REPORT

DATE: May 8, 2008

TO: Regional Council; Energy and Environment Committee

FROM: Jonathan Nadler, Program Manager, (213) 236-1884, nadler@scag.ca.gov

SUBJECT: 2008 Regional Transportation Plan Conformity Determination

EXECUTIVE DIRECTOR'S APPROVAL: Hasan Ikhrata

RECOMMENDED ACTION:
Recommend approval of the 2008 Regional Transportation Plan conformity determination in accordance with Resolution 08-497-2.

BACKGROUND:
Transportation conformity is required under the federal Clean Air Act (CAA) to ensure that federally supported highway and transit project activities conform to the purpose of the State Implementation Plan (SIP). "Conformity" means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the applicable National Ambient Air Quality Standards (NAAQS). Conformity applies to areas that are designated non-attainment, and those re-designated to attainment after 1990 ("maintenance areas") for the following transportation-related criteria pollutants: ozone, particulate matter (PM2.5 and PM10), carbon monoxide (CO), and nitrogen dioxide (NO_2).

The boundaries of the federal non-attainment/maintenance areas in the SCAG region are:

- *Ventura County Portion of the South Central Coast Air Basin (SCCAB)* - The entire county is a non-attainment area for 8-hour ozone
- *South Coast Air Basin (SCAB)* - The entire basin is a non-attainment for PM2.5 and 8-hour ozone, and a maintenance area for NO_2, CO, and PM10.
- *Antelope Valley and Victor Valley portions of Mojave Desert Air Basin (MDAB)* - Non-attainment areas for 8-hour Ozone
- *San Bernardino County Portion of MDAB* -
  - Searles Valley (situated in the NW part of the county) is non-attainment for PM10
  - San Bernardino County (excluding the Searles Valley area) within the MDAB is a non-attainment area for PM10
- *Riverside County Portion of Salton Sea Air Basin (SSAB)* - The entire Riverside County portion of SSAB (Coachella Valley) is a non-attainment area for PM10 and 8-hour ozone
- *Imperial County Portion of SSAB* - The entire Imperial County portion of SSAB is designated as non-attainment for 8-hour ozone and PM10.

The 2008 Regional Transportation Plan (RTP) must pass the following four tests and analyses to meet the requirements for a positive conformity finding:

Regional Emissions Analysis: Regional emissions analyses, by non-attainment area and by pollutant, compare on-road emissions to the applicable on-road emissions budgets in the SIPs for the SCAG Region. The applicable emissions budgets are those approved and found to be adequate for conformity determination by the U.S. Environmental Protection Agency (EPA). In the absence of applicable emissions budgets, the regional emission tests for conformity finding are based on either a build/no-build or less than base year scenario. In the SCAG region, build/no build tests are performed for PM10 in the San Bernardino County portion of the MDAB and for the Imperial County portion of the SSAB. There are emission budgets for all other non-attainment areas in the SCAG region.

Timely Implementation of TCMs Analysis: This conformity test requires all Transportation Control Measures (TCM) projects subject to reporting to be fully funded and on schedule. TCMS are projects which reduce congestion and improve air quality. In the SCAG Region, there are two non-attainment areas which contain TCMs: the ozone AQMPs/SIPs for the SCAB and for the Ventura County portion of SCCAB. SCAG works with the County Transportation Commissions of these areas to ensure TCMs are on schedule or that steps are being taken to overcome obstacles.

Financial Constraint Analysis: The RTP must be financially constrained. Staff has determined that the 2008 RTP, which is financed by Federal, State, local, and private sources, meets the requirements for financial constraint.

Interagency Consultation and Public Involvement: Throughout its development, the 2008 RTP has been extensively discussed at meetings of various policy committees, working groups (including the Transportation Conformity Working Group [TCWG]), task forces, and technical advisory committees.

The analyses demonstrate a positive conformity finding for each of these tests and, therefore, for the whole 2008 RTP.

The conformity analysis is a complicated and challenging endeavor, requiring detailed data collection, computer modeling, extensive inter-agency coordination, technical analysis, and report writing. Staff has worked with the regional partner agencies and the State and Federal agencies to resolve numerous difficult issues in preparing the conformity analysis.

Note that after release of the draft conformity analysis for the 2008 RTP, SCAG was informed that U.S. EPA had required ARB to revise and re-submit the South Coast ozone and PM2.5 transportation emission budgets which were used in conformity analysis. This requirement dictated that SCAG appropriately revise the conformity analysis to reflect the new emission budgets and release it for another 30-day public review period. To accommodate ARB's re-submittal of the emission budgets, the RTP hearing was rescheduled from the original adoption date of April 3, 2008 to May 8, 2008.

SCAG staff worked closely with responsible agencies regarding the issues between the State, the South Coast AQMD, and the U.S. EPA regarding emission budget adequacy, and with FHWA and U.S. EPA regarding constraints to the conformity approval review process timeline. From these efforts, staff demonstrated a positive conformity determination and secured commitment from all agencies that they will expedite their respective reviews to allow for approval of SCAG's conformity finding before the current (2004) RTP conformity finding expires on June 7, 2008.

FISCAL IMPACT:
Work associated with this task is included in the current year overall work program (08-025.SCGS1).

Reviewed by:

Division Manager

Reviewed by:

Department Director

Reviewed by:

Chief Financial Officer

RESOLUTION No. 08-497-2

RESOLUTION OF THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS APPROVING THE 2008 REGIONAL TRANSPORTATION PLAN (2008 RTP) AND RELATED CONFORMITY DETERMINATION

WHEREAS, the Southern California Association of Governments (SCAG) is a Joint Powers Agency established pursuant to Section 6500 et seq. of the California Government Code;

WHEREAS, SCAG is the designated Metropolitan Planning Organization (MPO) pursuant to 23 U.S.C. §134(d) for the counties of Los Angeles, Riverside, San Bernardino, Ventura, Orange, and Imperial, and as such is responsible for preparing the Regional Transportation Plan (RTP) and Regional Transportation Improvement Program (RTIP) pursuant to 23 U.S.C. §134 et seq., 49 U.S.C. §5303 et seq., and 23 C.F.R. §450.312;

WHEREAS, SCAG is the designated Regional Transportation Planning Agency (RTPA) under state law, and as such is responsible for preparing, adopting and updating the RTP pursuant to Government Code Sections 65080 et seq.;

WHEREAS, the projects included in the RTP must be based on the continuing, cooperative, and comprehensive transportation planning process mandated by 23 U.S.C. §134(c)(3) and 23 C.F.R. §450.312;

WHEREAS, on August 10, 2005, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was signed into law, Pub. L. No. 109-59, Title VI, Section 6001(a), 119 Stat. 1839. SAFETEA-LU includes new and revised metropolitan transportation planning provisions and requires that all state and MPO actions on RTPs and RTIPs (including amendments, revisions or updates) comply with the SAFETEA-LU planning provision beginning July 1, 2007;

WHEREAS, SCAG staff conducted an analysis of the 2004 Regional Transportation Plan ("2004 RTP") which was in place at the time of the enactment of SAFETEA-LU, and thereafter identified the key issues or "gaps" in the 2004 RTP which needed to be addressed in order to comply with SAFETEA-LU. The effort led to the Regional Council's adoption in March 1, 2007 of an Administrative Amendment to the 2004 RTP (hereinafter referred to as the "Administrative Amendment") addressing these gaps. The Administrative Amendment to the 2004 RTP also allowed SCAG to take advantage of the four-year update cycle under SAFETEA-LU such that SCAG can adopt the next RTP update by the spring of 2008;

WHEREAS, in accordance with SAFETEA-LU, SCAG also approved and adopted a Public Participation Plan on March 1, 2007, to serve as a guide for SCAG's public involvement process. This Public Participation Plan was further amended on October 4, 2007, to provide more

explicit details as to SCAG's strategies, procedures and techniques for public participation on the RTP, RTIP and the Overall Work Program (OWP);

WHEREAS, the Metropolitan Transportation Planning Final Planning Rule ("Final Rule") was promulgated by the U.S. Department of Transportation Federal Highway Administration and Federal Transit Administration on February 14, 2007, and became effective on March 16, 2007. The Final Rule included, among other things, more specific requirements relating to the content of metropolitan transportation plans (also known as RTPs).

WHEREAS, updates to the RTP must be consistent with all other applicable provisions of federal and state law including:

(1) SAFETEA-LU (23 U.S.C. §134 et seq.);

(2) The metropolitan planning regulations at 23 C.F.R. Part 450, Subpart C (i.e. the provisions of 23 C.F.R. §450.300 et seq. as set forth in the Final Rule);

(3) California Government Code §65080 et seq.; Public Utilities Code §130058 and 130059; and Public Utilities Code §44243.5;

(4) §§174 and 176(c) and (d) of the Federal Clean Air Act [42 U.S.C. §§7504 and 7506(c) and (d)];

(5) Title VI of the 1964 Civil Rights Act and the Title VI assurance executed by the State pursuant to 23 U.S.C. §324;

(6) The Department of Transportation's Final Environmental Justice Strategy (60 Fed. Reg. 33896 (June 29, 1995)) enacted pursuant to Executive Order 12898, which seeks to avoid disproportionately high and adverse impacts on minority and low-income populations with respect to human health and the environment; and

(7) Title II of the 1990 Americans with Disabilities Act (42 U.S.C. §§12101 et seq.) and accompanying regulations at 49 C.F.R. §27, 37, and 38;

WHEREAS, SCAG staff has been engaged in the preparation of the 2008 RTP update since the spring of 2007, with a focus on maintaining and improving the transportation system through a balanced approach that considers system preservation, system operation and management, improved coordination between land-use decisions and transportation investments, and strategic system expansion to accommodate future growth through the year 2035;

WHEREAS, the 2008 Draft RTP was released by SCAG's Transportation and Communications Committee (TCC) on December 6, 2007 for public review and comment, and a Notice of Availability was issued. The 2008 Draft RTP included a financially constrained plan and a strategic plan. The constrained plan includes transportation projects that have committed,

available or reasonably available revenue sources, and thus are probable for implementation. The strategic plan is an illustrative list of additional transportation investments that the region would pursue if additional funding and regional commitment were secured; and such investments are potential candidates for inclusion in the constrained RTP through future amendments or updates. For purposes of the 2008 RTP update, the strategic plan is provided for information purposes only and is not part of the financially constrained and conforming RTP;

WHEREAS, the 2008 Draft RTP also included a financial plan identifying the revenues available to support the SCAG region's surface transportation investments. The financial plan was developed following basic principles including incorporation of county and local financial planning documents in the region where available, and utilization of published data sources to evaluate historical trends and augment local forecasts as needed;

WHEREAS, pursuant to 23 C.F.R. §450.316(b)(1)(iv), SCAG must provide adequate public notice of public involvement activities and time for public review and comment at key decision points, including approval of plans and transportation improvement programs. SCAG followed the provisions of its adopted Public Participation Plan and subsequent Amendment No. 1 regarding public involvement activities for the 2008 RTP. For example, three duly-noticed public hearings were conducted within the SCAG region to allow stakeholders, elected officials and the public to comment on the 2008 Draft RTP;

WHEREAS, the 2008 Draft RTP serves as the basis of the 2008 Final RTP, and addresses public comments and issues relating to projects and other relevant data which arose subsequent to the release of the 2008 Draft RTP. The public comment period for the 2008 Draft RTP closed on February 19, 2008. SCAG received approximately 150 written comments. Staff has fully considered these comments in preparing the 2008 Final RTP;

WHEREAS, there were several comments relating to the Growth Forecast/Land Use discussion in the 2008 Draft RTP. In part because of the public comments, the Regional Council on March 6, 2008, approved the Baseline Growth Forecast with a statement of advisory land use policies/ strategies for the 2008 Final RTP;

WHEREAS, there were also project-specific comments made as part of the public comment period. Additional information was also provided regarding certain transportation projects that were included in the 2008 Draft RTP, contingent upon adequate documentation that these projects meet the fiscal constraint requirements. Based upon staff's analysis as well as input from the TCC and Regional Council, the projects in the 2008 Final RTP represent projects which meet the fiscal constraint requirements of SAFETEA-LU and the Final Rule;

WHEREAS, in non-attainment and maintenance areas for transportation-related criteria pollutants, the MPO, as well as the FHWA and FTA, must make a conformity determination on any updated or amended RTP in accordance with the Federal Clean Air Act to ensure that federally supported highway and transit project activities conform to the purpose of the State Implementation Plan (SIP);

WHEREAS, transportation conformity is based upon a positive conformity finding with respect to the following tests: (1) regional emissions analysis, (2) timely implementation of Transportation Control Measures, (3) financial constraint, and (4) interagency consultation and public involvement;

WHEREAS, the 2008 Draft RTP included the Draft Conformity Report which concluded with a positive transportation conformity determination. After the release of the Draft Conformity Report, SCAG was informed that the U.S. Environmental Protection Agency (EPA)'s review of the South Coast ozone and PM2.5 emission budgets submitted by the California Air Resources Board (ARB) raised concerns such that the ARB was required to revise and resubmit the emission budgets to EPA. This requirement led to SCAG making appropriate revisions to the draft conformity analysis to reflect the new emissions budgets and release a subsequent Draft Conformity Report for an additional 30-day public review period ending April 28, 2008. The subsequent Draft Conformity Report makes a positive transportation conformity determination;

WHEREAS, in accordance with the interagency consultation requirements, 40 C.F.R. 93.105, SCAG consulted with the respective transportation and air quality planning agencies, including but not limited to, extensive discussion of the Draft Conformity Report before the Transportation Conformity Working Group (a forum for implementing the interagency consultation requirements) throughout the update process;

WHEREAS, SCAG is required to comply with the California Environmental Quality Act ("CEQA") [Cal. Pub. Res. Code § 21000 et seq.] in updating the Regional Transportation Plan;

WHEREAS, SCAG released for public review and comment a Draft 2008 Regional Transportation Plan Program Environmental Impact Report ("Draft PEIR") on January 3, 2008;

WHEREAS, the public comment period for the Draft PEIR closed on February 19, 2008. SCAG has fully considered these comments, and written responses to comments received are included in the Final PEIR Addendum;

WHEREAS, prior to the adoption of this resolution, the Regional Council certified the Final PEIR prepared for the 2008 Final RTP to be in compliance with CEQA;

WHEREAS, the Final Rule stipulates that each project or project phase included in the RTIP shall be consistent with the approved RTP (23 C.F.R. Section 450.324(g));

WHEREAS, this RTIP consistency requirement would be applicable with the Regional Council's adoption of the 2008 Final RTP. SCAG staff, therefore, amended the 2006 RTIP so as to be consistent with the 2008 Draft RTP. Such amendment to the 2006 RTIP was referred to as "Amendment #06-13" to the 2006 RTIP, and was released for public review by a Notice of Availability along with the 2008 Draft RTP and the Draft Conformity Report. The majority of changes to the 2006 RTIP included as part of RTIP Amendment #06-13 are modeling network

changes (due to changes in project completion dates) and there are a few changes due to project description changes;

WHEREAS, the Regional Council has had the opportunity to review the 2008 Final RTP and its related appendices, and consideration of the 2008 Final RTP was made by the Regional Council as part of a public meeting held on May 8, 2008.

NOW, THEREFORE BE IT RESOLVED, by the Regional Council of the Southern California Association of Governments as follows:

1. The Regional Council approves and adopts the 2008 Final RTP for the purpose of complying with the requirements of SAFETEA-LU and all other applicable laws and regulations as referenced in the above recitals. In adopting this 2008 Final RTP, the Regional Council finds as follows:

   a. The 2008 Final RTP complies with all applicable federal and state requirements, including the SAFETEA-LU planning provisions. Specifically, the 2008 Final RTP fully addresses the requirements relating to the development and content of metropolitan transportation plans as set forth in 23 C.F.R.§450.322 et seq., including issues relating to: transportation demand, operational and management strategies, safety and security, environmental mitigation, the need for a financially constrained plan, consultation and public participation, and air quality conformity.

   b. The 2008 Final RTP represents the SCAG region's collective vision for addressing our transportation needs through 2035 within the constraints of committed, available, and reasonably available revenue resources.

2. The Regional Council hereby makes a positive air quality conformity determination of the 2008 Final RTP. In making this determination, the Regional Council finds as follows:

   a. The 2008 Final RTP passes the four tests and analyses required for conformity, namely: regional emissions analysis; timely implementation of Transportation Control Measures; financial constraint analysis; and interagency consultation and public involvement.

3. In approving the 2008 Final RTP, the Regional Council also approves and adopts Amendment #06-13 to the 2006 RTIP, in order to address the consistency requirement of the federal law.

4. In approving the 2008 Final RTP, the Regional Council approves the staff findings as set forth in its reports and incorporates all of the foregoing recitals in this resolution.

5. SCAG's Executive Director or his designee is authorized to transmit the 2008 Final RTP and its conformity findings to the Federal Transit Administration and the Federal Highway Administration to make the final conformity determination in accordance with the Federal Clean

Air Act and EPA Transportation Conformity Rule at 40 C.F.R. Parts 51 and 93.

APPROVED AND ADOPTED by the Regional Council of the Southern California Association of Governments at a regular meeting this 8th day of May 2008.

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Gary Ovitt
President
Fourth District Supervisor, San Bernardino County

Attested by:

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Hasan Ikhrata
Executive Director

Approved as to Form:

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Joe Burton
Chief Counsel