Pamela Epstein
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San Diego Chapter
8304 Clairemont Mesa Blvd., Ste 101
San Diego, CA 92111
http://www.sandiego.sierraclub.org
858-569-6005

August 1, 2011

Mr. Rob Rundle
Principal Regional Planner
SANDAG
401 B Street, Suite 800
San Diego, CA 92101

Submitted via Electronic Mail & United States Mail

RE: Draft Environmental Impact Report for Proposed 2050 Regional Transportation Plan/Sustainable Community Strategy

Dear Mr. Rob Rundle:

This letter is submitted on behalf of the San Diego Chapter of the Sierra Club ("Sierra Club" or the "Club). The Sierra Club appreciates and welcomes the opportunity to comment on the Draft Programmatic Environmental Impact Report ("DEIR") for the 2050 Regional Transportation Plan and Sustainable Communities Strategy ("2050 RTP/SCS" or the "Project"). These comments are respectfully submitted to ensure that the San Diego Association of Governments ("SANDAG") fully complies with the California Environmental Quality Act ("CEQA").[1]

The plan sets forth SANDAG's vision for the health and trajectory of the regional planning and design for the entire region over the next half century. However, the 2050 RTP is not merely a plan for the San Diego region; it will serve as model for the State of California, as well as, the nation. SANDAG has developed this iteration of its RTP subject to the provisions set forth in Senate Bill 375 ("SB 375"). The Sustainable Communities Strategy ("SCS") component requires SANDAG to demonstrate how development patterns and the transportation network, policies, and programs can work together to achieve the greenhouse gas (GHG) emission targets for cars and light duty trucks established by the California Air and Resources board (CARB).

The GHG reduction targets for the RTP/SCS are seven percent by 2020 and thirteen percent (13%) by 2035. Whereas, SANDAG boasts exceeding its 2020 and 2035 reduction target goals, the RTP/SCS correctly identifies that between 2036-2050 the GHG per capita reduction rate will drops sharply to nine percent. Moreover, SANDAG reports that the per capita vehicle miles travelled ("VMT") overall will show *de minimis* decrease, roughly, one percent (1%) over the entire forty-year period. SANDAG's math is questionable and misleading, resulting in inconsistent reductions in VMT. These numbers are contrary to the goal of a sustainable transportation and land use planning blueprint. Substantively, the Plan does very little to place the region on a path towards sustainability.

With noteworthy goals but lackluster implementation, the Sierra Club believes it is critical that SANDAG revised the current document and realistically consider a true, transit-oriented alternative that significantly

[1] Pub. Res. Code § 21000 *et seq.* and CEQA Guidelines (California Code of Regulations, title 14 section 15000 *et seq*

scales back freeway and roadway improvements, in order to achieve the goals set forth in the RTP/SCS. Simply put the current iteration continues to place an emphasis on freeway/roadway expansion, which simply is not sustainable. This letter amongst several others submitted reference numerous academic studies highlighting the danger and liability of following the freeway expansion, business as usual approach. In light of the fact that significant funding for listed projects is allocated from *TransNet,* SANDAG should acknowledge that *TransNet* can and should be restructured and reprioritized to place transit projects before freeway improvements. Adoption and certification of the current RTP/SCS and DEIR will do more than set a bad planning precedent it will act as a direct violation of CEQA and CEQA Guidelines.

I. Importance of CEQA Compliance

CEQA is the touchstone of California's environmental legislation. The Court has referred to the EIR as "the heart of CEQA."[2] Agencies are held to a high-level of environmental accountability through the planning and decision-making stages of major development. The California legislature enacted CEQA to "[e]nsure that long-term protection of the environmental shall be the guiding criterion in public decisions."[3] The California Supreme Court has repeatedly held that CEQA must be interpreted so as to "afford the 'fullest possible protection' to the environment."[4] Therefore, the proper interpretation of CEQA is one that will impose a "low threshold requirement for initial preparation of an EIR and reflects a preference for resolving doubts in favor of environmental review when the question is whether any such review is warranted."[5]

The 2050 RTP/SCS will result in significant, irreversible environmental consequences. By its own admission, SANDAG acknowledges that the Plan will result in significant impacts to the following areas: aesthetic and visual resources; agricultural and forest resources; air quality; biological resources; geological, soils, and mineral resources; greenhouse gas emissions; hazards and hazardous materials; land use; noise; population and housing; public services; utilities and energy; recreation; transportation and traffic; and water supply.[6] With significant impacts across the spectrum, a special degree of public participation and opportunity for criticism is warranted. Informing the public about the potential significant environmental effects of proposed projects and the reasons behind an agency's decision to approve a project in spite of the potential environmental effects is fundamental purpose of CEQA.[7] The CEQA statute and the Guidelines provide for a public comment and review period, which enables citizens "to make important contributions to environmental protection" and facilitates "notions of democratic decision-making."[8] In this regard, CEQA review not only protects the environment, but also informed self-government, accountability, and transparency.

II. The DEIR Is Legally Indefensible.

The Sierra Club is specifically concerned that the DEIR is missing pertinent information from which to make a proper assessment. CEQA mandates that the DEIR contain all pertinent information to ensure that the EIR is comprehensive document that provides the information necessary to allow decision-

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[2] *Laurel Heights Improvement Assn. v. Regents of University of California* 47 Cal. 3d 376, 392 (1988) ("*Laurel Heights*")
[3] *No Oil, Inc., v. City of Los Angeles* (1974) 13 Cal.3d 68, 74
[4] *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 206 (internal citations omitted)
[5] *Sierra Club v. Cty. Of Sonoma* (1992) 6 Cal.App.4th 1307, 1316-1371.
[6] DEIR 3-5
[7] CEQA Guidelines § 15002, subd. (a)(1) and (4)
[8] *Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural Association* (1986) 42 Cal.3d 929, 936.

makers and the public to make an informed decision about the adequacy of the document and proposed project.[9] Thus, a planning document should not be a perfunctory – it must contain as much information and analysis that is known and available at the time of preparation to identify and analyze ***all*** significant environmental impacts and whether alternatives and/or mitigation measures exist which would substantially lessen the significant environmental effects.[10]

A. The DEIR's Project Description is Insufficient to Satisfy Requirements of CEQA.

The Courts have recognized an EIR's need for "[a]n accurate, stable, and finite project description," and that an accurate description of the project "is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity." [11] Public participation is an essential part of the CEQA process; CEQA unequivocally requires the lead agency to assemble a sufficiently detailed informational document on which the public can base their meaningful review.[12]

SANDAG has elected to prepare its RTP/SCS with a sunset date in 2050, covering a forty-year period. In doing so, SANDAG uses the extensive length of time to excuse its CEQA requirements claiming that 2050 is "too far in the future" to adequately gauge the impacts of the project and sufficiently mitigate. SANDAG's skin-deep analysis supports the Club's contention that the proposed Project does not facilitate sustainable transportation, housing, and land use policies.[13] SANDAG has misdiagnosed the underlying problem and subsequently the treatment, as congestion and capacity. Rather than increasing road capacity and alleviating congestion through additional concrete, SANDAG should focus on achieving meaningful reductions in VMT through sustainable infrastructure – the objective of SB 375.

The Project as described fails to meet the vision of the 2050 RTP/SCS to "promote [...] a healthy and safe environment" and "improve air quality in the region."[14] All considered alternatives, except for the No Project alternative and Slow Growth alternative, are better suited to meeting these important air quality goals because they are projected to cause a "significant environmental impact but less than the 2050 RTP/SCS" for all air quality impacts.[15] Even the proposed mitigation fails to make up for the fact that the proposed Project will worsen the already significant levels of air pollution because SANDAG defers significant mitigation efforts to the project-level planning, and thus all impacts at the program level remain "significant and unavoidable." SANDAG fails to procedure an adequately supported rationale as to why the proposed Project was chosen over alternatives, which would have a less significant impact.

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[9] *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 82-88
[10] Pub. Res. Code, §§ 221001.1, 21002.
[11] *Cty. of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730 (citations omitted).
[12] CEQA Guidelines, § 15201; *See also, Emmington v. Solano Cty. Redevelopment Agency* (1987) 197 Cal.App.3d 491, 503.
[13] The EPA defines the traditional notion of sustainability as "policies and strategies that meet society's present needs without compromising the ability of future generations to meet their own needs." Although there are different perspectives on sustainability (public v. private), "[c]ommon to both public policy and business perspectives is recognition of the need to support a growing economy while reducing the social and economic costs of economic growth." US Environmental Protection Agency, Sustainability- Basic Information, available at http://www.epa.gov/sustainability/basicinfo.htm (as of July 26, 2011).
[14] DEIR 2-7, 6-1
[15] *Id.* at 6-189

a. Failure to Adequately Describe the RTP's Transportation Projects

Since the release of the DEIR, there has been at least one change made to the projects included in the 2050 RTP/SCS. On July 7, 2011, the California Department of Transportation ("Caltrans") and the Federal Highway Administration ("FHWA") announced that they had selected the Express Lanes only option as the preferred alternative for the I-5 express lanes project, which would add two express lanes in each direction from La Jolla to Oceanside.[16] The project description in the DEIR should be updated to reflect this and other changes. For example, the I-5 freeway expansion between La Jolla Village Drive and the I-5/I-805 merge is listed, in the DEIR, as being improved from 8F/14F to 8F/14F+2ML (F=freeway lanes, ML=managed lanes (HOV and value pricing)).[17] This description of the project is now inaccurate and does not include "the precise location and boundaries of the proposed project", as required by CEQA, because the Locally Preferred Alternative provides for four managed lanes to be added (two in each direction) between La Jolla Village Drive and Oceanside.[18]

Furthermore, the 2050 RTP/SCS contains discrepancies between itself and the DEIR that forestall meaningful review. The 2050 RTS/SCS and the DEIR contain different project phasing timelines, as shown in as Attachment A. Many projects in the DEIR are listed as "scheduled to be completed" by 2020, 2035, and 2050, whereas in the 2050 RTP/SCS those same projects are scheduled to be completed by 2018, 2030, and 2040 (respectively). SANDAG needs to provide an explanation as to the difference between timelines in the 2050 RTP/SCS and the DEIR? What is the actual timeline for these projects? An accurate assessment of the independent and cumulative environmental impacts for the years 2020, 2035, and 2050 is thwarted without an accurate timeline for when the projects are going to be completed. The DEIR must be updated to accurately reflect the proposed projects, and then environmental impacts and mitigation measures must be recalculated to ensure that the DEIR accurately informs decision-makers and the public of the Project's environmental consequences.

b. The *TransNet* Ordinance is Inherently at Odds with the SCS and Therefore Should not Serve as the Baseline for the Projects in the 2050 RTP and DEIR

As other commenter's have noted, *TransNet* is the leading constraint on the 2050 RTP/SCS.[19] The projects approved as part of the *TransNet* extension ordinance favor highway investments over transit investments. Approximately, forty-two percent of the *TransNet* funds are dedicated to major highway and transit congestion relief funds. Out of a total of $9,945 million dedicated to specific corridor improvements in the Ordinance, $6,760 in million was allotted for highway capital improvements, while only $2,685 million is allotted for Bus Rapid Transit (BRT) and Rail Transit Capital Improvements. Therefore, out of the total funding allotted towards corridor improvements 71.6 percent was for highway capital improvements, while 28.4 percent was for BRT and Rail Transit Capital Improvements.[20]

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[16] *See* Caltrans and FHWA Identify Express Lanes Only Option as Locally Preferred Alternative for I-5 Express Lanes Project (July 7, 11), available at http://www.keepsandiegomoving.com/Libraries/I5-Corridor-doc/NR_Preferred_Alignment_Announced_for_I-5_Project_070711.sflb.ashx (as of July 24, 2011).

[17] DEIR 2-47, 2-49

[18] CEQA Guidelines, § 15124, subd. (a). The locally preferred alternative provides for four managed lanes to be added on the I-5 between La Jolla Village Drive and the I-5/I-805 merge (*See* I-5 North Coast Corridor Planned Improvements Map, available at http://www.keepsandiegomoving.com/Documents/I5-Corridor/KSDM_I-5_Map_JAN10.pdf (as of July 24, 2011).

[19] See TransForm document titled "Recommendations for Improving SANDAG's 2050 RTP and for Post-RTP Actions (May 23, 2011), related to Agenda Item #2 at the SANDAG Board of Director's meeting on June 10, 2011.

[20] *See* 2004 *TransNet* Extension Ordinance and Expenditure Plan, pp. 3-11, available at http://sandag.org/uploads/publicationid/publicationid_1283_6596.pdf (as of July 22, 2011).

Furthermore, 33 percent of total *TransNet* funds are dedicated towards local programs. This number is broken down into 29.1 percent for Local Street and Road Programs, 2.1 percent - for Smart Growth Incentive Programs, and 1.8 percent for Habitat-Related Mitigation Costs, which fund the habitat-related mitigation costs of local transportation projects consistent with the RTP as part of the Environmental Mitigation Program. Thus, a significant portion of *TransNet* funds dedicated to local programs will benefit solo drivers and people not making use of the public transportation options available to them. Although the SCS places significant emphasis on the growth and use of public transit to reduce GHG and VMT, almost half of the funding for major new transit facilities is not scheduled to be expended until the years 2041-2050 ($14,320 million (YOE) to be spent between 2041-2050, out of a total of $32,731 million (YOE)).[21] In total, 44 percent of the money estimated to be spent on transit projects (including major new facilities, miscellaneous capital/rehabilitation/ replacement, transit ops, and ADA and HHSA transportation services) is scheduled to be spent between the years 2041-2050.[22]

In order to fulfill the purpose of the SCS requirement and satisfy the long-term goals of SB 375 -- reducing GHG emission and VMT, *TransNet* must be reprioritized to frontload transit projects over highway improvements and expansions. As the 50-10 Plan states, "*TransNet* is not locked in stone. The measure allows flexibility in the event of changing technology, new priorities, or other factors during its 40-year term."[23] Section 16 provides for amendments to the Ordinance by a roll call vote with two-thirds of the SANDAG board in favor of amendment.[24] Significant changes in the environment, transportation, and energy policy have occurred since *TransNet* was originally passed by the voters in 1987 and extended in 2004. In order to meet the goals of the 2050 RTP/SCS, SANDAG should vote to reprioritize *TransNet* to allot additional funding and earlier phasing for transit projects.

Moreover, SANDAG has failed to provide a fundamental understanding of how the 2050 RTP/SCS interrelates with *TransNet* and achieves the *TransNet* objectives. SANDAG must provide answers to the following questions:

- What amount of *TransNet* funds are scheduled for highway projects?
- What amount of *TransNet* funds are scheduled for public transit projects/
- What amount of *TransNet* funds are scheduled for BRT/HOV projects?
- What *TransNet* projects have already been completed, and what *TransNet* projects are currently under construction or scheduled for construction? Have EIRs been prepared for these projects? Were changes made, or have changes been made, to any of the projects as they were described in the *TransNet* ordinance? What were those changes? How were the changes made? Furthermore, the proposed projects in the 2050 RTP/SCS do not line up accurately with the projects approved by voters in the 2004 *TransNet* Extension Ordinance and Expenditure Plan. Appendix [ ] compares the I-5 corridor improvements approved in the *TransNet* ordinance with the I-5 improvements listed in the various charts in the 2050 RTP/SCS. Not only are the segments inconsistent, but also the actual improvements are not the same. For example, the *TransNet* 2004 ordinance provides for I-5 to be expanded from 8F to 8F+2HOV (high-occupancy vehicles) between SR 54 and I-8. However, the 2050 RTP/SCS and the DEIR provide for an expansion from 8F+2ML to 10F+2ML between SR 54

[21] *Id.* at 5-11
[22] *Ibid.*
[23] Norman Marshall, The 50-10 Transit Plan: A World Class Transit System for the San Diego Region (July 2011) p.
[24] *See* 2004 *TransNet* Extension Ordinance and Expenditure Plan, *supra,* at p. 15. Sections 2(D), 3, 4(E)(1), 8, 9, and 11 can only be amended by a vote of the electors of the County of San Diego.

and I/SR 15 and 8F to 8F+operational between I/SR 15 and I-8. Did the SANDAG board approve these changes to the TransNet project?

The requested information is paramount in order to adequately assess the scope of the Project. *TransNet* is the second largest overall revenue source for the draft 2050 RTP/SCS (second to local General Funds/Miscellaneous Local Road Funds)- total estimated revenue from *TransNet* is $25,248 million, or 12.7 percent of the total revenue source ($196,178 million).[25] When combining *TransNet* revenue with the revenue from the *TransNet* bond proceeds ($6,286 million), the total revenue is $31,534 million, or 16.1 percent of all revenue sources.[26] As the California Attorney General's office has noted, "the way a transportation plan allocates funds among potential transportation projects can make a significant difference in the amount of transportation-generated GHG emissions in the future."[27] Thus, because of the influence that *TransNet* has on the 2050 RTP/SCS, it is essential that the public fully understand the relationship between two programs.

c. DEIR Lacks Adequate Thresholds of Significance for Transportation.

The determination of whether a significant adverse environmental effect will result from a project is a key function of CEQA.[28] CEQA relies on the agencies to use proper thresholds of significant as an analytical device upon which to judge the significance of a project's impacts.[29] The Courts have held that "[b]efore the impacts of a project can be assessed and mitigation measures considered, an EIR must describe the existing environment. It is only against this baseline that any significant environmental effects can be determined."[30] If the environmental review document fails to properly identify the significance of an impact the ability to adequately mitigate is equally compromised.

The 2050 RTP/SCS lists performance measure categories as: system preservation and safety, mobility prosperous economy, reliability, healthy environment, and social equity.[31] Although it is clear in the DEIR that SANDAG chiefly evaluates the adequacy of the proposed Project's performance by evaluating the levels of congestion and transit times. Rather than driving SANDAG toward a sustainable transportation system, these performance indicators foster auto-oriented transportation improvements as they focus solely on improving conditions for the single occupancy vehicles. Selecting these as the most significant performance indicators has hindered SANDAG's ability to track the accuracy of its plan resulting in SANDAG's "misdiagnos[ing] problems and misdirect[ing] decision-making."[32]

A revised EIR should embrace performance indicators that properly measure the outcomes of policies, programs, identify problems, and evaluate progress towards stated goals and objectives.[33] Without

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[25] RTP/SCS, p. 5-9, available at http://sandag.org/index.asp?projectid=349&fuseaction=projects.detail (as of July 26, 2011).
[26] *Ibid.*
[27] Edward G. Brown, California Attorney General, Comments on the Notice of Preparation for Draft Environmental Impact Report for the Transportation 2035 Plan (2008), available at http://ag.ca.gov/globalwarming/pdf/comments_MTC_RTPlan.pdf (as of July 26, 2011).
[28] CEAQ Guidelines §§ 15064(a) 1502.16 (an EIR must describe direct and indirect effects and their significance.
[29] CEQA Guidelines § 15064.7
[30] *Save our Peninsula Committee v. Monterey Cty. Board of Supervisors,* 87 Cal.App.4th 99, 119-120.
[31] RTP/SCS Table 2.2, 2-5 RTP, 2-6-7
[32] Victoria Transport Policy Institute, Performance Evaluation: Practical Indicators for Evaluating Progress Toward Planning Objectives, *supra.*
[33] Victoria Transport Policy Institute, Performance Evaluation: Practical Indicators for Evaluating Progress Toward Planning Objectives (June 9, 2011), available at http://www.vtpi.org/tdm/tdm131.htm (as of July 27, 2011).

adequate performance measures to identify the actual results of the 2050 RTP/SCS, the true extent of environmental impacts and feasible mitigation measures cannot be appropriately implemented. For example, sustainable performance indicators include quality of overall accessibility, land use mix, land use accessibility, children's accessibility, commute speed, mode split, transit service, motor transit options, congestion delay, consumer transport costs, affordability, facility costs, freight and commercial traffic efficiency delivery services, market principles, planning practices, user rating, citizen involvement, crash costs, planning process, health and fitness, community livability, cultural preservation, basic access, horizontal equity (fairness), progressivity, mobility for non-drivers, mobility for people with disabilities, non-motorized transport, climate change emissions, other air pollution, noise pollution, water pollution, land use impacts, habitat protection, and roadway aesthetic conditions.[34] Using performance indicators analogous to those cited above would cover a broad range of economic, social, and environmental objectives that allow SANDAG to more effectively identify, modify, and mitigate the environmental impacts of the proposed Project and develop a plan that supports a high quality of life and shifts to a new sustainable transit paradigm.

Not surprisingly the performance index relied upon by SANDAG is also deficient. A performance index quantifies performance indicators and measures and then produces an objective "report card" of system performances, such as safety, mobility and economy, and customer satisfaction.[35] Thus, a performance index, which relies on poor indicators, simply compounds the problems associated with them because by evaluating and reporting on performance indicators, which focus chiefly on the automobile, the agency is limiting itself to auto-dependent solutions to the auto-indicated problems.

For example, conventional performance indicators include roadway level-of-service (LOS), average traffic speeds, average congestion delay (measured annually per capita), parking convenience and affordability (low price), and crash rates per vehicle-mile.[36] A performance index which reports on these outdated indicators would "justify road and parking facility capacity expansion that tends to create Automobile Dependent transport and land use systems, increasing per capita vehicle travel and reducing the viability of walking, cycling, and public transit. This increases per capita vehicle ownership and use, increasing resource consumption, pollution emissions and land consumption, and exacerbating the transport problems facing non-drivers."[37] It is necessary for SANDAG to revise the 2050 RTP/SCS and DEIR to include more sustainable performance indicators, and update the performance index to ensure that the Plan meets its long-term, Smart Growth goals and objectives.

B. DEIR's Inadequate Analysis for Significant Environmental Impacts

a. Transportation & Traffic

The proposed highway/roadway improvements would result in a considerable increase to the freeway's capacity and, as a consequence, would trigger increased travel. The reduction in traffic congestion accompanied by increases in vehicle speeds that occur with increases in highway capacity would ultimately result in induced travel. Additional lanes in the corridor will clearly attract additional traffic, either from parallel facilities or as a result of induced demand that will be satisfied by the additional

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[34] Victoria Transport Policy Institute, Sustainable Transportation and TDM: Planning that Balances Economic, Social and Ecological objectives (June 9, 2011), available at http://www.vtpi.org/tdm/tdm67.htm (as of July 27, 2011). [Attachment B]
[35] Victoria Transport Policy Institute, Performance Evaluation: Practical Indicators for Evaluating Progress Toward Planning Objectives, *supra*.
[36] *Ibid.*
[37] *Ibid.*

roadway capacity. However, the DEIR does not take into account induced or generated travel and therefore significantly underestimates the Project's environmental impacts (*e.g.*, increased traffic, increased air pollution (criteria pollutants, toxic air contaminants, and GHG emissions), and increased development in and around the freeway corridor.

i. The DEIR analysis of the Proposed Project's Impacts on Transportation and Traffic is Inadequate because it does not discuss Generated and Induced Traffic.

An established scientific body of research demonstrates that widening highways is merely a temporary solution to the complex problems of traffic congestion, similar to placing a band-aid over a gushing wound. A June 2011 report from the Victoria Transport Policy Institute explains that "[r]oad improvements that reduce travel costs attract trips from other routes, times and modes, and encourage longer and more frequent travel."[38] This phenomenon is known as "generated traffic." Additional traffic occurs on a given roadway when drivers adjust their driving behavior- their route, time and mode of travel, destination, and travel frequency- in consideration of the newly expanded roadway. Generated traffic leads to induced travel, which is when drivers who would previously have chosen to avoid the inconvenience of driving in traffic will instead choose to drive their own vehicle, increasing the total VMT.[39] The increase in VMT can arise from, for example, drivers who previously would carpool choosing to travel lone, some who travelled on parallel routes would travel on the freeway instead, some who travelled earlier to later would revert to travelling at a more convenient time, some who rode the bus would choose to drive a car, and some who did not travel the route at all would be induced to travel on the newly freed-up roadway. The report summarizes the findings of several relevant studies:

- The medium-term elasticity of highway traffic with respect to California state highway capacity was measured to be 0.6-0.7 at the county level and 0.9 at the municipal level (Hansen and Huang 1997). This means that 60%-90% of increased road capacity is filled with new traffic within five years. Total vehicle travel increased 1% for every 2-3% increase in highway lane miles.

- The long-term elasticity of VMT with respect to traffic speed was estimated to be 0.64, meaning that a 10% increase in speed results in a 6.4% increase in VMT, and that about a quarter of this results from changes in land use (e.g., additional urban fringe development).

Noticeably absent from the DEIR are any references to generated or induced traffic caused by the transportation improvements in its analysis of how the improvements will impact transportation and traffic. SANDAG fills in the gaps left with shallow and oversimplified statements that highlight the inadequacies of its analysis:

- The DEIR states that "[i]mplementation of the 2050 RTP/SCS would not substantially decrease the percentage of work and higher education trips accessible...."[40] Where is the supporting evidence? If SANDAG considered the impacts of generated and induced travel on work and higher transportation trips, would that significantly decrease the number of trips accessible in 30 minutes (decrease by more three percent (3%) or more)?

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[38] Todd Litman, Generated Traffic and Induced Travel: Implications for Transport Planning (June 8, 2011) 2 < http://www.vtpi.org/gentraf.pdf> (as of July 18, 2011).
[39] Id. at p. 3. *Also see* R.B. Noland, Relationship between Highway Capacity and Induced Vehicle Travel (2001) Transportation Research Part A 35, 47, available at http://sensibletransportation.org/pdf/noland.pdf (as of July 26, 2011).
[40] DEIR, at p.4.16-21.

- The DEIR states that new transit services would "reduce congestion during peak travel times and increase the availability of more convenient and efficient transit options for commuters" for year 2020, but then in the next sentence states that "the average work trip travel time would increase by 1 minute over 2010 conditions." If commute time is increasing, how can reductions in congestion be attained.[41]

In the analysis of impacts on non-work related trips, the DEIR suggests that because "personal travel is more likely to occur before or after work hours or at random times during the day" and because "people can even plan their personal travel around the most congested times of the day", the program's impact on non-work related travel "may not" be as substantial as the impact on commute trips.[42] Where is the evidentiary support on which SANDAG is relying? In many situations, people run personal errands or trips on their ways to and from work (i.e., trips to the grocery or drug store) since they may not be able to take time during work hours for these trips. SANDAG must account for the possibility that these types of personal stops during commutes actually worsen or lengthen congestion problems?

ii. The DEIR Improperly Relies on Faulty Assumption Regarding the Benefits and Impacts of HOT and Managed Lanes to Attain Transit Objectives.

The proposed Project relies in part on transit improvements to meet the vision and objectives of the 2050 RTP/SCS. The goals of SANDAG's transit system are to lessen freeway congestion, encourage compact land uses, have concern for transit dependent riders, serve as residents' second car, expand service to employment centers, and maintain consideration for school trips.[43] The result of an efficient and well-developed transit system would be a reduction in many of the environmental, health, and quality of life impacts that are predicted to occur in the DEIR. SANDAG relies substantially on the creation of additional general-purpose lanes coupled with HOV, Managed Lanes and Bus Rapid Transit ("BRT") to obtain the target objective. However, although it is clear that BRT fits under the umbrella definition of transit, it does not fit so neatly within the context of transit goals. There are numerous documented problems and concerns with BRT that contradict the underlying principles and goals of transit.

KonSULT, a UK organization whose mission is to "clarify the process of developing sustainable urban transport strategies" and "enable policy-makers to select effective policy instruments" analyzed the effects that introducing BRT has on communities. Study results including a myriad of weak or neutralizing effects:

- Response to BRT of changed routes will lead to a weak reduction in road traffic because people living away from the guided bus corridor travel by car in order to use the service;
- Response to BRT of changed destinations will lead to a weak reduction in road traffic because increased average bus speeds and reliability make travel to more distant destinations more attractive/feasible;
- BRT will have a weak contribution to the problem of community severance because whilst guided bus systems would usually be associated with infrastructure works to improve pedestrian conditions, including provision of additional road crossings, the curbs on the guideway represent a barrier to lateral movement;
- BRT will have a neutral contribution on the problem of visual intrusion so long as design is sensitive to the surrounding environment;

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[41] *Ibid.* at p. 4.16-18.
[42] *Ibid.* at p. 4.16-24.
[43] SANDAG, Regional Transit Vision: A Strategy for Improving San Diego's Quality of Life, pp. 7-8, available at http://www.sandag.org/uploads/publicationid/publicationid_816_3746.pdf (as of July 27, 2011).

- BRT will have weak contribution to the problem of a reduction in green space because guideways will often be constructed on the green spaces at the edges of highways, e.g. grass verges or central reservations;
- BRT will have a neutral contribution to the problem of damage to environmentally sensitive sites;
- BRT will have a neutral contribution to the problem of disproportionate disadvantaging of particular social or geographic groups by enhancing and providing easier access to the bus system, though some may be disadvantaged if bus services along corridors adjacent to the guided bus corridor become unviable and are withdrawn;
- People with poor access to public transport will neither win or lose from BRT implementation because BRT systems would tend to be established along existing public transport corridors
- People living adjacent to the area targeted would be "losers" because people who live within walking distance of the guided bus corridor will enjoy access to the improved bus services, however, the reduction in public transport use on parallel routes may lead to a reduction in the level of service on those parallel routes.[44]

Based on this analysis, BRT will not significantly reduce congestion because it will encourage people to travel further distances and for individuals who do not reside near BRT will have to drive to the nearest station or stop in order to use the service. In addition, it will have a weakened or neutral effect on the environment and aesthetics, have a negative effect on environmental justice, and will negatively affect on high-income car users.

Another documented problem with BRT implementation is that it is "too easy to strip down", for example, building "stops" rather than "stations", not including an option to pre-pay, failing to provide BRT signal priority or unique branding, and using HOV lanes instead of dedicated lanes. Critics have dubbed this problem as "BRT creep."[45] One scholar discussing BRT creep:

> The four leading examples of recently constructed BRT in the United States are in Boston, Cleveland, Eugene, and Los Angeles. Boston's Silver Line BRT was built with curbside bus lanes like the one on 7th Street in DC, and is perpetually stuck behind car traffic using the lane illegally. Cleveland's Euclid Avenue BRT spends half its time stopped at red lights because it doesn't include signal preemption. Eugene's EmX BRT doesn't even have its own lane for much of its route. LA's San Fernando Valley Orange Lane BRT is probably this country's most successful "rail like" bus line, but even it was forced to repave its running way after barely a year of operation because the originally constructed running way was substandard. So far, every example of BRT built in the United States has cut at least one extremely damaging corner.[46]

Opponents of BRT claim that, in many instances, BRT is implemented because the government cannot afford to build a light rail system. Because BRT is already a scaled down version of light rail ("light rail lite"[47]), it may be easier for planners and developers to continue along that trajectory and "cut more

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[44] *See* http://www.konsult.leeds.ac.uk/private/level2/instruments/instrument011/l2_011b.htm (as of July 16, 2011).
[45] *See* http://beyonddc.com/log/?p=2546 (as of July 16, 2011).
[46] *Id.*
[47] Federal Transit Administration, Advanced Network Planning for Bus Rapid Transit: The "Quickway" Model as a Modal Alternative to "Light Rail Lite" (Feb. 2008) executive summary at pg. xi. This 2008 report differentiates between two different alternatives for BRT. The traditional alternative is called "light rail lite", in which BRT is operated similarly to a light rail system. Light rail lit systems are "typified by having a single 'BRT' route serve a corridor, enjoying at least some measure of transit priority (ranging from signal priority systems to dedicated bus ways), stopping at widely-spaced stops or stations, and using distinct branding for the service this provided." It is

corners" on BRT. Cutting corners leads to reduced service levels, additional costs, and disproportionate affects of the BRT system that undermine the goals and principles of transit.

SANDAG must consider and analyze the criticisms and the impacts that BRT will have on the environment, human health, and quality of life. SANDAG must evaluate, for each corridor, the effect of (1) creation of a new lane to be used as a HOT lane, or (2) conversion of an existing HOV lane to a HOT lane, whichever is applicable on the following: (a) VMT, (b) induced travel (commuters, carpoolers, telecommuters, etc., who are thereby induced to start driving alone), and (c) long-term housing distribution patterns (i.e., "induced growth" of housing in areas where HOT lanes can be used to commute to employment centers). The DEIR should provide both short-term and long-term evaluation of the environmental impacts/benefits of the proposed HOT lane network. In particular, the EIR should evaluate the potential effects of induced travel where the freeway is expanded to create a HOT lane.[48] The DEIR provides no supporting evidence on how the BRT concept will be funded or its identifiable impacts during peak flow traffic hours.

Additionally, HOV lanes present an unexamined threat to health and human safety. The Texas Transportation Institute conducted a study, analyzing "before HOV" and "after HOV" comparison of corridor crash rates and found that:

- The injury crash rate increased.
- Increase in injury crashes was primarily focused in the HOV lane and adjacent general-purpose lane....
- Increase in injury crashes was likely due to the speed differential between the HOV lane and the general-purpose lanes. The general-purpose lanes experienced congestion during peak periods, while the HOV lanes usually operated at the speed limit.[49]

Another academic study, by researchers at the California PATH Program Institute of Transportation Studies found that limited access HOV lanes are less safe than continuous access HOV lanes. Specifically, the study found a statistically significant ($p<0.05$), higher percentage of total collisions across all freeway lanes and a high number of total collisions per both mile per hour (mph) and VMT.[50]

A review of the RTP/SCS and DEIR reveals a complete lack of whether or not the added HOV and managed lanes will be limited or continuous access. Thus, based on these studies, adding managed or HOV lanes to freeways and roadways to accommodate BRT would not meet the goal of transit to provide a safe service for commuters.

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sometimes referred to as "light rail on the cheap." (Id. at p. 1.) In contrast, the Quickway model of BRT "creat[es] a primarily grade-separated infrastructure which then permits the cost-effective operation of a range of transit services, many of which may not be identified during the infrastructure planning stage." (Id. at p. xii.)

[48] *Environmental Council of Sacramento v. Caltrans* [In this case, the Court invalidated Caltrans's EIR for an HOV lane project in Sacramento, in part because the EIR failed to adequately evaluate the impacts of induced travel.]

[49] Texas Transportation Institute, The Texas A&M University System, Crash Data Identify Safety Issues for High-Occupancy Vehicle Lanes in Selected Texas Corridors, 2 <http://tti.tamu.edu/documents/0-4434-S.pdf> (as of July 18, 2011).

[50] Kitae Jang et al., A Comparative Safety Study of Limited Versus Continuous Access High Occupancy Vehicle (HOV) Facilities (March 2010) viii < http://www.path.berkeley.edu/PATH/Publications/PDF/PRR/2009/PRR-2009-22.pdf> (as of July 18, 2011).

In light of the current unsuccessful considered of aforementioned concerns, the DEIR is deficient and must be revised in order to provide the most accurate and informative document for the public and decision-makers to review.

b. Greenhouse Gas Impacts and Air Quality

As has been previously stated SB 375 "prompts Californians to work together to reduce greenhouse gas (GHG) emissions from cars and light trucks" by "requiring integration of planning processes for transportation, land-use and housing."[51] The goal of SB 375 is "to reduce vehicle miles traveled by providing incentives for high-density urban development along public transportation corridors."[52] Put in another way, SB 375 is intended to "help implement AB 32 by aligning planning for housing, land use, transportation, and greenhouse gas emissions,' thus making it 'the missing piece in California's plan to reduce global warming pollution.'[53]

Here again, the DEIR, fails to provide an appropriate baseline by not including the 2010 baseline for per capita GHG emissions in the GHG section of the DEIR- in a chart listing On-road Transportation-related GHG Emissions, the DEIR simply says "N/A" for the 2010 per capita GHG emissions, and provides that "per capita emissions are based on 2010 total population from the SANDAG 2050 Regional Growth Forecast."[54] In the Alternatives analysis, the 2010 GHG emissions per person, per day is listed at 56.46. Why was the baseline noticeably absence in the GHG section of the DEIR? How did SANDAG reach the number provided in the Alternatives section? This kind of inconsistency throughout the DEIR undermines the accuracy and informative value of the document, and prohibits meaningful public review.

The DEIR should address the implications of the potential transit shortfalls on GHG emissions and whether those impacts could be reduced by using funds currently proposed to be allocated to low-performing "committed" projects. Taking this action is consistent with the direction in the California Transportation Commission's guidelines for addressing climate change in RTPs to "[c]onsider shifting transportation investments towards improving and expanding urban and suburban core transit, programs for walkability, bicycling and other alternative modes, transit access, housing near transit, and local blueprint plans that coincide with regional blueprint."[55]

The mitigation measures for GHG articulated by the DEIR are woefully inadequate. Mitigation for GHG and climate change include:

- Updating regional plans
- Adopting and implementing Climate Action Plans

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[51] Southern California Association of Governments, Senate Bill 375 Factsheet < http://www.scag.ca.gov/factsheets/pdf/2009/SCAG_SB375_Factsheet.pdf> (as of July 10, 2011).
[52] Brent Schoradt, Sustainable Communities Strategies Will be Essential to the Success of SB 375 (2009) 36 Ecology Law Quarterly 611, 612.
[53] Alexandra Lampert, Legislative Note: State of California- California's Fight Against Global Warming: Finally Getting Smart About Sprawl? (2009) 20 Stan. L. & Pol'y Rev. 193, 196. AB 32, the California Global Warming Solutions Act, required that GHG emissions be reduced to their 1990 levels by 2020. *Id.* at p. 193.
[54] DEIR, at p. 4.8-5.
[55] California Transportation Commission, Addendum to the 2007 Regional Transportation Plan Guidelines: Addressing Climate Change and Greenhouse Gas Emissions During the RTP Process (May 29, 2008) pg. 2 (emphasis added).

- Require Best Available Control Technology (BACT) during construction and operation of projects.[56]

Courts have routinely rejected mitigation measures that rely on "tentative plans for future mitigation" such as the mitigation measures proposed by SANDAG for GHG emissions.[57] Mitigation measures that defer mitigation by "require[ing] a project applicant to obtain a biological report and then comply with any recommendations that have been made in the report" are not adequate.[58] In *Communities for a Better Environment v. City of Richmond, supra* at p. 93, the Court found that mitigation measures were insufficient partially because the lead agency did not attempt to determine what reduction the "nonexclusive, undefined, [and] untested" mitigation measures would have on the GHG emissions.

Likewise, SANDAG's proposed mitigation measures for GHG are insufficient because they defer mitigation to an unknown future date and rely on tentative future plans, which may or may not be voluntary. SANDAG itself acknowledges the inadequacy of its GHG mitigation measures: "While the mitigation measures listed would encourage reduction in GHG emissions, they do not provide a mechanism that guarantees GHG emission reductions" and the impact remains "significant and unavoidable."[59]

Again, SANDAG is misinterpreting the spirit and intent of SB 375's SCS requirement to create long-lasting, significant reductions in GHG emissions. Although CARB did not set a reduction target for year 2050, SANDAG opted for a 40-year plan that does extend to year 2050. The proposed project meets the GHG emission reduction targets set by CARB for years 2020 and 2035. However, the ultimate conclusion of SANDAG's plan is an overall increase in emissions between 2036 and 2050.[60] Absent a CARB mandated target, the impact that the Project will have on the SB 375 emission reduction targets is "less than significant," despite permitting an increase in GHG emissions undermines the goal of SB 375.[61]

SANDAG has the ability to develop and implement feasible mitigation measures to reduce GHG emissions for the Project. Three mitigation measures to counter the Proposed Project's impact on GHG emissions were considered but found infeasible.[62] The inherent contradiction between SANDAG using its power to influence transportation and land use policies, planning, and development, and then refusing to acknowledge its ability to mitigate the impacts of the Project makes the DEIR inadequate to meet CEQA and the lofty and noble objectives of the 2050 RTP/SCS.

C. The DEIR Fails to Undertake a Legally Sufficient Reasonable Range of Alternatives

The Supreme Court of California has recognized CEQA's alternatives requirements as the "core" of an EIR.[63] Pursuant to CEQA, an adequate discussion of alternatives would "describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives."[64] An agency may not approve a project

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[56] DEIR, at p. 4.8-35-36.
[57] *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 92.
[58] *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1275.
[59] DEIR, at p. 4.8-37.
[60] *Ibid.* at pp. 4.8-23 and 4.8-26.
[61] *Ibid.* at p. 4.8-29.
[62] *Ibid.* at p. 4.8-37.
[63] *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564
[64] CEQA Guidelines, § 15126.6

if a feasible alternative or mitigation measure exists which would "substantially lessen" the environmental effects of the project.[65]

SANDAG has failed to sufficiently explain how the proposed Project will best meet the fundamental objectives of the 2050 RTP/SCS than the other alternatives considered by SANDAG. Table 6.1.1 of the FEIR, titled "Ability of Alternatives to Meet Fundamental Project Objectives", shows that Alternatives 2a, 2b, 3a, 3b, and 4 meet all of the fundamental objectives of the 2050 RTP/SCS. Alternative 5, the "Slow Growth" alternative, meets all but one of the fundamental objectives. SANDAG lack the necessary evidence to supports the conclusion that the proposed Project was selected over the other alternatives considered.

The No Project alternative would only result in a minimal decrease in GHG emissions by 2020 as compared to the proposed project (46.78 lbs of CO2 emissions per person/day for the No Project alternative, as compared to 46.11 lbs for the proposed project). With ten years of projects being implemented through the RCP/SCS, SANDAG is under a duty to evaluate and discuss the difference in GHG impacts between the proposed project and the no project alternative, including an explanation of the minimal difference between them.

The DEIR fails to adequately and accurately address the impact that a highway and roadway-centric transportation plan will have on regional growth. With regards to the impact that the projects in the program will have on altering the existing drainage of the site or area, the DEIR states that, for the No Growth alternative, "[e]ven though the impact of fewer transportation network improvements would result in somewhat less impact, the impact of the regional growth/land use change would result in a larger development footprint and greater impact."[66]

a. Feasible Alternatives Summarily Dismissed and/or Given Inadequate Analysis.

Throughout the RTP/SCS and DEIR, SANDAG consistently relies on infeasibility as justifiable rationale for prematurely dismissing or conducting cursory analysis. Pursuant to CEQA, feasibility is defined as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic environmental, social, and technological factors.[67] The Courts have found that EIRs, which do not provide a discussion of why an alternative would or would not be feasible, are insufficient because the EIR "does not contain the required sufficient degree of analysis to provide decision-makers with information to allow them to intelligently take account of the environmental consequences."[68] A lead agency cannot simply dismiss an alternative because it is too expensive, "[t]he fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently serves as to render it impracticable to proceed with the project."[69]

SANDAG discussed an "extreme phasing alternative" during the planning process for the 2050 RTP/SCS, which would have shifted all funding to the early phases of system development for transit-only projects.[70] The stated reason for rejecting this alternative is that "it is not based on reasonable revenue

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[65] Pub. Res. Code, § 21002
[66] DEIR, at p. 6-44.
[67] Pub. Res. Code, § 21061.1
[68] *Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167, 1179
[69] *Id.* at 1181
[70] DEIR 6-201

availability and is therefore not economically or legally feasible."[71] This explanation is not legally sufficient. In *Citizens of Goleta Valley*, the Court found evidence for dismissing an alternative as economically infeasible to be insufficient because no basis was provided for a comparative analysis between the approved project and the alternative, and therefore "no meaningful conclusions regarding the feasibility of the alternative could have been reached."[72] Similarly, SANDAG has provided no discussion or comparative analysis in the EIR to support the conclusion that this alternative was economically infeasible. SANDAG must include this analysis in the DEIR.

The DEIR should provide and evaluate at least one alternative designed to maximize the reduction of GHG emissions. There are numerous policies and/or projects that SANDAG could consider to help achieve its goal, some of which it already considering and could fund at a significantly higher level. While this letter is not intended to provide a complete list, some of the possibilities include the following: (1) focusing on eliminating transit shortfalls; (2) increase serve capacity to meet increased demand for public transit in core urban areas; (3) increase funding for transportation infrastructure to serve infill and mixed use development located near employment centers and provide incentives for such development; (4) increased incentives for use of public transit, ridesharing and carpools; and (5) expanded public transit frequency of operation.

To further reduce the impact of the projects in the proposed RTP/SCS on air quality and climate change, specifically, the DEIR should evaluate the effect of including a mandatory "green construction" policy. Such a policy could require, for example,

- the use of an emission calculator in planning of every construction project (contained within the plan), one that uses the proposed equipment fleet and hours of use to project nitrogen oxides, particulate matter, and carbon dioxide emissions then quantifies the reductions achievable through the use of cleaner/newer equipment;[73]

- all off-road construction vehicles be alternative fuel vehicles, or diesel-powered vehicles with a Tier 3 or better engines or retrofitted/pre-powered to meet equivalent emissions standards as Tier 3 engines;

- use the minimum feasible amount of GHG-emitting construction materials (cement, asphalt, etc.);[74]

- use of cement blended with the maximum feasible amount of flash or other materials that reduce GHG emission from cement production;

- use of lighter-colored pavement with increased reflectivity, which reduces the "heat island" effect;

- recycling of construction debris to maximum extent feasible;

- planting shade trees in or near construction projects where feasible.

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[71] *Id.*
[72] *Citizens of Goleta Valley, supra*, at p. 1180-1181
[73] For an example use the calculator utilized by the Sacramento Metropolitan Air Quality Management District's program available at http://www.airquality.org/ceqa/index.shtml#construction
[74] Utilization of "warm-mix" production method for asphalt that is known to significantly reduce GHG emissions during application for roadway paving. *See,* http://www.apc.us.com/files/apc//pdf/Black-and-Green.pdf.

In the effort to draft a reasonable range of alternatives pursuant to CEQA, the Sierra Club, supports a critical assessment of the 5010 plan proposed by the Cleveland National Forest Foundation. As drafted the 5010 Plan would "initiate a transformation in the region's transportation system and land use patterns" by implementing fifty years of transit improvements in the next decade.[75] The Plan would result in shorter commutes, a reduced VMT, congestion relief, reduced GHG emissions and air pollution, less fossil fuel consumption, opportunities for more housing choices for all economic segments of the population, reduced infrastructure costs, and a higher quality of life.[76] This plan may offer the best and most sustainable way for SANDAG to achieve expected benefits and goals of the 2050 RTP/SCS. SANDAG should analyze the plan and consider implementing the plan itself, or adjusting the current Proposed Program to incorporate suggestions from the 50-10 plan. SANDAG should also release detailed comments to the public about why the plan may or may not be implemented.

D. The Draft PEIR Findings Analysis is Insufficient to Satisfy CEQA Standards.

Where an EIR identifies one or more significant environmental effects in a project, the responsible agency must make one of three types of finding for each identified effect:

- Mitigation measures are required and have been made;
- Mitigation measures are required, but adopting those measures is the responsibility of another government agency; or
- The environmental effect causes a significant impact, which is unavoidable, and no feasible mitigation measures or project alternatives exist.[77]

Findings must supply a logical step between the ultimate finding and the facts in the record and the DEIR must describe the facts supporting the agency's conclusion that a particular alternative, such as declining the increased mass transit alternative and/or mitigation measures, is infeasible. Decisions to reject project alternatives as economically, legally, socially, technologically, or otherwise infeasible must be based upon a written detailed analysis of information in the administrative record. Conclusory statements alone will not suffice.[78]

Without legally sufficient findings based upon substantial evidence, an environmental review document (such as the DEIR) is inadequate and any proposed mitigation efforts are meritless, as any official government agency action on an EIR without adequate findings would be arbitrary.

The DEIR either does not make the required findings at all, or presents findings but fails to explain the analytical process by which SANDAG arrived at its conclusions. Additionally, the findings presented are not supported by substantial evidence in the record. Because of these deficiencies with respect to findings, the Programs' environmental consequences, and mitigation measures, any official government agency action regarding the Program (including, but not limited to, selecting a particular build or no build

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[75] Normal L. Marshall, Smart Mobility, Inc., The 50-10 Transit Plan: A World Class Transit System for the San Diego Region (July 2011) 1.
[76] *Ibid.* at pp. 15-19.
[77] CEQA Guidelines, §§ 15091, 15903
[78] CEQA Guidelines, § 15091, subd. (a)(3), Pub. Res. Code, § 21061.1; *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490.

alternative, or declining other reasonable alternatives (such as commuter train or other public rapid transit)), based on the current DEIR, have no legally supportable basis.[79]

E. The DEIR Must be Revised and Re-circulated to Achieve CEQA Compliance

As the document stands now, recirculation warranted in light of the fact that the DEIR is so fundamentally flawed that it prohibits any and all meaningful public review and comment.[80] Furthermore according to CEQA, an EIR requires recirculation when significant new information is added to the document after notice and opportunity for public review has been provided.[81] As set forth in this letter, it is apparent that the DEIR must be extensively revised and recirculated in order to address the myriad of environmental issues and various other deficiencies. In this case recirculation can also be justified because meaningful responses to posed questions will undoubtedly result in the addition of significant new information regarding potential environmental impacts, mitigation measures and alternatives.[82]

III. Conclusion

For the reasons set forth throughout this comment letter, it is respectfully requested that SANDAG revise the draft 2050 RTP/SCS and DEIR to incorporate projects that are truly sustainable resulting in meaningful reductions in VMT and GHG emissions. In an effort to achieve this goal, SANDAG should move critical transit projects forward in the planning process and defer highway expansion projects until a performance and competitive based transit network within the urban core is fully constructed. In closing there should be no further consideration or action taken on the RTP/SCS until such time that a CEQA compliant EIR has been drafted.

Respectfully Submitted,

Pamela N. Epstein

Pamela N. Epstein, Esq., LL.M
Managing Attorney
Legal Eagles Environmental Law & Policy Clinic
Sierra Club, San Diego Chapter
pepstein@sierraclubsandiego.org
8304 Clairemont Mesa Blvd., Ste 101
San Diego, CA 92111

[79] *Laurel Heights* (1988) 47 Cal.3d 376.
[80] 14 Cal. Code Regs., § 15088.5, subd. (a)(4)
[81] Pub. Res. Code § 21092.1; CEQA Guidelines § 15088.5. *Laurel Heights II,* 6 Cal. 4th at 1130.
[82] 14 Cal. Code Regs. § 15088.5, subd. (a)(1), (2), (3)