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SPECIAL MEETING OF THE

REGIONAL COUNCIL, COMMUNITY, ECONOMIC & HUMAN DEVELOPMENT ENERGY & ENVIRONMENT AND TRANSPORTATION COMMITTEES

PLEASE NOTE DATE AND TIME

Tuesday, February 21, 2012

12:00 p.m. – 1:30 p.m.

(Lunch will be provided for Members at 11:30 a.m.)

SCAG Main Office

818 W. 7th Street, 12th Floor

Board Room

Los Angeles, CA 90017

(213) 236-1800

Video-conference is also available

If members of the public wish to review the attachments or have any questions on any of the agenda items, please contact Deby Salcido at (213) 236-1993 or via email at salcido@scag.ca.gov.

SCAG, in accordance with the Americans with Disabilities Act (ADA), will accommodate persons who require a modification of accommodation in order to participate in this meeting. SCAG is also committed to helping people with limited proficiency in the English language access the agency's essential public information and services. You can request such assistance by calling (213) 236-1993. We request at least 72 hours (three days) notice to provide reasonable accommodations. We prefer more notice if possible. We will make every effort to arrange for assistance as soon as possible.

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List of Video-conferencing Sites:

Special Meeting of the Regional Council and Policy Committees

Tuesday, February 21, 2012

12:00 p.m. – 1:30 p.m.

Southern California Association of Governments (SCAG)

818 W. 7th Street, 12th Floor

Board Room

Los Angeles, CA 90017

Regional Council and Policy Committee members, as well as members of the public, may participate via video-conference at the following locations:

IMPERIAL COUNTY REGIONAL OFFICE

1405 N. Imperial Avenue, Suite 1
El Centro, CA 92243

RIVERSIDE COUNTY REGIONAL OFFICE

3403 10th Street, Suite 805
Riverside, CA 92501

VENTURA COUNTY REGIONAL OFFICE

950 County Square Drive, Suite 101
Ventura, CA 93003

CITY OF PALMDALE

38250 Sierra Highway
Palmdale, CA 93550

SAN BERNARDINO-HESPERIA

County of San Bernardino High Desert Government Center
15900 Smoke Tree Street, 1st Floor, Training Room B
Hesperia, CA 92345

ORANGE COUNTY REGIONAL OFFICE

600 South Main Street, Suite 912
Orange, CA 92863

(Due to the limited size of the Orange County Regional Office meeting room, participants are encouraged to reserve a seat in advance of the meeting. In the event the meeting room fills to capacity, participants may attend the meeting at the main location or any of the other video-conference locations.)

SAN BERNARDINO COUNTY REGIONAL OFFICE

1170 West 3rd Street, Suite 140
San Bernardino, CA 92410

**COACHELLA VALLEY COUNCIL OF
GOVERNMENTS (CVAG)**

73-710 Fred Waring Dr., Suite 200
Palm Desert, CA 92260

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**SPECIAL MEETING OF THE
REGIONAL COUNCIL,
COMMUNITY, ECONOMIC & HUMAN DEVELOPMENT
ENERGY & ENVIRONMENT AND TRANSPORTATION COMMITTEES
AGENDA
TUESDAY, FEBRUARY 21, 2012
12:00 p.m. – 1:30 p.m.**

CALL TO ORDER & PLEDGE OF ALLEGIANCE

(Hon. Pam O'Connor, Chair)

PUBLIC COMMENT PERIOD – Members of the public desiring to speak on items on the agenda, or items not on the agenda, but within the purview of the Council, must fill out and present a Public Comment Card to the Assistant prior to speaking. Comments will be limited to three (3) minutes per speaker provided that the Chair has the discretion to reduce this time limit based upon the number of speakers. The Chair may limit the total time for all public comments to twenty (20) minutes.

DISCUSSION ITEM

Overview of 2012-2035 Regional Transportation Plan and Sustainable Communities Strategy (RTP/SCS) Program Environmental Impact Report (PEIR) Comments and Revision Approach

Attachment

ADJOURNMENT

The next regularly scheduled Regional Council and Policy Committee meetings are scheduled for Thursday, March 1, 2012, at the SCAG Los Angeles Office.

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REPORT

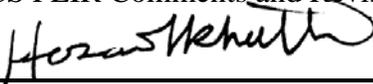
DATE: February 21, 2012

TO: Regional Council (RC)
Community, Economic, and Human Development (CEHD) Committee
Energy and Environment Committee (EEC)
Transportation Committee (TC)

FROM: Hasan Ikhtrata, Executive Director, 213-236-1944, ikhtrata@scag.ca.gov

BY: Huasha Liu, Director of Land Use and Environmental Planning, 213-236-1838, liu@scag.ca.gov
Joann Africa, Chief Counsel, 213-236-1928, africa@scag.ca.gov

SUBJECT: Overview of 2012-2035 RTP/SCS PEIR Comments and Revision Approach

EXECUTIVE DIRECTOR'S APPROVAL: 

RECOMMENDED ACTION:
For information and discussion only.

EXECUTIVE SUMMARY: *Staff is seeking to inform and receive input from the Regional Council and the Policy Committees on staff's intended approach for responding to comments and preparing revisions regarding the Program Environmental Impact Report (PEIR) for the 2012-2035 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS).*

STRATEGIC PLAN: This item supports Goal 1 (Improve Regional Decision Making by Proving Leadership and Consensus Building on Key Plans and Policies), Objective c (Provide practical solutions for moving new ideas forward) of the SCAG Strategic Plan.

BACKGROUND:
In order to legally adopt a plan such as the 2012-2035 RTP/SCS in California, SCAG as the lead agency must first prepare and certify an environmental impact report (EIR) pursuant to the California Environmental Quality Act (CEQA). The purpose of any EIR is to provide information to the decision-makers and the public about the potential environmental impacts of the proposed project.

In this case, SCAG prepared a Draft Program EIR (PEIR) to perform a region-wide programmatic assessment of the significant environmental effects of implementing the projects, programs and policies included in the 2012-2035 RTP/SCS. Given its programmatic nature, the basic premise of the PEIR is that all subsequent transportation projects contained in the RTP/SCS will be subject to their own project-level environmental review in compliance with CEQA. SCAG released the Draft PEIR for a 45-day public comment period on December 30, 2011, with said comment period having closed on February 14, 2012.

As in past SCAG PEIRs, the draft provides a thorough and detailed body of mitigation measures including committed activity for SCAG to undertake, and optional activity for consideration by local agencies or project sponsors. The measures were noted as generally feasible from a programmatic/regional perspective. It should be noted that SCAG has no authority to determine whether the measures are appropriate and feasible with respect to individual projects, it was always the intent of the Draft PEIR that the mitigation

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included for local agencies or project sponsors be used as a menu of options for consideration at the discretion of the implementing agency, rather than as a requirement. As discussed below relative to comments received on the Draft PEIR, that intent was not made sufficiently clear in the draft document and staff suggests clarifying SCAG's role.

COMMENTS RECEIVED

As noted, the public comment period closed on February 14, 2012. As of the preparation of this report, SCAG has received approximately 100 separate communications containing comments on the Draft PEIR. A summary list of commenters is attached with this report (see Attachment 1). A url link for accessing individual comments will be provided at a later time once all the comments have been logged into the system. It is important to note that the formal close of comments allows for items postmarked by the 14th to be considered, so there may be further comments still to be received that are not reflected in this report. Further, CEQA requires SCAG as the lead agency to respond to each individual issue raised in comments (e.g., one letter raising 5 issues requires responses on each of the 5 issues).

With those caveats, SCAG staff has endeavored, through this report, to provide the members of the Regional Council and SCAG Policy Committees with information on the substance of comments received. Staff has attached with this report a matrix (see Attachment 2) which summarizes the general comments received. At a summary level, and for purposes of describing a revision approach, comments can be combined into five major categories as described below. The attached matrix lays out more detailed categories of comments together with the suggested approach for resolving. Staff finds that approximately 90% of the comments are positive regarding the draft plan and PEIR and that the remaining comments are constructive suggestions for clarification. Suggested clarifications are summarized below and in the matrix.

SCAG will consider and respond to all comments as required by law, and intends to post a proposed Final PEIR on March 19, 2012. Given the cross-cutting nature of some of the concerns raised, staff is seeking to inform the Regional Council and Policy Committees and receive input on the intended approach for responding to comments and preparing revisions.

The major categories of areas seeking clarification, with a proposed approach described, are as follows:

1. MITIGATION APPROACH AND DETAIL

Area seeking Clarification – Many commenters including member agencies raise that the body of mitigation measures included in the draft for non-SCAG entities are too numerous, too detailed, and structured such that they might be interpreted to be directive rather than permissive. Further, many commenters raise that the Draft PEIR implies that the mitigation measures have “across the board” feasibility, rather than feasibility that would be limited by project specific circumstances.

Proposed Approach - SCAG has no authority to compel other agencies undertake mitigation. The raising of this suggested clarification invokes important policy considerations for SCAG as a voluntary membership agency which seeks to develop regional policy through a bottom-up consensus based process.

While SCAG's intent in the Draft PEIR was to lay out the mitigation measures directed to local agencies and project sponsors as a toolbox for consideration for project-level analysis, that intent was not made sufficiently clear in the draft, and such ambiguity could have the unintended consequence of creating cost, delay and/or challenge to subsequent projects.

REPORT

As such, SCAG staff is proposing that the final PEIR make several important changes to clarify its original intent, including the following:

- (a) moving all mitigation measures assigned to local agencies or project sponsors (i.e., “non-SCAG measures), to an Appendix labeled “Examples of Measures that Could Reduce Impacts from Planning, Development and Transportation Projects.” This amounts to moving approximately 470 measures into the Appendix;
- (b) clarifying that by moving the non-SCAG measures to the Appendix, these example measures are not mitigation measures of the PEIR and are not subject to SCAG’s mitigation monitoring program (see Attachment 3 which sets forth the draft introductory language for the Appendix);
- (c) changing the language for non-SCAG measures from “can and should” to “may.”
- (d) removing the term “shall” from any non-SCAG mitigation measures, noting that the use of “shall” was inadvertent;
- (e) replacing the non-SCAG mitigation measures with one “catch all” measure in each resource area section, stating to the effect as follows:

“Local agencies can and should comply with the requirements of CEQA and mitigate impacts as applicable and feasible. Local agencies may refer to the Appendix for examples of potential mitigation to consider when appropriate in reducing environmental impacts of future projects.”

- (f) clarifying that where there may be overlap within the example measures in the Appendix with existing legal and regulatory requirements, that the inclusion of such legal and regulatory requirements is for informational purposes only and that legal requirements have precedence; and
- (g) removing or revising the example measures in the Appendix that lack policy consensus at the regional scale, such as a measure proposing consideration of urban growth boundaries, or that unintentionally imply that implementation of Compass Blueprint would no longer be voluntary.

2. CONCERN OR QUESTIONS THAT SOME SCAG MITIGATION MEASURES APPEAR TO BE OVER-REACHING OF SCAG’S CURRENT AUTHORITY AND POLICY

Area seeking Clarification – There have been comments which question the appropriateness of including mitigation measures that require SCAG to undertake action in areas unrelated to what SCAG has current authority. The interpretation is that some of the SCAG measures, as written in the Draft PEIR, are over-reaching of SCAG’s current authority or policy direction.

Proposed Approach – SCAG staff had no intent in the Draft PEIR to create new authority or policy. In light of the comments received, SCAG will review all of the measures, including ones directed to SCAG and those in the Appendix, and will remove or revise measures that are contrary to SCAG’s current authority or policy.

3. CONCERN OR QUESTIONS ON INDIVIDUAL PROJECTS

Area seeking Clarification- Many commenters question the appropriateness of inclusion of individual projects in the RTP/SCS, and question whether the impacts of those projects have been adequately analyzed in the PEIR.

Proposed Approach- Comments seeking further analysis of projects contained in the RTP/SCS have been common-place in past processes and related perhaps to a misunderstanding of the purpose of a PEIR. SCAG generally responds to these comments by reiterating that the Draft PEIR does not analyze individual project in the RTP/SCS, and that individual projects will be analyzed as part of a subsequent project-level CEQA review.

4. CLARIFICATION OR QUESTIONS REGARDING TOXIC AIR CONTAMINANTS

Area seeking Clarification – There have been some comments asking questions and seeking clarification regarding the effects of air pollution on sensitive receptors.

PROPOSED APPROACH - SCAG will review issues related to localized emissions and public health effects and provide clarification as appropriate. SCAG will consider adding additional example measures to the Appendix described above and may further add a mitigation measure for SCAG committing to further information gathering, disseminating, and collaboration on these issues.

5. OTHER

Area seeking Clarification- Many comments raise questions or concerns that do not fit into the above categories.

Proposed Approach - SCAG will consider revisions to the PEIR generated by other comments not fitting these major categories on a case-by-case basis. In general, SCAG will consider revisions to the PEIR where adequate justification has been provided by the commenter (e.g., factual errors).

FISCAL IMPACT:

The consultant work is budgeted in the FY10-11 OWP under 11-020.SCG00161.04 and in the FY11-12 OWP under 12-020.SCG00161.04.

ATTACHMENTS:

1. Summary List of Commenters on the Draft PEIR as of Feb. 15, 2012
2. Matrix summarizing general comments to PEIR
3. Draft Introductory language for the PEIR Appendix

Attachment 1
 2012-2035 RTP/SCS Program Environmental Impact Report
 Summary List of Commenters (See Note*)
 Updated February 15, 2012

Draft PEIR Comments received from:	Date
Ameron (Water Transmission Group)	2/9/2012
Arroyo Verdugo Cities	2/9/2012
Association of American Railroads	2/14/2012
Association of California Cities - Orange County	2/13/2012
Barney Barnett (High Grove Municipal Advisory Council)	1/26/2012
Brooks Street	2/14/2012
Building Industry Association of Southern California	2/14/2012
Caltrans	2/14/2012
Canyon Land Conservation Fund	2/8/2012
Carol Teutsch	2/13/2012
Centennial Founders	2/14/2012
Center for Demographic Research	2/14/2012
City of Alhambra	2/14/2012
City of Anaheim	2/14/2012
City of Brea	2/9/2012
City of Burbank	2/13/2012
City of Diamond Bar	2/14/2012
City of Glendale - Office of the Mayor	2/3/2012
City of Irvine	2/13/2012
City of LA (Board Packet)	1/30/2012
City of LA Canada-Flintridge	2/9/2012
City of Lake Forest	2/14/2012
City of Loma Linda (City Clerk)	1/24/2012
City of Loma Linda (Mayor)	1/26/2012
City of Mission Viejo	2/14/2012
City of Newport Beach	2/14/2012
City of Ontario	2/14/2012
City of Orange	2/14/2012
City of Rancho Santa Margarita	2/9/2012
City of Riverside	2/14/2012
City of San Bernardino Water District	2/8/2012
City of San Clemente	2/14/2012
City of Santa Ana	2/14/2012
City of Santa Clarita	2/14/2012
City of South Pasadena	2/1/2012
City of Stanton	2/14/2012
City of Tustin	2/8/2012
Clyde Williams	2/14/2012

*Reflects comments received and logged as of February 15, and may not be complete. Provided for informational purposes at this time. Commenters wishing to confirm receipt of any comment not shown may contact SCAG staff.

Attachment 1
 2012-2035 RTP/SCS Program Environmental Impact Report
 Summary List of Commenters (See Note*)
 Updated February 15, 2012

Collaborative letter from OCTA, TCA, OCCOG, Association of CA Cities, County of Orange, etc.	2/14/2012
Construction Industry Air Quality Coalition (CIAQC)	2/14/2012
County of Orange	2/10/2012
Dan Crain	2/13/2012
Dep't of Conservation	2/13/2012
Erin Cornwell	2/13/2012
Friends of Harbors, Beaches and Parks	2/7/2012
G. K. Roumani	2/11/2012
Gateway Cities COG	2/9/2012
Gerardo Hinojosa	2/13/2012
Gerry Lease	2/6/2012
Hank Fung	2/14/2012
Hills for Everyone	2/10/2012
Imperial County APCD	2/14/2012
John Bonilla	2/8/2012
John M. Fentis	2/13/2012
Joyce Dillard	2/14/2012
Judy Bergerstresser	2/13/2012
Kelly Partenheimer	2/13/2012
LAFCO	2/13/2012
May Baki	2/12/2012
Mesa Consolidated Water District	2/13/2012
MWD	2/14/2012
Municipal Water District of Orange County	2/14/2012
NAIOP - Inland Empire Chapter	2/14/2012
NAIOP - SoCal Chapter	2/14/2012
No on 710 Action Committee	2/13/2012
NRDC/Endangered Habitat	2/14/2012
OCCOG	2/14/2012
OCTA	2/14/2012
Orange County Dep't of Education	2/9/2012
PBMB	2/13/2012
Peter A. Arona	2/5/2012
Port of Long Beach	2/3/2012
Puente Hills Habitat Preservation	1/26/2012
RCTC	2/14/2012
Riverside County - Community Health Agency: Dep't of Public Health	2/14/2012
Riverside County - Planning Department	

*Reflects comments received and logged as of February 15, and may not be complete. Provided for informational purposes at this time. Commenters wishing to confirm receipt of any comment not shown may contact SCAG staff.

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2012-2035 RTP/SCS Program Environmental Impact Report
Summary List of Commenters (See Note*)
Updated February 15, 2012

SANBAG	2/14/2012
San Fernando Valley COG	2/14/2012
San Manuel Band of Indians	2/14/2012
Santa Monica Mountains Conservancy	1/23/2012
Sierra Club - San Gorgonia Chapter	2/8/2012
Sierra Club Puente-Chino Hills Task Force	2/13/2012
Southern California Edison	2/14/2012
Southern California Gas Company	2/10/2012
Southern California Leadership Council	2/14/2012
State of California Dep't of Toxic Substances Control	2/14/2012
State of California Natural Resources Agency Dep't of Parks and Recreation	2/14/2012
State of California Natural Resources Agency Dep't of Fish and Game	2/14/2012
Stephanie Johnson	2/11/2012
TCA	2/13/2012
The Kennedy Commission	2/14/2012
US EPA	2/14/2012
USDA	2/8/2012
Wildlife Corridor Conservation Authority	2/10/2012

*Reflects comments received and logged as of February 15, and may not be complete. Provided for informational purposes at this time. Commenters wishing to confirm receipt of any comment not shown may contact SCAG staff.

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**Attachment 2
SUMMARY OF COMMENTS**

Comments	Proposed Staff Responsive Approach
Too many mitigation measures listed that are not under SCAG's purview	Move all "non-SCAG" measures to the Appendix labeled "Examples of Measures that Could Reduce Impacts from Planning, Development and Transportation Projects." Such measures would no longer be included in the PEIR as mitigation measures, and thus not subject to mitigation monitoring. A "catch all" measure will be added to each resource area section in the PEIR, stating to the effect: "Local agencies can and should comply with requirements of CEQA and mitigate impacts as applicable and feasible. Local agencies may refer to the Appendix for examples of potential mitigation to consider when appropriate in reducing environmental impacts of future projects." Rationale will be added to the Introduction to further clarify the intent of this approach is to reflect SCAG's lack of authority to implement such measures.
"Can and should" imply feasibility of mitigation measures notwithstanding local project conditions	Move non-SCAG measures to the Appendix as example measures, and revise language to reflect "may" instead of "can and should"
Some non-SCAG measures are termed "shall," "will," or "must"	Note that such language was inadvertent and revise to "may" in all cases
Delete mitigation measures which refer to existing regulations	Moving measures to the Appendix and describing as "examples" substantially resolves this issue. Introductory language will be added to the Appendix to clarify that measures incorporating or referring to compliance with existing regulations is for informational purposes only, and does not supersede existing regulations.
Some SCAG and non-SCAG measures appear to be over-reaching of SCAG's authority and policies, e.g., implication that Compass Blueprint is mandatory	Revise or remove measures that are contrary to SCAG's current authority or policies. e.g., replace words such as "ensure" with words such as "coordinate," "work with members," and "provide information."
Duplicative measures should be deleted	Duplicative measures will be deleted and overlapping measures will potentially be consolidated in the Appendix
Clarify the effects of air pollution on sensitive receptors.	SCAG will review issues related to localized emissions and health effects issues and provide clarification as appropriate. SCAG will consider adding additional examples of measures to the Appendix described above and may further add a mitigation measure for SCAG committing to further information gathering, disseminating, and collaboration on these issues.
Project specific concerns	Defer to subsequent project analysis
Other	Review and address on case by case basis

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Appendix G: Examples of Measures that Could Reduce Impacts from Planning, Development and Transportation Projects

The following list of example measures is intended to function as a resource for lead agencies to consider in identifying mitigation measures to reduce impacts anticipated to result from future projects, as deemed applicable and feasible by such agencies. Some example measures are oriented to planning projects, while some measures are oriented to development and/or transportation projects. Some example measures are oriented to all types of projects. The list is non-exclusive and will not be used by SCAG in any way in reviewing regionally significant projects or project EIRs as part of SCAG's intergovernmental review (IGR) process. Nor are the example measures intended to serve as any kind of checklist to be used on a project-specific basis. Since every project and project setting is different, project specific analysis is needed to identify applicable and feasible mitigation. The following measures may be too generic to be applied on a project-by-project basis and therefore they are presented as examples of measures rather than templates to be followed.

Some of the example mitigation measures include legal requirements which may overlap with federal, state, and/or local regulation. Such legal requirements which incorporate or reference existing regulations are mandatory and any mitigation imposed as a result of a project-specific CEQA process cannot supersede these existing regulations. Nevertheless, SCAG has included these regulations for informational purposes only and to help the reader understand the existing regulatory framework that would assist in mitigating potential environmental impacts. In addition, the inclusion of these mitigations measures that may overlap with existing regulation is not intended to supplant current law. While potential impacts are normally assessed assuming implementation of applicable legal requirements, here, many of the legal requirements are flexible and may require further interpretation or consultation with resource agencies. As such, the resulting reduction in impacts may be difficult to quantify. Thus, in the interest of providing information to the public, SCAG has included these measures containing legal requirements among the example measures.

As part of the CEQA process for each planning, development or transportation project, the Lead Agency is required to identify significant and potentially significant impacts and then mitigate them to the extent feasible. Mitigation measures should be tailored to project and agency-specific conditions.