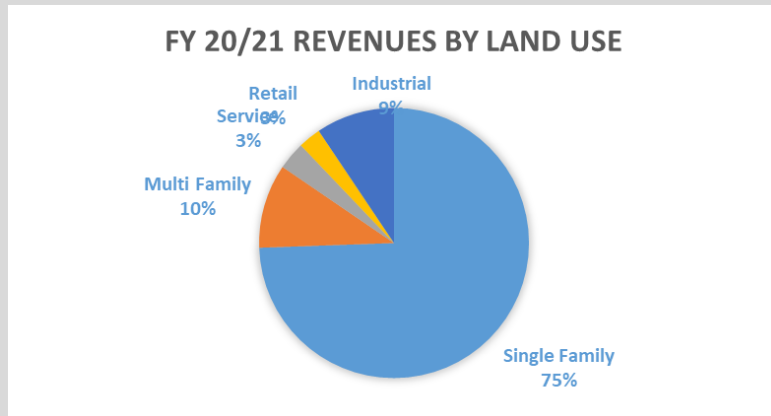
- Western Riverside County
- 2020 Population was 2 Million
- Largest City is Riverside (300K)
- Most cities are in the 50-100K population range
- Predominant land use is single-family residential, commercial, and industrial uses
- Significant out-commuting to LA, Orange County, and San Diego for work

Journey to Work Data

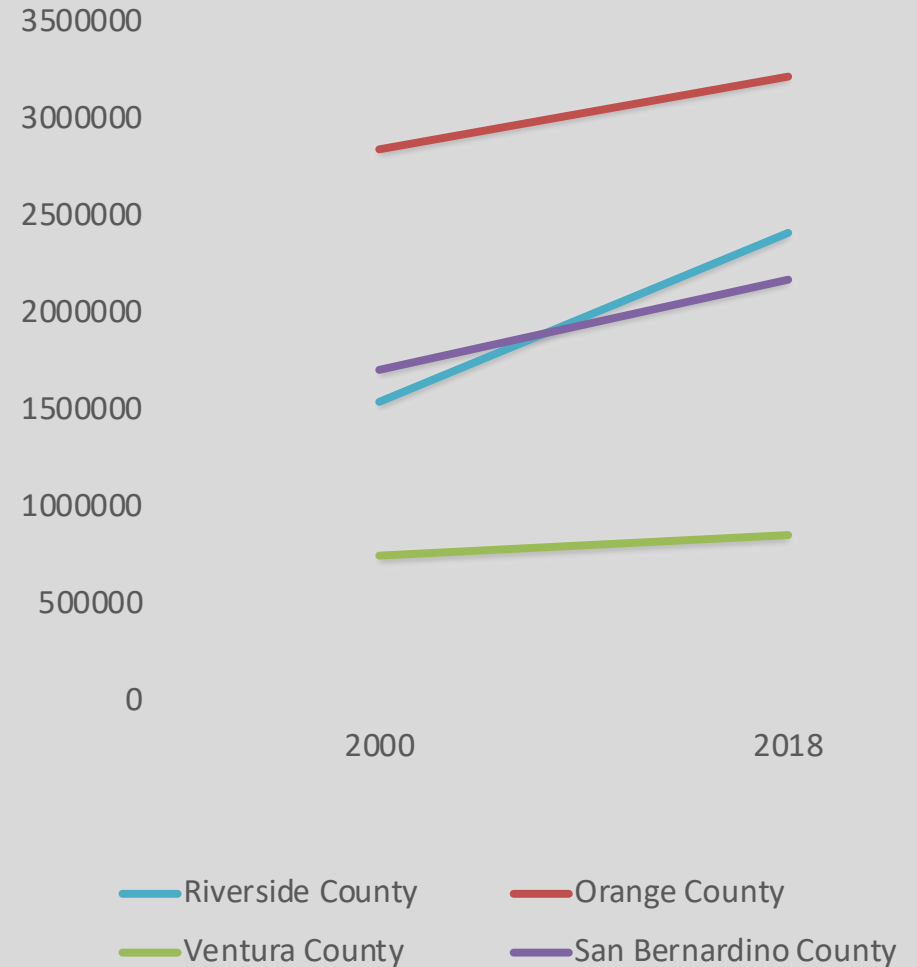


Historical and Future Growth

- One of the fastest growing counties in the region
- Majority of growth is residential (85% of new development)
- Most new units are single-family
- Industrial is the second biggest category



Population Growth



WRCOG Growth

- Key staff members had been consultants prior to working at WRCOG
- We saw SB 743 as a challenging issue for our region given our development patterns, our growth, and other considerations
- WRCOG has a history of developing regional programs to provide services to our members (economy of scale)
- Few of our jurisdictions had even considered any type of SB 743 response



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Why Get Involved

- Assist member agencies in implementing SB 743
 - What methodology is appropriate for analyzing Vehicle Miles Traveled (VMT) impacts?
 - What threshold options exist for determining significant VMT impacts?
 - What mitigation is feasible for reducing VMT impacts?
- Reduce implementation costs for member agencies
 - This was conducted so each agency does not have to do their own
- Provide sufficient documentation for our member agencies to have Substantial Evidence should their guidelines or approaches be challenged

- OPR technical advisory indicates that tools used to evaluate VMT must be consistent with methodology used to determine VMT thresholds.
- Study analyzed the following options for baseline VMT methodology:
 1. Regional SCAG model
 2. RIVTAM
 3. 2010-2012 California Household Travel Survey (CHTS)
- WRCOG recommended utilizing a travel demand model
 - WRCOG partnered with other regional agencies to update the travel model (RIVCOM)
 - New model will be updated and refined to improve compliance with SB 743 expectations (i.e., full external trip lengths)

- OPR technical advisory indicates that tools used to evaluate VMT must be consistent with methodology used to determine VMT thresholds.
- Reviewed existing 11 sketch planning tools and travel demand forecasting models available for SB 743 VMT analysis in WRCOG subregion based on defensibility, sensitivity, and utility.
- WRCOG did not recommend use of available sketch planning tools to estimate project-generated VMT for land use projects if thresholds based on RIVTAM or SCAG model.



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Project-Generated VMT

- Study analyzed four options for lead agencies setting thresholds:
 1. Rely on OPR Technical Advisory thresholds
 2. Set thresholds consistent with lead agency air quality, GHG reduction, and energy conservation goals
 3. Set thresholds consistent with RTP/SCS Future Year VMT projections by jurisdiction or subregion
 4. Set thresholds based on baseline VMT performance
- Recommend either of the following **thresholds** to determine significant impacts:
 1. Below City-wide average VMT, or,
 2. Below WRCOG regional average VMT

- WRCOG recommended that agencies develop screening criteria to limit the need for smaller projects to evaluate SB 743 impacts
- Screening based on project size, type of use such as local-serving retail, and other similar considerations
- Developed a screening tool to help identify areas where projects were also screened out as well
- Screening also based on proximity to transit

WRCOG VMT Screening Tool

apps.fehrandpeers.com/WRCOGVMT/

Find address or place

Layer List

All results based on RIVTAM Model.

- Western Riverside County Parcels (Zoom in to view)
- Transit Priority Area
- RIVTAM TAZs with total VMT per service population below jurisdictional average under 2012 base year model
- RIVTAM TAZs with Home-based VMT per resident below jurisdictional average under 2012 base year model
- RIVTAM TAZs with Home-based work VMT per worker below jurisdictional average under 2012 base year model
- RIVTAM TAZs with total VMT per service population below WRCOG subregional average under 2012 base year model
- RIVTAM TAZs with Home-based VMT per resident below WRCOG subregional average under 2012 base year model
- RIVTAM TAZs with Home-based work VMT per worker below WRCOG subregional average under 2012 base year model

10mi

-117.403 33.823 Degrees

CGIAR, USGS | Loma Linda University, County of Riverside, Esri



Screening Tool



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BUSINESS & STRATEGIC
 AUTHORITY AT LAW

- WRCOG has looked at continued support to the subregion
 - Held workshops prior to VMT implementation to provide updates to staff, consultants, and other parties on WRCOG efforts
 - Provided jurisdictions sample traffic study guidelines to integrate SB 743 analyses
 - Prepared sample staff reports to assistance jurisdictions with process of adopting VMT methodology, VMT thresholds, and VMT mitigation measures
- Developed a website (<http://www.fehrandpeers.com/wrcog-sb743/>) to help people with SB 743 analyses and provide more background information
- Continue to conduct research on how to assist jurisdictions with VMT mitigation



Charity Schiller; Partner, Best Best & Krieger
CEQA/Legal Concerns with VMT Implementation



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Charity Schiller

- CEQA process still fundamentally the same: describe project; calculate VMT impact; compare to threshold; mitigate (or consider alternatives) if potentially significant.
- But many legal implementation challenges:
 - How do we develop a threshold of significance?
 - How do we analyze VMT?
 - How do we mitigate?
 - How do we use “older” CEQA documents that don’t analyze VMT?
 - What does all of this mean from a litigation perspective?



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How does VMT Affect the Overall
CEQA Process?

- A threshold of significance is “an identifiable quantitative, qualitative, or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.” (State CEQA Guidelines, § 15064.7(a).)
- CEQA affirmatively encourages agencies to adopt jurisdiction-wide thresholds, but also allows agencies to identify its thresholds on a case-by-case basis.



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Thresholds of Significance

- Threshold can be either qualitative or quantitative.
 - Caveat for VMT: State CEQA Guidelines 15064.3(b)(3) states that a qualitative analysis of VMT is permitted “if existing models or methods are not available to estimate the vehicle miles traveled.”
- Thresholds that are to apply to all projects must be adopted by ordinance, resolution, rule, or regulation and following a “public review process”.
- Threshold must be supported by “substantial evidence.”

- The practical side of this:
 - If VMT threshold is too low, an EIR will be required for virtually every project.
 - If VMT threshold is too high (i.e., illusory), this may subject the agency to legal challenge both as to its initial adoption of the threshold and *potentially* as to its later application to subsequent projects. (State CEQA Guidelines 15064(b)(2) [“Compliance with the threshold does not relieve a lead agency of the obligation to consider substantial evidence indicating the project’s environmental effect may still be significant.”



- Lead agencies maintain broad discretion to formulate thresholds of significance. (E.g., *San Francisco Baykeeper, Inc. v. State Lands Commission* (2015) 242 Cal.App.4th 202, 227.)
- Significance conclusions are reviewed under the substantial evidence test.
- But, courts can be skeptical in reviewing the thresholds. “We begin with the broadest question posed: Did DFW abuse its discretion in adopting consistency with [AB 32’s] reduction goals as its significance criterion for the project’s [GHG] emissions? ***We review the issue de novo, as it is predominately a legal question*** of correct CEQA procedure.” (*Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204 (“Newhall Ranch”).)





- Agencies must analyze all those impacts that are reasonably foreseeable. (State CEQA Guidelines, § 15064.)
- CEQA does not require lead agencies to analyze impacts that are speculative. (State CEQA Guidelines, § 15145.)
- Substantial Evidence = Facts, Reasonable Assumptions Predicated Upon Facts, and Expert Opinion Supported By Facts. (State CEQA Guidelines, § 15384.)
- Show your work, and use small words.



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Analyzing VMT

- Agencies choice of one model over another is entitled to review under CEQA's "substantial evidence" test. (*City of Hayward v. Trustees of California the California State University* (2015) 242 Cal.App.4th 833, 839.)
- But that does not mean that an agency's chosen methodology is beyond challenge. (See *Newhall Ranch* (2015) 62 Cal.4th 204.)
- Reliance on your technical experts and consultants is critical here.

- State CEQA Guidelines 15126.4 requires that mitigation:
 - Be “feasible”. Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.
 - Have a “nexus” to the Project’s impacts. (*Nollan v. California Coastal Commission* (1987) 483 U.S. 825.) Greater emphasis on measures that reduce or offset VMT (bicycles, pedestrian, train, busing, carpool).
 - Be “roughly proportional” to Project impacts. (*Dolan v. City of Tigard* (1994) 512 U.S. 374.) Large-scale mitigation comes with large-scale price tags; regional mitigation may be an option.
 - Be fully enforceable (i.e., it must actually DO something). Consider whether we can meet this test for MMs such as bus passes or ride-sharing...



- Are impacts caused by roadways themselves, or by the land uses that utilize it?
- How to show that “mitigation” is additive (over and above what would normally happen)?
- More pressure to “bundle” projects that reduce VMT with projects that increase VMT? A new way of looking at project planning?
- If LOS is no longer an “impact,” what does this mean for current “mitigation” schemes?
- BOTTOM LINE: More significant and unavoidable impacts, and more EIRs for development projects.

- Once a CEQA document has been adopted and a Project has been approved, the statute of limitations applicable to the adequacy of CEQA review begins to run. (Public Resources Code 21166.)
 - Consistent with CEQA’s statutory goal of encouraging finality, and allowing important public projects to proceed.
 - EIRs, in particular, are presumed valid indefinitely.
- Thereafter, further environmental review of the Project is generally precluded unless one of the narrow circumstances under Public Resources Code 21166/State CEQA Guidelines 15162 has arisen, showing new significant impacts:
 - Project is changed in a way requiring substantial revisions to CEQA document
 - Circumstances have substantially changed.
 - New information that was not known and could not have been known with the exercise of reasonable diligence at the time of the prior review becomes available.

- Consider (in the VMT context), the application of *Citizens for Responsible Equitable Environmental Development v. City of San Diego* (2011) 196 Cal.App.4th 515:
 - “The effect of greenhouse gas emissions on climate could have been raised in 1994 when the City considered the FEIR. A challenge to an EIR must be brought within 30 days of the lead agency's notice of approval. Under subdivision (c) of Public Resources Code section 21166, an agency may not require an SEIR unless new information, which was not known and could not have been known at the time the [EIR] was certified as complete, becomes available. After a project has been subjected to environmental review, the statutory presumption flips in favor of the developer and against further review. Section 21166 comes into play precisely because in-depth review has already occurred [and] the time for challenging the sufficiency of the original EIR has long since expired.” (Internal citations/quotations omitted.)

- CEQA continues to be a cudgel for many groups.
- Every uncertainty is an opportunity for legal challenge.
- Litigation costs are especially tough on public projects without private sponsors –including nearly all transportation projects.
- Practical problem, because many potential challengers care little about VMT, and more about delay.





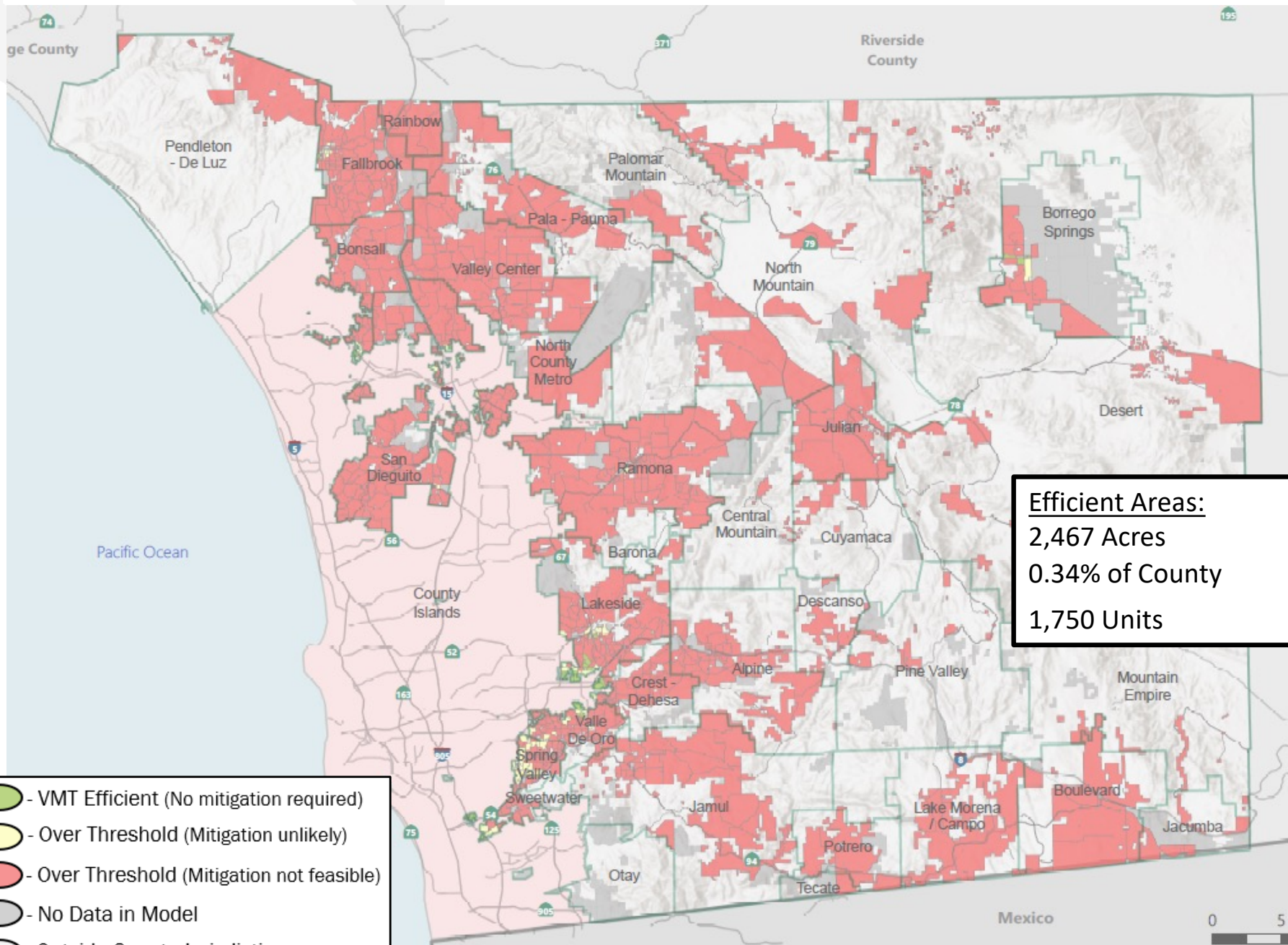
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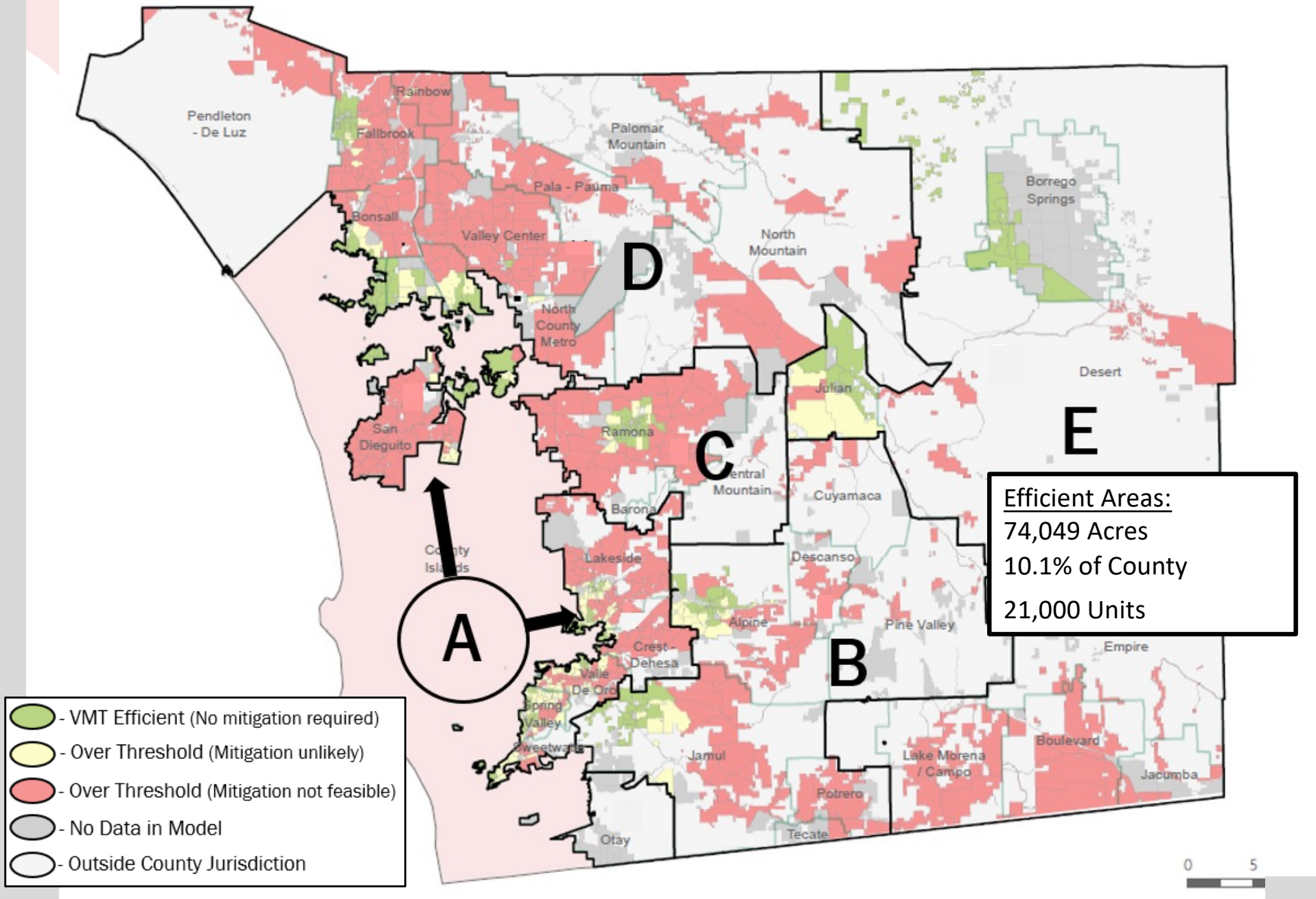
Damon Davis



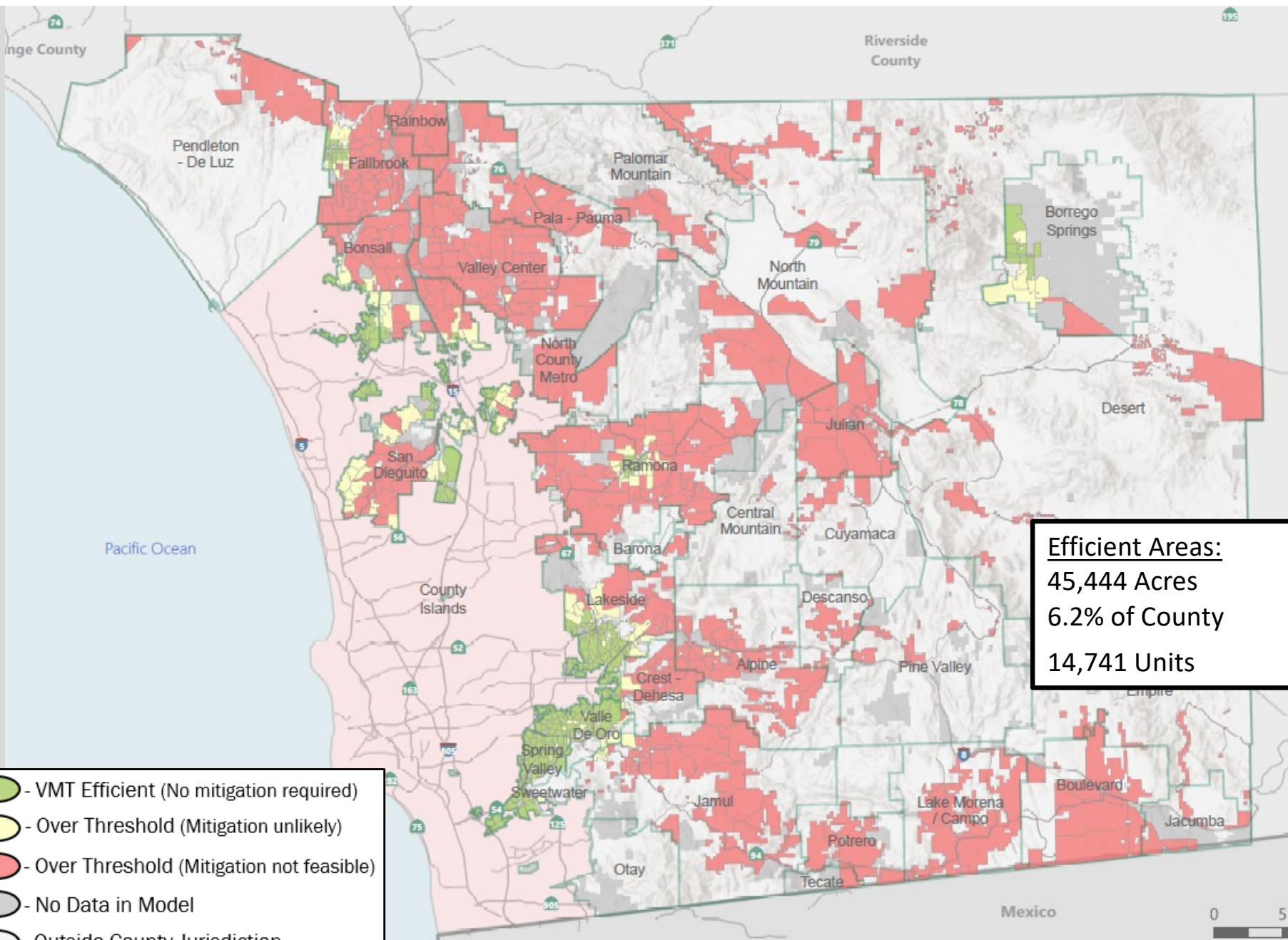
- VMT Efficient (No mitigation required)
- Over Threshold (Mitigation unlikely)
- Over Threshold (Mitigation not feasible)
- No Data in Model
- Outside County Jurisdiction








San Diego County and VMT



San Diego County and VMT



Efficient Areas:
 45,444 Acres
 6.2% of County
 14,741 Units

-  - VMT Efficient (No mitigation required)
-  - Over Threshold (Mitigation unlikely)
-  - Over Threshold (Mitigation not feasible)
-  - No Data in Model
-  - Outside County Jurisdiction



San Diego County and VMT



COUNTY OF SAN DIEGO



TRANSPORTATION
STUDY GUIDELINES



RESCINDED



JUNE 2020 - FINAL



ADOPTED (June 2020)

- 15% Below Unincorporated Average Threshold
- OPR Recommended Screening Criteria

LITIGATION (September 2020)

- Lawsuit filed against County
 - Geography
 - Small Project
 - CEQA

OPR FAQ Update (June 2021)

- Clarification of “Region”

Rescinded TSG (September 2021)

- 13 Items

Infill

- Quantification of Infill for County



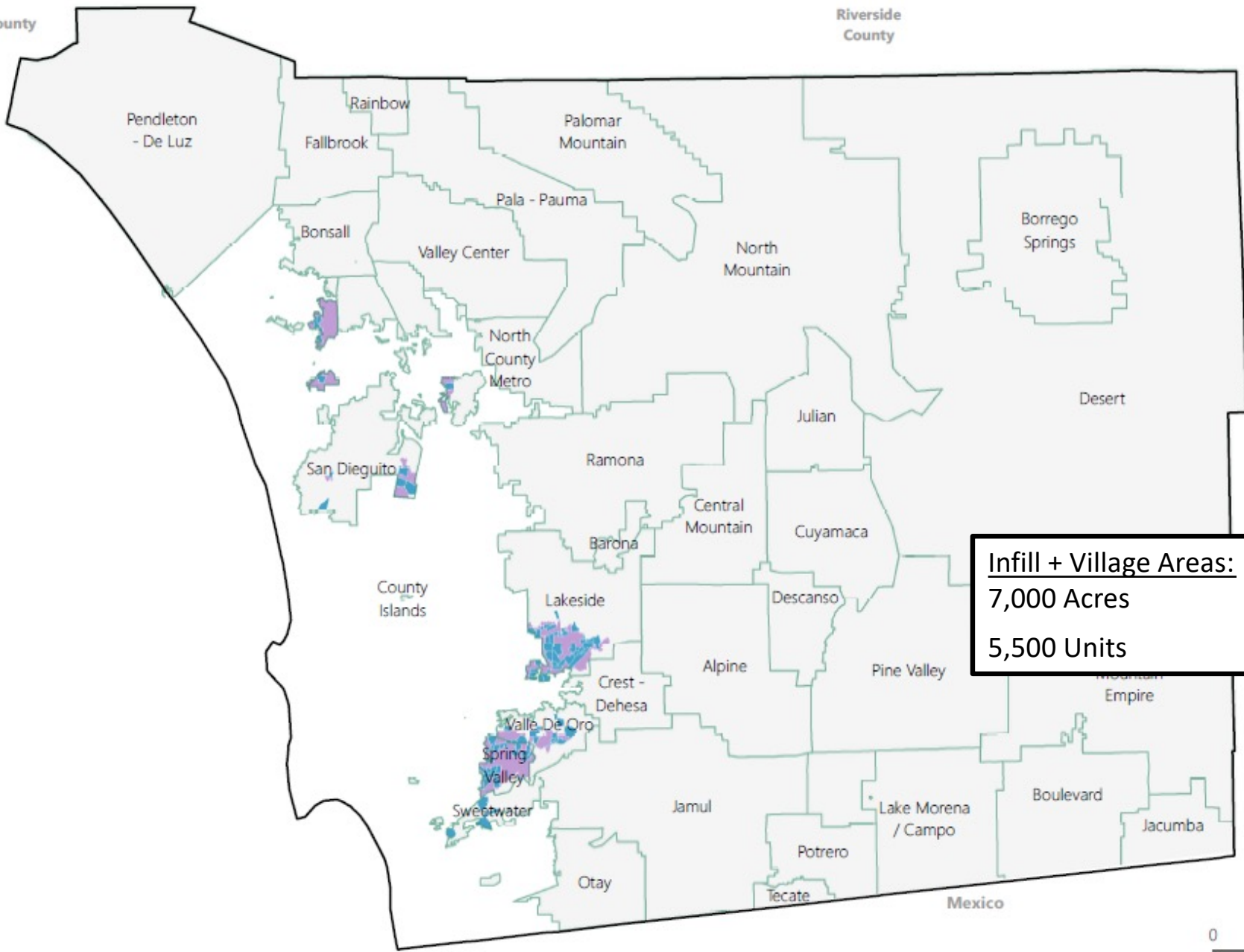
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San Diego County and VMT

Orange County

Riverside County



Infill + Village Areas:
 7,000 Acres
 5,500 Units



San Diego County and VMT



Questions?



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