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November 29, 2007

By Telecopy and E-mail

To the Board of Directors
San Diego Association of Governments
401 B Street, Suite 800
San Diego, CA 92101

RE: Comments on the Draft Environmental Impact Report For the 2007 Regional Transportation Plan (SCH Number 2007051145)

Dear Board Members:

The Attorney General submits these comments to the San Diego Association of Governments ("SANDAG") on the Environmental Impact Report for the 2007 Regional Transportation Plan ("RTP"). Although the official date for comments on the draft EIR has passed, the Attorney General submits these comments for consideration by the SANDAG Board before it makes a decision whether to certify the final EIR and approve the RTP. As you know, global warming presents California with one of its greatest challenges, and it is critical that we act now to reduce greenhouse gas (GHG) emissions. As Dr. Rajendra Pachauri, chair of the United Nations Intergovernmental Panel on Climate Change recently declared: "If there's no action before 2012, that's too late. What we do in the next two to three years will determine our future."^{1/} The RTP will significantly increase GHG emissions at the same time that the state has mandated reducing those emissions significantly.^{2/} We commend SANDAG for including policies directed at reducing GHG emissions from vehicles, including the policy to adopt a regional Climate Action Plan, and for including several mitigation measures suggested in the Attorney General's previous comment letter. However, we believe that the EIR does not fully address the impacts on global warming of the project, and urge SANDAG to adopt additional measures to mitigate the climate change impacts from transportation-related GHG emissions in the area.

Smart Growth Incentive Program:

1. Rosenthal, *U.N. Chief Seeks More Leadership on Climate Change*, N.Y. Times (November 18, 2007).

2. It is estimated that GHG emissions under the proposed 2007 RTP will exceed existing levels by 19 percent or 3.3 million tons per year by 2020 and by 31 percent or 5.3 million tons of CO2 per year in 2030. (Draft EIR, p. 4.7-33 to 4.7-34).

The Plan includes a Smart Growth Incentive program to grant \$280 million to projects that occur in “smart growth” areas identified in the Smart Growth Concept Map, which is part of SANDAG’s Regional Comprehensive Plan. (See 2007 RTP at 5-27 - 5-28 and 5-33). However, the Smart Growth Concept Map includes a large number of areas (193), including many that are widely dispersed in suburban and rural areas. Many of these areas are not near employment centers and not in areas that can be efficiently served by regional transit. (See, Independent Transit Planning Review Services, December 2006 Final Report, Prepared for SANDAG, at 2-12) (“Independent Transit Review”). Development in these locations would not comply with “smart growth” principles. Providing incentives for development in many of the areas designated on the Smart Growth Concept Map would give financial incentives for building in areas where people live far from jobs and high capacity transit, and therefore will have high Vehicle Miles Traveled (“VMT”) rates. Eligibility for the incentives should be limited to areas that are adjacent to existing, and/or planned and funded, light rail stops or bus rapid transit stops and areas with high potential for increasing walking and biking and shortening trip lengths. This will ensure that SANDAG’s grants actually increase use of public transit, rather than encourage more development in auto-centered suburban and rural areas farther from the area’s main employment centers. The “Climate Action Program at Caltrans”^{3/} identifies the need to “[m]ainstream energy efficiency and GHG emissions reductions measures into land use funding priorities that target spending toward population and employment centers and withhold infrastructure funding from greenfield development at the urban edge.” SANDAG will not comply with this mandate if it provides incentives for new development in *all* locations identified on the Smart Growth Concept Map.

Moreover, the *Transnet* sales tax funding that SANDAG will use for these incentives should be allocated in accordance with recommendations in the Independent Transit Review.^{4/} This report states repeatedly that the effectiveness of the SANDAG’s smart growth incentives will be diluted if they continue to apply to so many areas region-wide, and that it would be more effective to focus smart growth incentives in more urbanized areas that are better candidates for enhanced transit service linked to smart growth land use and where more immediate effect could be realized. See Independent Transit Review at ES-4, 2-12, 2-13, 2-37 and 3-7. The Review points out that SANDAG’s predicted growth pattern (with the highest growth in suburban or rural areas of Carlsbad, Chula Vista, San Marcos and unincorporated areas of the County) “seems to be focused on developable land rather than access to transit or employment.”

3. Climate Action Program at Caltrans (California Department of Transportation, Business, Transportation, and Housing Agency, December 2006).

4. When the *Transnet* sales tax for transportation was extended by voters in 2004, it included a commitment by SANDAG to conduct an Independent Transit Planning Review of the public transit system proposed in the RTP. The Report was prepared by a panel of six experts in the field from around the country. See Independent Transit Planning Review Services, December 2006 Final Report, Page ES. The entire document is attached as Exhibit C to the comments dated November 14, 2007 on the Draft EIR submitted by Save Our Forest and Ranchlands (“SOFAR”).

(Independent Transit Review at 2-15). The Review notes that “[e]ncouraging new residential growth in these two sub-regional areas, Central San Diego or areas south of Central San Diego, where existing high capacity transit service already exists, could improve the transit share of work trips.” (Id.) The Review also notes that some light rail stations, Coaster stations and Sprinter stations, which have existing public transit infrastructure, are not included in Smarth Growth areas, and this should be re-evaluated. (Id. at 2-14). The RTP entirely ignores the Independent Transit Review recommendations on this issue, instead simply stating that the panel’s recommendations included: “Offer incentives for transit-oriented development in smart growth areas.” (2007 RTP at 5-15). This ignores the recommendations that the Review made for establishing an effective smart growth incentive program.

Transit Emphasis Urban Core Alternative:

This alternative attempts to incorporate projects to implement proposals submitted by Save Our Forests and Ranchlands (“SOFAR”) to significantly reduce VMT in the area by increasing transit in San Diego’s urban core, which is identified as the 30-square mile Trolley Ring and the area to the south, including National City. The EIR concludes that this alternative does not reduce GHG emissions compared to the Project or Revenue Constrained alternatives. However, the EIR gives no explanation for this conclusion. The EIR says that this alternative would require eliminating some regional transit to fund improved downtown transit. There is no explanation why, rather than eliminating regional transit, the Plan could not eliminate some of the freeway expansion projects. In addition, the EIR does not explain why the Transit Emphasis Urban Core alternative includes most of the freeway lane expansion projects that are part of the Project, Transit Emphasis and Revenue Constrained alternatives. (See Draft EIR, Table 7.0.2). In fact, SANDAG did not analyze an alternative that would greatly reduce the extent (and cost) of freeway lane expansion projects intended to relieve congestion, and therefore allow investing more funds in urban core transit, walking and biking improvements that would reduce VMT. The Independent Transit Review recommended reducing the proposed expansion of freeway lanes and increasing the emphasis on transit. (Id. at ES-5 and 3-32). Yet, as noted above, the Transit Emphasis Urban Core Alternative included in the EIR eliminates only a very few of the freeway lane projects, and does not significantly reduce the proposed RTP’s substantial funding of expanded freeway lanes. Thus, the EIR fails to consider a reasonable alternative consisting of substantially reduced investment in new freeway lanes and allocating this funding to projects to such as expanding public transit to shorten or eliminate vehicle trips, and even increasing biking and walking, even though this was recommended by the Independent Transit Review.

New Freeway Lanes:

The EIR does not adequately evaluate and identify the impacts of the numerous freeway widening projects (including many new freeway/highway lanes and some ML and HOV lane projects) that are included in the proposed RTP. The EIR also disregards recommendations of the Independent Transit Review regarding the reducing the proposed expansion of freeway lanes. The Independent Transit Review stated:

“A 38% increase in freeway lane-miles is a highway-heavy solution to the region’s mobility needs, and more attention should be given to transit.” (Id. at ES-5). The Review also states: “The panel felt that the current RTP’s focus on managed lanes promotes auto-oriented development and makes transit less competitive in serving new markets.” (Id. at 3-32). And: “Smart Growth efforts will likely be weakened by managed lanes’ alleviation of congestion and its encouragement of auto-oriented growth away from transit corridors.” (Id. at 6-16).

The Independent Transit Review clearly expresses the experts’ opinion that the proposed RTP’s large increase in freeway lane miles will increase auto trips (and therefore GHG emissions). (Id. at ES-5 and 3-32).^{5/} The EIR is deficient because it does not acknowledge or evaluate this impact on the environment. For example, the EIR does not analyze whether the increase in freeway lanes will make it easier for people to continue driving alone, and therefore will interfere with achieving the RTP goal of increasing use of public transit and increasing vanpools by 20% in three years. (2007 RTP at 8-15; Draft EIR at 4.7-24 to 4.7-25 and 4.7-37). SANDAG’s analysis appears to focus on the short-term results of the freeway projects, and ignores the longer time horizon. There is a large body of research and expert opinion indicating that, in the long-run, in areas with a growing population, additional freeway lanes cause more vehicle trips, decentralized development, and only temporarily reduce congestion which over time returns to previous levels.^{6/} The EIR fails to disclose and account for this potential environmental impact. If an appropriate analysis was undertaken, it could indicate that SANDAG should not authorize all the freeway expansion projects included in the proposed RTP.

More specifically, at its November 9, 2007 meeting, the SANDAG Board supported a modification to the RTP to add yet another freeway widening project – increasing SR 56 to six lanes. The EIR does not evaluate the impact this will have on efforts to achieve smart growth and transit-oriented development and to reduce GHG emissions from driving. Widening of SR 56 should not be authorized at this time because the impacts of widening this freeway on GHG emissions, and alternatives to doing so, have not been fully evaluated as required under CEQA.

5. The proposed RTP allocates about \$1.1 billion for new freeway lanes in the form of ML and HOV lanes, and related access ramps. (Id. at 3-25).

6. See Induced Travel: Frequently Asked Questions: www.fhwa.dot.gov/planning/itfaq.htm; Robert Cervero, “Road Expansion, Urban Growth, and Induced Travel”, *APA Journal*, Spring 2003, Vol. 69, No. 2, p. 145-163, available at: www.planning.org/japa/pdf/Cervero.pdf; “Increases in Greenhouse-Gas Emissions From Highway Widening Projects,” Sightline Institute, October 2007, citing Todd Litman, “Generated Traffic and Induced Travel: Implications for Transport Planning,” Victoria Transport Policy Institute, 17 September 2007 (attached as Exhibit F to the November 14, 2007 comments on the EIR submitted by SOFAR, and available at: www.vtpi.org/gentraf.pdf) and “Beyond Gridlock: Meeting California’s Transportation Needs in the Twenty First Century, Surface Transportation Policy Project, May 2000 (attached as Exhibit B to the November 14, 2007 comments on the EIR submitted by SOFAR).

Green Construction Policy:

While the EIR does include several measures to mitigate the impacts of GHG emissions from construction of projects, we believe it is feasible for SANDAG to adopt a more comprehensive policy to require all funded projects to mitigate construction GHG emissions, including the following measures:

- use the lowest emitting construction equipment and fuels available^{7/} (these include off-road construction vehicles that use alternative fuels, or diesel-powered vehicles with EPA Tier 3 or better engines or retrofitted/repowered to meet equivalent emissions standards as Tier 3 engines);
- use pavement for roads and parking lots made with light color aggregate if available (or light color coating) to increase solar reflectance and therefore reduce contribution to the heat island effect (and reduce temperatures)^{8/};
- for projects that require electricity, install solar photovoltaic systems to meet or contribute to the needs;
- incorporate planting of shade trees into construction projects where feasible.

Safe Routes to School:

SANDAG could have a significant impact on climate change by implementing a program to educate, encourage and assist jurisdictions in developing safe routes to school programs. SANDAG could also establish a grant program to fund Safe Routes to School projects that are not selected to receive state funding (which is insufficient to fund all requests). In many areas, over 20% of morning trips are for driving kids to school. Implementation of such a program by SANDAG should be included as a measure to mitigate increased GHG emissions from the projects in the RTP. The program could include workshops and consultation with jurisdictions to identify necessary infrastructure improvements, identify funding sources, and assist in establishing a school curriculum to educate students, teachers and parents about the benefits of walking and biking to school. A comprehensive Safe Routes to School program in Marin County has been highly successful in substantially reduce driving trips and therefore limiting

7. The South Coast Air Quality Management District has called for the state, in selecting projects that will be funded from Proposition 1B, to impose this condition. (Resolution of SCAQMD Expressing Conditions for Funding Projects with Proposition 1B Funds in the South Coast District, Resolution No. 07-07, April 6, 2007).

8. See: <http://eetd.lbl.gov/HeatIsland/>

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GHG emissions.^{9/}

Thank you for considering these comments.

Sincerely,

/S/

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Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General

9. See Marin County Safe Routes to Schools Program Evaluation 2004-2005, August 2005, Nelson/Nygaard Consulting Associates.