



**Item #07-1-5
Consent**

SACOG Board of Directors

January 11, 2007

Delegation of Authority to Executive Director to Initiate Legal Action

Issue: To delegate authority to the Executive Director to initiate legal action in cases related to SECAT and Carl Moyer funding.

Recommendation: The Strategic Planning Committee recommends that the Board approve a resolution authorizing the Executive Director to initiate legal action in certain cases.

Committee Action/Discussion: SACOG has authority over the SECAT and Carl Moyer funding; however, the Sacramento Municipal Air Quality Management District (SMAQMD) administers the funding. SMAQMD determines eligible recipients and issues the contracts which are authorized by the SMAQMD Executive Director, legal staff of the SMAQMD, SACOG's Finance Director and SACOG's Executive Director. SMAQMD then administers the program and ensures that the recipient adheres to the terms of the contract. Upon occasion, SMAQMD initiates legal action for breach of contract or other action related to a SECAT contract on behalf of both SMAQMD and SACOG as signatories to the contract. When this legal action occurs, SMAQMD's legal staff takes the lead and SMAQMD incurs the bulk of litigation costs. SACOG is typically asked to approve the initiation of the legal action on short notice.

SACOG's legal counsel, Kirk Trost, recommended to the Committee that this delegation to the Executive Director apply only to SECAT/Carl Moyer legal actions where SMAQMD legal staff would be the lead counsel, and that the Board be notified at its next regularly scheduled meeting of any legal actions approved by the Executive Director. The Committee unanimously approved this approach.

Approved by:

Mike McKeever
Executive Director

MM:KLW:gg
Attachment

Key Staff: Karen Wilcox, Director of Finance, (916) 340-6210



SACRAMENTO AREA COUNCIL OF GOVERNMENTS

RESOLUTION NO. 3 - 2007

**AUTHORIZING THE EXECUTIVE DIRECTOR
TO INITIATE CERTAIN LEGAL ACTION**

WHEREAS, the Sacramento Area Council of Governments (SACOG) has occasion to initiate legal action; and

WHEREAS, initiation of legal action on behalf of SACOG ordinarily requires approval of the Board of Directors; and

WHEREAS, SACOG has authority for the Sacramento Emergency Clean Air and Transportation (SECAT) program and Carl Moyer funding program, but the administration of both programs is managed by the Sacramento Municipal Air Quality Management District (SMAQMD); and

WHEREAS, SMAQMD has occasion to recommend and commence legal action on behalf of both SMAQMD and SACOG against a SECAT or Carl Moyer funding recipient for non-compliance with the recipient's signed agreement; and

WHEREAS, the SMAQMD has legal staff that recommends, initiates, and takes the lead on such action; and

WHEREAS, the need to initiate legal actions often arises on short notice; and

WHEREAS, as a signator to the program contracts, SACOG must approve the initiation of, and be a party to, such actions;

NOW THEREFORE, BE IT RESOLVED, that SACOG delegates to the Executive Director the authority to approve, on behalf of SACOG, legal action for breach of contract or other action relating to SECAT or Carl Moyer funds and when SMAQMD legal staff initiates the action and will act as lead counsel. In any instance when the Executive Director has approved such legal action, he/she shall notify the Board of Directors at the next regularly scheduled Board meeting.

PASSED AND ADOPTED this 18th day of January 2007, by the following vote of the Board of Directors:

AYES:

NOES:

ABSTAIN:

ABSENT:

Rusty Dupray
Chair

Mike McKeever
Executive Director