



## Item #12-9-15 Report

### SACOG Board of Directors

September 13, 2012

#### Chief Executive Officer's Report

*The following is a brief status report on some of the major issues and projects currently being advanced by SACOG.*

**KEY BOARD ITEMS: #9** related to the Connect Card is the most challenging item on the agenda, but I have decided to pull it while we get answers to some of the questions that came from Board during good discussions on this item at all three Board Committees. The item is structured as an action item to allow the Board to delegate it to a Strategic Planning Committee meeting (most likely in October) if we conclude that delaying until the early December Board would create significant problems. We should have that timing issue figured out by the September Board meeting.

**CONSENT CALENDAR:** All of the consent items were recommended unanimously at the Committee level.

**RECEIVE AND FILE:** Last month the Board authorized legal counsel to file an amicus brief for SACOG on the SANDAG lawsuits after reviewing the arguments we would make with Board leadership. We followed that process and sent our comments forward (see attached).

#### CALENDAR:

#### Transportation, Land Use & Air Quality, and Government Relations & Public Affairs Committees will not meet until November.

Sept 24 @ 12:00 noon	Shared Services and New Initiatives Task Force	SACOG
Oct 18 @ 12:00 noon	Shared Services and New Initiatives Task Force	SACOG
Nov 8 @ 12:00 noon	Shared Services and New Initiatives Task Force	SACOG
Nov 15 @ 10:00 a.m.	Transportation Committee Meeting	SACOG
Nov 15 @ 1:00 p.m.	Land Use & Air Quality Committee Meeting	SACOG
Nov 19 @ 10:00 a.m.	Government Relations & Public Affairs Committee Meeting	SACOG
Nov 29 @ 12:00 noon	Shared Services and New Initiatives Task Force	SACOG
Dec 6 @ 9:30 a.m.	SACOG Board of Directors	SACOG

Mike McKeever  
Chief Executive Officer



September 13, 2012

**Amicus Brief for Cleveland National Forest Foundation, et al. v. San Diego Association of Governments**

Pursuant to the Board's closed session approval and delegation in August, staff received authorization from the Chair and Vice Chair of the Board to sign on to an amicus brief with the California Association of Councils of Government in the above-referenced case.

The Board approved participation on issues that had the potential to impact the legal framework for SACOG's future MTP/SCS. The brief generally addresses three such issues. Very briefly, they are as follows:

1. An MPO, as the CEQA lead agency in adopting an MTP/SCS, has discretion to balance environmental concerns against other legitimate goals, policies, and obligations, particularly those established by other Federal and State statutes.

The petitioners in the case argue that environmental concerns were not adequately addressed. This argument ignores the various State and Federal statutes that apply to an MPO in adopting an MTP/SCS. The preparation of an MTP/SCS involves striking a balance between a wide range of concerns, some environmental, some not. CEQA requires that policy decisions be informed by environmental considerations, not that environmental considerations trump all other policy issues.

2. An MPO, as the CEQA lead agency in adopting an MTP/SCS, has broad discretion to fashion a standard or threshold for determining whether a project will have a significant cumulative impacts with respect to greenhouse gas emissions.

The petitioners argue that SANDAG is required to use the 2050 greenhouse gas target issued under Executive Order by Governor Schwarzenegger as a significance threshold for its EIR. Under CEQA, the lead agency has broad discretion to identify and rely upon appropriate standards or thresholds to determine whether a project's impacts will be significant. The Governor's Office of Planning and Research (OPR) has issued specific guidance stating that using the target issued by Governor Schwarzenegger was a discretionary decision of the lead agency until CARB adopts a state-wide threshold, which has not occurred.

3. CEQA authorizes agencies to prepare "Program EIRs" for plans like an MTP/SCS, and SANDAG's approach is characteristic of Program EIRs.

The petitioners make three arguments: (a) that SANDAG inappropriately pushed the analysis of impacts and the development of mitigation measures into the future; (b) that SANDAG did not follow CEQA; and (c) that SANDAG's mitigation measures to address GHG emissions were inadequate. These arguments ignore that SANDAG correctly certified a programmatic EIR, which followed the rules applicable to programmatic analysis and adopted mitigation measures that appropriately recognize the limitations on the authority of an MPO concerning land-use policy.