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**FILED**  
 SUPERIOR COURT of CALIFORNIA  
 COUNTY of SANTA BARBARA

**JUN 30 2009**

GARY M. BLAIR, Executive Officer  
 BY K. Littlejohn KL  
 K. LITTLEJOHN, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 COUNTY OF SANTA BARBARA – ANACAPA DIVISION

SUSTAINABLE TRANSPORTATION  
 ADVOCATES OF SANTA BARBARA, a  
 California nonprofit corporation,

Petitioner,

v.

SANTA BARBARA COUNTY  
 ASSOCIATION OF GOVERNMENTS, a  
 joint powers authority; and DOES 1-100,  
 inclusive,

Respondent.

CASE NO. 1303310

*TA*

~~PROPOSED~~ JUDGMENT  
 GRANTING IN PART PETITION  
 FOR WRIT OF MANDATE

ASSIGNED FOR ALL PURPOSES:  
 Hon. Thomas P. Anderle  
 Department: 3

Hearing Date: May 19, 2009

Filing Date of Action: October 15, 2008

Petitioner SUSTAINABLE TRANSPORTATION ADVOCATES OF SANTA  
 BARBARA's Petition for Writ of Mandate came on regularly for hearing on May 19, 2009, at  
 9:30 a.m., in Department 3, the Honorable Thomas P. Anderle, presiding. Eugene Wilson  
 appeared for Petitioner. Kevin E. Ready, Senior Deputy County Counsel for the County of Santa  
 Barbara, and Tiffany K. Wright of Remy, Thomas, Moose and Manley, LLP appeared on behalf  
 of Respondent SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS.

Having reviewed the record of proceedings in this matter, the pleadings and briefs  
 submitted by counsel and the argument of counsel that occurred on March 19, 2009, the Court  
 hereby adopts its Tentative Ruling as its final ruling in this case. A copy of the Court's Final  
 Ruling is attached at Exhibit A.

///

1 **IT IS ORDERED THAT:**

- 2 1. This judgment shall serve as the Court's final judgment.
- 3 2. The Tentative Ruling is adopted as the Final Ruling of the Court in this matter.
- 4 3. The Petition is granted in part, as set forth in the Final Ruling. The grounds upon
- 5 which the Petition is granted are set forth in the Final Ruling. In all other respects, the
- 6 Petition is denied. (Pub. Resources Code, § 21005, subd. (c).)
- 7 4. A peremptory writ of mandate shall issue stating:
- 8 a. Respondent shall set aside and void certification of the Final Environmental
- 9 Impact Report ("EIR") for the 2008 Santa Barbara County Regional
- 10 Transportation Plan ("RTP"); and
- 11 b. Respondent shall set aside and void approval of the RTP.
- 12 5. The decision, if any, to certify the EIR and approve the RTP is suspended until the
- 13 Santa Barbara County Association of Governments:
- 14 a. Provides sufficient detail in the EIR regarding the energy setting, through
- 15 inclusion of basic information on consumption and use patterns within the
- 16 County, and adequately analyzes the energy impacts of the RTP; and
- 17 b. Includes in the EIR a discussion of the potential of "induced traffic" resulting
- 18 from freeway expansion. (Pub. Resources Code, § 21168.9.)
- 19 6. Respondent shall file an initial return to this peremptory writ of mandate within 30
- 20 days of the date of this judgment becoming final. Respondent shall file a supplemental
- 21 return to the writ of mandate after it has certified a revised final EIR.
- 22 7. The Court reserves jurisdiction to determine entitlement to attorney's fees pursuant to
- 23 any properly filed motion petitioner may make.
- 24 8. Each party is to bear its own costs.

25 DATED:

June 30, 2009

By:

26 

27 Hon. Thomas P. Anderle  
28 Department: 3

# EXHIBIT A

# **TENTATIVE RULING**

Judge Thomas Anderle  
**Department 3 SB-Anacapa**  
**1100 Anacapa Street**  
**P.O. Box 21107**  
**Santa Barbara, CA 93121-1107**

## **CIVIL LAW & MOTION**

<b>Sustainable Transportation Advocates of SB vs SB County Asso</b>	
<b>Case No:</b>	1303310
<b>Hearing Date:</b>	Tue May 19, 2009 9:30

**Nature of Proceedings:** Writ of Mandate

**SUSTAINABLE TRANSPORTATION ADVOCATES OF SANTA BARBARA V. SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS (# 1303310)**

**Petition for Writ of Mandate (CEQA)**

**Rulings:** Granted with respect to energy setting and energy impacts analysis, and to a limited extent with respect to the EIR's failure to discuss or refute "induced traffic" within the traffic impacts analysis, despite SBCAG's admission that more cars upon a roadway would be a physical impact to the environment which would need to be evaluated. These findings results in the vacating of the certification of the EIR, and the approval of the RTP. Whether the current alternatives analysis will be sufficient in a subsequent EIR will depend on SBCAG's ability to factually support its Class III (less than significance) findings for energy impacts.

**Analysis:** In 2008, respondent SBCAG approved its updated Regional Transportation Plan. Prior to doing so, it conducted environmental review, and prepared a draft EIR. The draft was circulated for comment, and a final EIR prepared, and the RTP approved.

By this action, petitioner makes a plethora of contentions regarding the adequacy of the environmental review conducted by SBCAG, the EIR it had prepared, and its alleged failure to comply with CEQA. Petitioner therefore seeks to have approval of the RTP vacated, certification of the EIR vacated, and the matter returned for further environmental review.

From prior matters which came before this court, the court is familiar with petitioner, its attorney, and the views of each on transportation and transit issues within the County. Such views are irrelevant to the issues presented in this case, primarily including whether the environmental review conducted by SBCAG complied with the requirements of CEQA.

This Court has independently reviewed the administrative record, including the draft and final EIRs, the arguments of the parties, and the requirements of CEQA, in resolving the issues raised by the Petitioner.

Request for judicial notice/Declaration authenticating documents Petitioner has made two requests for judicial notice of documents, and has included a declaration of its counsel to authenticate other documents, which Petitioner contends the court should consider in ruling on its petition. Specifically, the declaration of counsel attaches the following: (a) A 1/5/09 article by Charles Krauthammer from The Weekly Standard, (b) An Energy Wire post from 1/9/09, (c) A study by Todd Litman, entitled "Generated Traffic and Induced Traffic," published in 2/09 by Victoria Transport Policy Institute, and (d) An article entitled "Promoting Safe Walking and Cycling to Improve Public Health: Lessons from the Netherlands and Germany," from the 2/03 issue of the American Journal of Public Health.

The original request for judicial notice seeks to have the court judicially notice the following: (a) Declaration of Eugene S. Wilson in Support of Application for Order to Show Cause and Temporary Restraining Order and Request for Judicial Notice, filed on 4/2/08 in Case No. 1266839, entitled Santa Barbara County Coalition Against Automobile Subsidies v. SBCAG; (b) 2/15/07 Minute Order issued in Sacramento Superior Court Case No. 07CS00967, entitled Environmental Council of Sacramento v. California Department of Transportation; (c) 10/08 Climate Change Scoping Proposal by the California Air Resources Board; (d) Addendum to the 2007 Regional Transportation Plan Guidelines, adopted by the California Department of Transportation on 5/29/08; and (e) California Attorney General 10/1/08 letter to Metropolitan Transportation Commission. A supplemental request seeks judicial notice of a Technical Advisory issued by the Governor's Office of Planning and Research on 6/19/08, entitled CEQA AND CLIMATE CHANGE: Addressing Climate Change Through California Environmental Quality Act (CEQA) Review.

Respondent has filed a lengthy objection to the court's consideration of any of the documents of which judicial notice is requested, and any of the documents attached to Petitioner's counsel's declaration. Petitioner has not responded to the objections.

Generally speaking, CEQA challenges are limited to information which was brought before the administrative agency during the proceedings which led to the challenged decision, and are therefore within the administrative record. Many of the documents at issue are not in the administrative record, and are not properly considered in judicial review of the agency's decision. Further, some of the documents were not yet in existence at the time the agency made its decision, and are likewise not properly considered by the court in judicial review of the decisions. Even if this were not true, the documents of which judicial notice are requested are largely not of the type of which the court can take judicial notice. The Court declines to take judicial notice of all documents attached to the original request filed by Petitioner on 2/17/09.

The Court notes that, whether by oversight or design, no objection was interposed to the supplemental request for judicial notice filed on 3/3/09, which seeks to have this court take judicial notice of a Technical Advisory issued by the Governor's Office of Planning and Research on 6/19/08, entitled CEQA AND CLIMATE CHANGE: Addressing Climate

Change Through California Environmental Quality Act (CEQA) Review. In fact, the document is referenced in the briefs by both Petitioner and Respondent. The Court finds the document relevant on the issue of greenhouse gas emissions. Therefore, the Court will grant the request for judicial notice of the document.

Finally, with respect to the documents attached to the Declaration of Eugene S. Wilson, which accompanies Petitioner's opening brief, both filed on 2/17/09, the Court finds the documents improper for consideration by the Court in resolving this petition. All such documents have been disregarded by the Court.

Petition As set forth in *Citizens of Goleta Valley v. Board of Supervisors of Santa Barbara County* (1990) 52 Cal.3d 553, 564, the EIR is the heart of CEQA, and its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made, thereby protecting not only the environment but also informed self-government. The EIR must identify and focus on the significant environmental effects of the proposed project. The "environment" refers to the physical conditions existing within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, and objects of historical or aesthetic significance. PRC § 21060.5.

An adequate EIR must be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences. CEQA Guidelines, § 15151. It must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project. *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 405. CEQA does not mandate either perfection or an exhaustive analysis. Rather, it requires the EIR to reflect a good faith effort at full disclosure. Guidelines, § 15151.

The EIR must set forth the basis for its findings; a bare conclusion regarding an impact without an explanation of its factual and analytical basis is not sufficient. *Laurel Heights*, supra, 47 Cal.3d at 404. The lead agency has the discretion to design the EIR, and need not conduct every recommended test or perform all requested research. *Id.* at 410. An EIR is required to evaluate environmental impacts only to the extent that it is reasonably feasible to do so. *In re Bay-Delta* 43 Cal.4th 15 1175. Speculative impacts need not be evaluated, but an agency should conduct a thorough investigation before concluding that an impact is too speculative for further analysis. *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1178.

The level of specificity required of an EIR generally depends on the degree of specificity involved in the proposed activity reviewed in the EIR. Under Guidelines § 15168(a), a program EIR may be prepared on a series of actions that can be characterized as one large project and are related either (1) geographically, (2) as logical parts in the chain of contemplated actions, (3) in connection with issuance of rules, regulations, plans or other general criteria to govern the conduct of a continuing program, or (4) as individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar effects which can be mitigated in similar ways. Benefits of preparing a

program EIR include the ability to provide for a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual analysis, ensuring consideration of cumulative impacts that might be slighted on a case-by-case basis, avoiding duplicative reconsideration of basic policy issues, and allowing the lead agency to consider broad policy alternatives and program-wide measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts. Guidelines, § 15168(b)(1)-(4).

A program EIR which is not intended to support approval of its activities without the need for further environmental review, need not be as specific as a project-level EIR. The analysis in such an EIR should be tailored to the first tier of the planning process, with the understanding that additional detail will be provided when specific second tier projects are under consideration. *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1169, 1172. A program EIR, such as on the adoption of a plan, must focus on secondary effects of the plan's adoption, but need not be as precise as an EIR on the specific projects which might follow. *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351, 374.

Under PRC § 21168.5, a court's review of an agency's actions under CEQA extends only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in a manner required by law, or if the determination or decision is not supported by substantial evidence. Substantial evidence is 'enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.' Guidelines § 15384(a). All reasonable doubts are resolved in favor of the administrative finding and the decision. *Laurel Heights*, supra, 47 Cal.3d at 393. The court may not overturn an agency's approval of an EIR on the ground that an opposite conclusion would have been equally or more reasonable, nor may it weigh conflicting evidence and determine who has the better argument. *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners of the City of Oakland* (2001) 91 Cal.App.4th 1344, 1356.

As a result, a court does not pass on the correctness of an EIR's environmental conclusions; it determines only whether the EIR is sufficient as an informational document. *Laurel Heights*, supra, 47 Cal.3d at 392. The absence of information in an EIR, or the failure to reflect disagreement among experts, does not per se constitute a prejudicial abuse of discretion. PRC § 21105. A prejudicial abuse of discretion occurs if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process. *Laurel Heights*, supra, 47 Cal.3d at 403-405. An EIR that is deficient in one respect may nevertheless be adequate when viewed in its entirety. *Al Larson Boat Shop, Inc. v. Board of Harbor Commissioners* (1993) 18 Cal.App.4th 729.

Energy impacts Petitioner makes a series of challenges to the EIR's discussion on energy impacts, including that the discussion of the energy setting was inadequate because it failed to discuss energy supplies or energy use patterns, it failed to evaluate inconsistencies between the RTP and the General Plan energy element, the analysis was conclusory and not based on scientific or factual data, and the analysis failed to consider

impacts that the CEQA Guidelines (Appendix F) require it to consider.

A. Inconsistencies with General Plan. Petitioner claims the EIR contained no discussion of the RTP inconsistencies with the energy element of the County's general plan, but makes no effort to identify any inconsistencies allegedly not discussed. SBCAG counters that there is no requirement to discuss consistency, only to identify and discuss inconsistencies with the plan, and since there are none, there was nothing to discuss. An EIR is presumed adequate (PRC § 21167.3), and the petitioner in a CEQA action has the burden of proving it is not. *State of California v. Superior Court* (1990) 222 Cal.App.3d 1416, 1419. Consequently, it is not the Court's obligation to scour both the RTP and the County's general plan to identify potential inconsistencies which should be discussed in the EIR. Without any identifiable inconsistency, the Court finds that petitioner has failed to meet its burden on this sub-category of its challenge to the EIR with respect to energy impacts.

B. Energy Setting. CEQA Guideline § 15125 provides that an EIR must include a description of the environment in the vicinity of the project, as it exists before the commencement of the project, both from a local and regional perspective, and mandates that the description be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives. Under Appendix F to the Guidelines, at Section II.B., the environmental setting for the evaluation of potentially significant energy implications of a project, may include existing energy supplies and energy use patterns in the region and the locality.

Petitioner first contends that in describing existing energy supplies for the regional transportation system, the EIR described oil and gas production in the County, which is misleading, but criticizes the failure to discuss developments in the crude oil markets, which Petitioner contends are important to understanding the existing energy supplies that will power the transportation systems over the life of the plan. SBCAG asserts that the discussion of local production of oil and gas is necessary because Impact E-3 considers how RTP implementation will impact transportation of energy resources. SBCAG believes it is speculative to attempt to predict when or how global supplies will be reduced, and the impact on County transportation. Petitioner replies that the EIR should have quantified energy supplies, and focused on gasoline and diesel supplies, rather than electricity and natural gas supplies, and contends no basis is supplied for the conclusion that crude oil supplies are speculative.

Under the terms of Guideline, § 15125, environmental setting is limited to a local or regional perspective. Global crude oil supplies are beyond its purview, and a local agency cannot be expected to analyze or predict the politically charged realities of global crude oil production and supply. Additionally, the detailed analysis of local or regional gasoline and diesel supplies demanded by Petitioner appears to be of little use in establishing an environmental setting for the RTP impact analysis, considering that all such fuels are processed and trucked into the region, and absent a global or hemispheric crisis, their supply is dictated by ordinary market principles of supply and demand. The Court therefore believes that the energy supply portion of the setting is adequate for the purposes of this EIR.

Petitioner then contends that the energy setting's discussion of energy use patterns



describes only statewide consumption of electricity and natural gas, conservation measures taken by electric companies, and notes statewide vehicular consumption of fuel, which does not give any clear idea of energy use patterns in the region. SBCAG counters that a discussion of statewide energy use patterns was appropriate, given statewide efforts to reduce greenhouse gas emissions. Petitioner responds that a claim that the RTP improves energy efficiency is no substitute for an adequate discussion of the energy setting.

The description of electricity and natural gas consumption was not out of place in the energy setting portion of the EIR, as apparently contended by Petitioner. Indeed, it is not just gasoline or diesel fuel that will be consumed in the construction and maintenance of the projects contemplated by the RTP. It was therefore appropriate to include a discussion of consumption of those energy sources. The EIR then set forth the consumption of gasoline and diesel fuel on the roadways of the state in the year 2006, and noted that the state's vehicles produce about 40% of its greenhouse gas emissions. It stated that 38% of the energy consumed statewide relates to transportation services, and that number is 30% in Santa Barbara County, noting that almost 100% of motorized transportation depends on petroleum. The EIR then proceeds to describe the regulatory setting related to energy consumption and conservation, including federal, state, and local laws and regulations. No more specific information about energy consumption is provided.

Although the Court appreciates the Petitioner's desire for a detailed analysis with respect to energy use/consumption patterns in the County, the Court is also mindful of Guideline, § 15125's mandate that the description be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives. Petitioner would like "basic information" such as BTUs consumed daily, or energy consumed by different modalities, within the County. The Court does believe that some relevant information with respect to energy consumption within Santa Barbara County is essential to an understanding and evaluation of the impacts of the RTP. Perhaps on its own, the Court would not find this deficiency sufficient to vacate the approval of the RTP and the certification of the EIR. However, since the EIR is similarly lacking in factual detail with respect to the energy impacts of the RTP, the court will grant the petition with respect to the energy setting, and order that SBCAG provide at least basic information about energy consumption and use patterns within the County, so sufficient information is contained within the EIR to provide for an informed comparison of the setting with the energy impacts of the RTP.

C. Impact Analysis. The focus of the EIR with respect to energy impacts appears to be largely on the energy to be used, and the avoidance or reduction of inefficient, wasteful, and unnecessary consumption of energy, in the construction and maintenance of the improvements contained in the RTP. When it comes to the energy demand resulting from the improvements contained in the RTP, i.e., resulting from its selection of the particular transportation projects contained therein, the EIR concedes that operation of some RTP projects may increase energy demand, but contends because, in a general sense, RTP implementation would increase the efficiency of the County's transportation system and increase opportunities to use alternative transportation modes that reduce energy consumption, the impact on energy demand would be Class III, less than significant.

Petitioner, known to this court to be a strong advocate of methods of transit to be used as an alternative to single occupancy vehicles (including commuter rail, among others) and known to object to what it perceives as a pro-SOV bias in the RTP, objects to the general treatment of the issue, and the lack of scientific data and factual information within the analysis. Petitioner contends that the impact discussion must include quantitative analysis the additional energy to be consumed by the travelers and commuters who make use of those improvements. In support of its contention, Petitioner cites to Appendix F to the CEQA Guidelines, which in its introductory comments states: "The goal of conserving energy implies the wise and efficient use of energy. The means of achieving this goal include: (1) decreasing overall per capita energy consumption, (2) decreasing reliance on natural gas and oil, and (3) increasing reliance on renewable energy sources. ¶ In order to assure that energy implications are considered in project decisions, the California Environmental Quality Act requires that EIRs include a discussion of the potential energy impacts of proposed projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy. ¶ Energy conservation implies that a project's cost effectiveness be reviewed not only in dollars, but also in terms of energy requirements. For many projects, lifetime costs may be determined more by energy efficiency than by initial dollar costs."

Appendix F proceeds to mandate that potentially significant energy implications of a project should be considered in an EIR, and sets forth a list of impact possibilities and potential conservation measures designed to assist in preparation of an EIR, recognizing that each project is different, and certain of the items on the list may or may not be relevant to a particular project, and that a particular project may require analysis of additional items not set forth in the list. While, as SBCAG contends, inclusion of an analysis of specific items on the list is permissive, and not mandatory, for any particular EIR, the tone of Appendix F makes clear that the EIR must make a specific and fact-based analysis appropriate to the project being evaluated.

Petitioner provided to SBCAG a copy of the 2004 EIR for Contra Costa County's RTP. This court does not deem this document to be determinative of CEQA's requirements for a programmatic EIR for an RTP. Contra Costa County is so different from Santa Barbara County as to make consideration of its RTP and corresponding EIR of limited relevance to this analysis. Because of its proximity to the Bay Area, its high population, and its primarily suburban nature, the transportation needs and capabilities in Contra Costa County are considerably different than those in Santa Barbara County, in which most of its communities are separated by mountain ranges and large expanses of forest and agricultural lands. Extensive transit systems, including multiple commuter rail and bus transit systems, have long been in operation in Contra Costa County, and are critical to its ability to serve its residents.

Even so, the Contra Costa EIR (CCEIR) is striking in its differences from the EIR prepared for the SBCAG RTP, at least in its discussions of energy impacts, and its provision of scientific and factual data in support of its conclusions. The Court notes that the CCEIR segregates its analysis of energy impacts by direct energy consumption, which it defines as energy used in the daily operation of the transportation system, including propulsion of on-road vehicles, and indirect energy consumption, which it defines as that energy required

to construct, operate, and maintain the transportation network, and manufacture on-road vehicles, as well as changes in energy demand due to a project. In assessing direct energy impacts, the CCEIR considered fleet mix, annual vehicle miles traveled, and variation of fuel consumption rates over time and by vehicle types. The CCEIR analyzed energy consumption for both direct and indirect impacts in terms of BTUs consumed, for the current setting (which in that plan was the year 2000), the 2025 no project alternative, and each of the remaining 3 alternatives under consideration. Each alternative was also analyzed in terms of any change in energy consumption resulting from change in average speed from that alternative.

In contrast to the CCEIR, SBCAG's EIR found less than significant the energy impacts resulting from operation of the RTP's projects, by merely stating that operation of some projects may increase energy demand, but in a general sense, its implementation would increase the efficiency of the County's transportation and increase opportunities to use alternative transportation modes that reduce energy consumption. There is no analysis beyond the brief explanation that although expansion of transportation facilities may increase demand, increased vehicle capacity will increase transportation efficiency and, in turn, fuel combustion efficiency. There is no data provided to back up the conclusion that the increase in efficiency will counterbalance energy consumption.

SBCAG asserts that no such detailed analysis is required, given that the EIR is a programmatic EIR, and not a project EIR, citing *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143. However, even a programmatic EIR must contain the level of analysis appropriate to evaluate the impacts which directly result from the selection of the plan or program. In the context of the RTP's selection of potential transportation projects to be developed within the County, it is only through the programmatic EIR that the energy use impacts resulting from the projects chosen for inclusion in the plan can be evaluated. Project-specific analysis of energy impacts would be patently insufficient to evaluate the energy impacts resulting from the choice of projects.

SBCAG also contends, in opposition to the petition, that the EIR considered potential energy impacts of the RTP as a whole in light of the traffic analysis performed in the EIR, which determined that expanded capacity would allow more vehicles to use the transportation system, but reduce congestion and increase the ability to travel at more optimal speeds during peak hours, and that the alternative transportation projects were anticipated to reduce the rate of growth in overall vehicle trips, miles traveled, and associated energy consumption. SBCAG contends that the EIR quantified the major potential environmental impact associated with energy consumption—CO2 emissions—showing reduced emissions compared to the alternatives, and since the RTP is more efficient than the alternatives, SBCAG properly concluded the energy impacts would be less than significant.

Petitioner responds that the energy impacts analysis contained in the EIR made no reference to the traffic analysis and CO2 emissions analysis, found elsewhere in the EIR, and did not rely on them for its conclusions. It contends that when a standard methodology is available to assess a significant impact, an EIR must evaluate it (*Berkeley Keep Jets*

Over the Bay Commission v. Board of Port Commissioners (2001) 91 Cal.App.4th 1344, 1370), and SBCAG never explains why other counties have quantified energy consumption in terms of BTUs, but it did not.

The Court here agrees with Petitioner. The EIR's energy impacts analysis makes no reference to any traffic analysis or COs emissions analysis, and itself is conclusory in nature. Indeed, the terms of Impact E-2 itself states that "in a general sense, RTP implementation would increase the efficiency of the County's transportation system and increase opportunities to use alternative transportation modes that reduce energy consumption." The analysis proceeds to explain that generally, the availability of alternate modes of transportation in the County would be expected to reduce overall motor vehicular trips, vehicle miles traveled, and associated energy consumption. It was based only on the "general sense" and the general expectation that the draft EIR's finding of Class II impacts (significant but mitigable) were downgraded in the final EIR to Class III impacts (less than significant), without any further detailed explanation or scientific or fact-based analysis. That Class III finding, in turn, impacted the propriety of the alternatives evaluated, since alternatives should be evaluated that lessen or avoid significant impacts.

An EIR must set forth the bases for its findings, and a bare conclusion regarding an environmental impact, without an explanation of its factual and analytical basis, is not sufficient. *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 404. Specific data should be presented when it is necessary for a meaningful analysis of a significant impact and reasonably feasible to do so. *Berkeley Keep Jets Over the Bay Commission v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344, 1381. The energy impacts analysis set forth in the EIR was conclusory, and did not provide the decision-makers or the public with sufficient information to make an intelligent decision concerning the project's environmental consequences. Because energy impacts are a critical result of a transportation plan, the court feels compelled to grant the petition as to the EIR's discussion of energy impacts, resulting in the vacation of the RTP approval and the EIR certification. The Court will not dictate the manner in which the EIR should be revised, or the energy impacts conclusions supported. However, it should comply with both the spirit and the letter of Appendix F.

**Greenhouse gas emissions** The petition is denied as to its contentions about greenhouse gas emissions. Petitioner contends that the EIR must identify and provide a regulatory and scientific background on global warming, assess the greenhouse gas emissions of the project and their potentially cumulative impact, assess the impact of climate change on the project, make a significance determination, and examine mitigation and alternatives that would reduce greenhouse gas emissions. Petitioner contends that SBCAG violated CEQA mandates, in failing to include in the EIR a comprehensive assessment/analysis of the cumulative impact of RTP on global warming, and the failure to identify mitigation measures and alternatives which take greenhouse gas emissions into account. Petitioner contends that the EIR projects a 50% increase in CO2 emissions from on-road mobile sources by the year 2030. As a result, CEQA would require a cumulative impact analysis, including an evaluation of the greenhouse gas impacts of the construction process.

SBCAG responds that the EIR sufficiently analyzes greenhouse gas emissions, in that the

air quality section analyzed the RTP's greenhouse gas emission impacts based on the recommended approach from the Governor's Office of Planning and Research 6/19/08 technical advisory: CEQA and Climate Change: Addressing Climate Change through CEQA Review. SBCAG asserts that Petitioner has misinterpreted the data in the EIR, in concluding that implementation of the RTP will result in a 50% increase in greenhouse gas emissions, and that the EIR data states instead that, in the absence of federal and state regulations, CO2 emissions from on-road sources will increase by roughly 50%, regardless of what alternative is analyzed, with the planned RTP resulting in the lowest emissions. As a result, the EIR concluded that the RTP itself would not incrementally contribute to impacts that would increase greenhouse gas emissions in the County, and because the RTP would have less than significant greenhouse gas emission impacts, the EIR was not required to include mitigation measures or alternatives addressing greenhouse gas emissions. SBCAG asserts that the RTP EIR acknowledged that project level EIRs would need to be analyzed individually as to greenhouse gas emissions.

Petitioner replies that the table included in the greenhouse gas section is not a significance determination, nor is there a significance determination for greenhouse gas emissions within Table ES-01, which summarizes all significance determinations in the EIR. Petitioner contends that the failure to analyze RTP greenhouse gas emissions against a baseline of environmental conditions constitutes a failure to proceed in a manner required by law. Further, Petitioner asserts that the analysis is not a cumulative analysis. Petitioner contends that the Governor's OPR document requires lead agencies to determine whether greenhouse gas emissions may be generated by a proposed project, and if so quantify or estimate them by type or source, assessing whether they are individually or cumulatively significant in connection with effects of past, current, and probable future projects, which Petitioner contends was not done.

The EIR, at Section 4.3.2 (Air Quality Impact Analysis), subdivision d., located at page 4.3-22 of the FEIR, sets forth the EIR's analysis of green house gas emissions. It acknowledges that there were, at that time, no federal, state, or local air quality planning legislation which had established thresholds for evaluating project level greenhouse gas emissions, but noted that the quantitative assessment of such emissions was included in the 2008 RTP.

Although the OPR has been directed to adopt CEQA Guidelines for mitigation of greenhouse gas emissions by January, 2010 (PRC § 21083.05), neither CEQA nor its Guidelines yet include specific requirements for analysis of climate change issues in EIRs. There are no published cases on the analysis of climate change in CEQA documents. OPR's technical advisory provides interim and informal guidance until the new Guidelines can be adopted. As a document which expressly provides only "informal guidance," it provides no specific legal or regulatory guidance on how climate change should be addressed in CEQA documents. At best, lead agencies are placed in positions of uncertainty by this lack of official guidance, particularly since the focus of CEQA is to provide an assessment of the effects of a project or plan on the local environment.

Of course, the EIR's analysis of greenhouse gas emissions is subject to the same principles as the analysis of other potential impacts, including that the lead agency has the

discretion to design the EIR, the EIR must evaluate impacts only to the extent it is reasonable to do so, and that an agency need not conduct every recommended test or perform all requested research and analysis. Certainly, the fact that the discussion of greenhouse gas emissions, in this EIR, were contained within the section on air quality, and not in a separate section, does not in any way invalidate the analysis. SBCAG had the discretion to design the EIR, and in the absence of express Guidelines or statutory guidance directing otherwise, this was sufficient. Emissions are logically related to air quality, even if the ultimate result—global warming—is not strictly speaking an air quality issue. Indeed, the OPR technical advisory expressly states that there is no standard format for including the analysis in an EIR, and it can be included in one or more of the typical sections, including air quality.

Additionally, climate change is, by definition, a cumulative impact. Under CEQA, a cumulative impact analysis need not be as detailed as the analysis of impacts attributable to the project alone. The discussion should reflect the severity of the impacts and their likelihood of occurrence. Guidelines, § 15130(b). An EIR's evaluation of greenhouse gas emissions should therefore disclose the project's contribution to total emissions. An important part of this discussion, however, is the consideration of the environmental conditions that would exist without approval of the proposed RTP. The EIR's discussion here reveals that the increase in greenhouse gas emissions expected to result in 2030 from on-road mobile source emissions does not result from the RTP, but from forecast population growth, which can be seen from the data showing that there would be lower greenhouse gas emissions (measured in tons/day) with the RTP than with the no project or program project alternatives. The EIR acknowledges that some projects will result in cumulatively increased emissions, but notes that in the absence of regulatory guidelines, specific mitigation measures cannot be proposed at this time, and separate greenhouse gas emissions evaluations will need to take place in the project level environmental review.

While the court can appreciate that Petitioner would have preferred a detailed analysis of greenhouse gas emissions related to every aspect of the RTP, the Court cannot find that the analysis set forth in the EIR was deficient, or unsupported by substantial evidence, particularly given the current lack of definitive standards to be used in CEQA analysis.

**Alternatives analysis** The petition is denied as to its contentions with respect to the alternatives analysis. However, the Court will note that, should SBCAG be unable to support its Class III determination with respect to energy impacts with fact-based analysis and scientific data, the nature of the alternatives analysis could be impacted, as outlined below.

The core of an EIR is the mitigation and alternatives sections. *Citizens of Goleta Valley v. Board of Supervisors of Santa Barbara County* (1990) 52 Cal.3d 553, 565. The California Supreme Court recently discussed, in some detail, the requirements for selecting alternatives to be evaluated in an EIR, in *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143. According to the Bay-Delta court: In addition to analyzing the environmental effects of a proposed project (or plan), an EIR must also consider and analyze project alternatives that would reduce adverse environmental impacts. PRC § 21060. It must describe a reasonable range of



alternative to 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. Guidelines § 15126.6(a). It need not consider every conceivable alternative, or alternatives which are infeasible. *Id.* CEQA defines “feasible” as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” PRC § 21061.1.

There is no ironclad rule governing the nature or scope of the alternatives to be discussed, other than the rule of reason (Guidelines § 15126.6(a)), which requires the EIR to set forth only those alternatives necessary to permit a reasoned choice, and to examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project. Guidelines § 15126.6(f). An EIR does not have to consider alternatives whose effect cannot be reasonably ascertained and whose implementation is remote and speculative.

The process of selecting the alternatives to be included begins with the establishment of project objectives by the lead agency. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings. The statement of objectives should include the underlying purpose of the project. Guidelines § 15124(b). An EIR should not exclude an alternative from detailed consideration merely because it would impede to some degree the attainment of the project objectives. Guidelines, § 15126.6(b). However, it need not study in detail an alternative that is infeasible or that the lead agency has reasonably determined cannot achieve the project’s underlying fundamental purpose. *Citizens of Goleta Valley*, supra, 52 Cal.3d at 574. Factors that may be used to eliminate alternatives from detailed consideration in an EIR include failure to meet most of the basic project objectives, infeasibility, or inability to avoid significant environmental impacts. Guidelines, § 15126.6(c).

The court in *Bay-Delta*, supra, emphasized that the range of alternatives that an EIR must study in detail is defined in relation to the adverse environmental impacts of the proposed project. It must include a description of feasible project alternatives that would substantially lessen the project’s significant environmental effects. The project’s environmental effects, in turn, are determined by a comparison with the existing baseline conditions. 43 Cal.4th at 1167.

The alternatives evaluated by SBCAG included (1) no project alternative, which assumed a permanent cessation of capital improvement projects for regional transportation at the end of 2008; (2) Program Project alternative, which assumed there would be no further funding for regional transportation after currently funded projects had been constructed, and (3) Modified Project alternative, which eliminated from the RTP certain projects with the potential to create Class I impacts.

Petitioner challenges the EIR’s alternatives analysis in a number of ways, contending that it failed to evaluate the “no project” alternative, failed to analyze known alternatives that would have substantially reduced “impacts,” failed to explain the rationale for selecting the alternatives analyzed, failed to produce sufficient information about the alternatives to permit a reasonable choice, selected alternatives that would not feasibly attain the basic

project alternatives, selected alternatives that would not avoid or substantially lessen the significant impacts of the project, and failed to evaluate a reasonable range of alternatives that would foster informed decision-making and public participation.

A. No project alternative. CEQA requires that an EIR analyze a “no project” alternative, along with the other project alternatives. The no project alternative addresses existing conditions, as well as what would reasonably be expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services. Guidelines, § 15126.6(e)(2). Because it requires a reasonable forecast of future events, it is different from and operates independently of the project description requirement. *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners of the City of Oakland* (2001) 91 Cal.App.4th 1344, 1363.

Petitioner objects to the “no project” alternative in the EIR, contending that it really is not a “no project” alternative, as contemplated by CEQA, in that it assumes the cessation of all capital improvement projects for regional transportation at the end of 2008, rather than the continuance of the existing plan, as required by Section 15126.6(e). Petitioner’s counsel made the same point in a comment letter to SBCAG in 9/08. SBCAG’s response was to note the point, to note that Section 15126.6(e) states that the discussion of the no project alternatives will usually compare the effects of a proposed regulatory plan to continuation of the existing plan, and to state that for the RTP, it was determined that such an approach would not provide meaningful information, in that it would involve only a comparison of 2 lengthy lists of projects, many of which are on both plans. Additionally, SBCAG responded that not updating the RTP is not a realistic option, as state and federal laws require SBCAG to adopt an updated RTP every 5 years.

In its opposition brief, SBCAG asserted further that the “Program Project” alternative analyzed in the EIR contains the substance of the “no project” alternative required by Section 15126.6(e), in that it proposes continuation and development of funded projects in the current RTP. SBCAG characterizes Petitioner’s argument as one of semantics. Petitioner replies that in limiting the alternative to only currently funded projects, it is not the same as the continuation of the existing RTP, in that it does not include the projects which would reasonably be expected to occur in the foreseeable future if the project were not approved. Further, Petitioner contends that misnaming the alternative does not foster informed public participation and informed decision-making.

Guidelines § 15126.6(e)(3) provides that the discussion of the “no project” alternative will usually proceed along one of two lines, depending on what type of project is at issue. In subdivision (e)(3)(A), it states that “[w]hen the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the ‘no project’ alternative will be the continuation of the existing plan, policy or operation into the future. Typically this is a situation where other projects initiated under the existing plan will continue while the new plan is being developed. Thus the projected impacts of the proposed plan or alternative plans would be compared to the impacts that would occur under the existing plan.” [Emphasis added.]



Under the express terms of Section 15126.6(e)(3)(A), the no project alternative for revision of an existing plan includes projects initiated under the existing plan, and contemplates that they will continue while the new plan is developed. This is precisely what SBCAG included in the Program Project alternative. Its inclusion of only those projects under the existing plan which have been funded is a reasonable interpretation of Section 15126.6(e)(3)(A), in that this is likely all that would continue pending development of a new plan. Certainly, the alternative was not entitled "no project" alternative as it should have been. However, perfection is not required in an EIR; only a good faith effort at full disclosure. There is no evidence to suggest that Petitioner, SBCAG, or any other interested party was misled by the names affixed to the alternatives, and on its own, this error is not sufficient to require that approval of the RTP and certification of the EIR be vacated.

B. Alternatives evaluated. Petitioner challenges the alternatives selected, and the EIR's discussion of them, in various respects, including that the EIR failed to explain the rationale for selecting the alternatives it evaluated, that the EIR did not provide sufficient information about the alternatives to permit a reasonable choice, that the alternatives selected would not feasibly attain the basic project alternatives, and that the alternatives would not avoid or substantially lessen the significant impacts of the project.

Guidelines, § 15126.6(a) provides, in part, that the lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. It does not require that the articulation of reasons for alternative selection be contained within the EIR itself, as Petitioner contends—only that the reasons be publicly disclosed. In its response to the comment letter submitted by Petitioner's counsel, SBCAG explained why it chose the alternatives it did, and why it did not evaluate the alternatives proposed by counsel, including the gasoline tax and robust transit alternatives. [49:16253-16254] The mere absence of explanation is therefore insufficient to vacate the plan approval and EIR certification.

With respect to the 3 alternatives evaluated, Petitioner contends that insufficient information about them was disclosed by the EIR, that they would not feasibly attain the basic project alternatives, and that they would not avoid or substantially lessen the significant impacts of the project. SBCAG explained that it chose the alternatives by focusing on addressing the significant impacts of the RTP that could not be reduced to below a level of significance through proposed mitigation measures. The identified significant impacts associated with the RTP related to agricultural resources, aesthetics, and biological resources.

Based upon the impacts analysis which exists in the current EIR, the choice of alternatives to analyze was not improper. The focus was on the impacts found to be significant, and the alternatives were chosen in an attempt to lessen or avoid those significant impacts. The Court also notes that alternatives which address significant impacts of the project must be analyzed, even if they do not meet one or more of the objectives of the project. A failure to meet all of the objectives of the project therefore does not remove an alternative from proper consideration and evaluation in an EIR.

The Court will also note, however, that, as noted above, the petition is being granted in part, finding the discussion of energy impacts and the "less than significance" impact finding to

be conclusory and unsupported by scientific or factual information. To the extent that any subsequent EIR finds energy impacts to have any level of significance, the proper choice of alternatives to be evaluated may need to be further evaluated, since alternatives must be chosen in an attempt to avoid or lessen significant impacts of a project.

C. Alternatives not included. Petitioner contends that the EIR failed to evaluate a reasonable range of alternatives that would foster informed decision-making and public participation, specifically in that it failed to analyze known alternatives that would have substantially reduced impacts, including commuter rail, robust transit, and gas tax alternatives. SBCAG responds, once again, with the statement that the alternatives to be analyzed are chosen because they lessen or reduce the impacts found to be significant, which here are agricultural resources, aesthetics, and biological resources. Because SBCAG did not find the energy impact to be significant, the suggested alternatives were not appropriate for evaluation within the EIR.

Certainly, there is no doubt but that Petitioner is not the least concerned with agricultural resources, aesthetics, or biological resources impacts, when it contends that commuter rail, robust transit, and gas tax alternatives should have been discussed. Rather, Petitioner contends that because SBCAG in the draft EIR found energy impacts to be Class II (significant but mitigable), SBCAG recognized them to at least be potentially significant, despite the fact that the final EIR found energy impacts to be Class III (less than significant) impacts. Petitioner then cites *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, for the proposition that an EIR must contain a discussion of meaningful mitigation measures or alternatives which would lessen or avoid even impacts which are potentially significant.

That is not what *Kings County* held. In that case, the EIR had found there to be no significant impacts of the proposed project. As a result, the agency contended that alternatives analysis was either not required, or was subject to a reduced standard. The court disagreed, finding that where there are no significant impacts of the project to be lessened or avoided, the alternatives and mitigation measures analysis must then provide a full analysis of any potentially significant impacts. It did not purport to overturn the long-standing law that alternatives are to be chosen which would lessen or avoid the project's significant impacts, while meeting most of the project objections. That is not the situation present in this case, and *Kings County* cannot be read to enlarge the agency's already substantial obligation to evaluate alternatives.

Once again, however the Court notes that, to the extent that any subsequent EIR finds energy impacts to have any level of significance, the proper choice of alternatives to be evaluated may need to be further evaluated—including whether one of the alternatives proposed by Petitioner would be appropriate—since alternatives must be chosen in an attempt to avoid or lessen significant impacts of a project.

Transportation impacts Petitioner makes a number of challenges to the EIR's discussion of transportation impacts, contending that the EIR must analyze impacts on transit, impacts on local streets, impacts on the physical environment from subsidizing automobile use, and impacts of providing more freeway capacity, and asserting that SBCAG did not

respond in good faith to Petitioner's comment on the impact of subsidizing automobile use.

With respect to the issues related to subsidizing automobile use and increasing freeway capacity, Petitioner contends that the EIR must evaluate the impacts on the environment from subsidizing automobile use (Measure A), since climate change cannot be addressed if carbon-polluting technologies are subsidized. Petitioner contends the sales tax shields a traveler from paying the cost of infrastructure for single vehicle occupancy, encouraging their greater use. Petitioner contends this is an economic or social effect of the project and its increase of freeway capacity—which Petitioner contends results in “induced traffic,” and the physical change caused by these effects is as significant as any other physical change caused by the project. Petitioner admits the EIR purports to analyze Measure A, but concludes that a sales tax encourages people to travel by car and live further from work. Finally, Petitioner contends SBCAG did not respond in good faith to its comment on subsidizing automobile use.

SBCAG responds that its traffic model adequately accounts for subsidizing automobiles, including socio-economic factors which affect choice of mode of travel, and it is improper for Petitioner to try to use CEQA to force its policy preferences onto SBCAG. The Parsons report relied on by Petitioner actually demonstrates the RTP will reduce incentives for single occupancy vehicles, noting that can be accomplished both by using high occupancy vehicles to make alternatives to SOV use more competitive, and by use of alternate modes. The RTP directs twice as much funding to transit, bicycle, pedestrian and rail projects as to increasing highway capacity, and the 101 widening (with HOV lanes) will facilitate alternative transportation modes. SBCAG asserts further that a separate analysis of Measure A is not required by CEQA; all Measure A projects are evaluated as part of the RTP, and the EIR focus on how Measure A relates to proposed improvements is consistent with CEQA.

As noted, Petitioner contends that Measure A discounts the cost of driving, and therefore encourages single occupancy vehicle use. SBCAG contends that Measure A funds are not limited to use for roadway improvements, and the encouraging of single occupancy vehicle use cannot be said to be a necessary result of the sales tax funding mechanism. The Court would tend to agree. Additionally, because all projects to be funded by Measure A are contained within the RTP, they have been evaluated from a programmatic perspective.

With respect to increasing freeway capacity, Petitioner contends that increased highway capacity results in “induced traffic,” and an increased demand for travel and expansion, and asserts that an EIR for a RTP should evaluate potential effects of induced travel when a freeway is expanded to create a high occupancy vehicle lane. Petitioner contends that SBCAG concluded the impact was speculative, but did not conduct a thorough investigation. SBCAG counters that there is substantial evidence to support its conclusion that increasing freeway capacity does not result in induced traffic, but that any increased traffic results from drivers who previously used surface streets because of freeway congestion, returning to freeway travel. It asserts that SBCAG's traffic modeling shows that capacity increasing components of the RTP will reduce congestion, resulting in better traffic flow and reduced GHG emissions. Petitioner replies that the argument that induced traffic does not result from increased freeway capacity both acknowledges that the impact

can be measured, and is an argument of counsel not contained in the EIR or administrative record, and a post hoc analysis by counsel does not satisfy CEQA.

SBCAG admitted in opposition to the petition that additional cars on a roadway is a physical impact on the environment. Certainly, if SBCAG had factual information to refute Petitioner's comment with respect to the purported "phenomenon" of "induced traffic," it could have included the information within the EIR's discussion of traffic impacts. Once again, although the Court might not have found this deficiency, on its own, to have been sufficient to vacate certification of the EIR, the EIR should have contained the discussion. Because the petition is being granted with respect to the energy impacts analysis, the court will request that SBCAG also augment the EIR's discussion on this issue.

With respect to the issue of impacts on transit, Petitioner contends the EIR's conclusion that no significant adverse impacts to transit service are anticipated because each transit provider is meeting the transit performance standards and the RTP improvements should allow them to continue to do so, lacks sufficient detail or analysis to ensure the integrity of the decision-making process. Petitioner asserts that that which should be analyzed is the impact of the RTP on daily transit boardings, citing the Contra Costa County RTP EIR. SBCAG responds that Petitioner's emphasis is a result of its attempt to extract policy changes from SBCAG regarding freeway capacity funding vs. transit funding, and that it evaluated that impacts to transit would exist if the RTP would render the transit providers unable to meet their performance goals. Since it would not, there is no significant impact on transit service. SBCAG asserts that fewer transit riders is not a physical impact for CEQA analysis, and that it adequately analyzed increased vehicles on the roadway, which is. SBCAG notes that the RTP includes a wide array of transit and other services, and twice as many alternative transportation projects will be funded as will freeway expansion projects.

The Court will first again note that what was done in Contra Costa County, is not determinative of the proper approach to evaluating transit in Santa Barbara County. In addition to the discretion given to each agency to design an EIR and determine how to evaluate impacts, Contra Costa County is so different from Santa Barbara County as to make consideration of its RTP and corresponding EIR of limited, if any, relevance to this analysis. Because of its proximity to the Bay Area, great population, and largely suburban nature, the transportation needs and capabilities in Contra Costa County are considerably different than those in Santa Barbara County, in which most of its communities are separated by mountain ranges and large expanses of forest and agricultural lands. Extensive transit systems, including multiple commuter rail systems, have long been in operation in Contra Costa County, and are critical to its ability to serve its residents. Evaluating "daily boardings" in Contra Costa county is a significant and critical part of evaluating its transportation system as a whole. The transportation context in Santa Barbara County differs considerably.

While Petitioner would have preferred an analysis in which the impact of the RTP on the daily boardings of all existing and future transit systems is evaluated, in the context of the Santa Barbara County setting the EIR's focus on evaluating impacts to the existing transit systems' transit performance standards was not unreasonable. The EIR was sufficient as

an informational document, particularly since, as pointed out by SBCAG, fewer transit riders is not a physical impact that must be evaluated in a CEQA document.

With respect to the issue of impacts on local streets, Petitioner contends that the EIR's analysis was limited to impacts on facilities of regional significance, and should instead have analyzed the impacts of freeway expansion on the volume, distribution, and flow of traffic on local roadways, and on the demand for parking. SBCAG responds that impact on local intersections was adequately analyzed, and that parking impacts were better left to project-specific environmental review, rather than a programmatic EIR such as this, and there is nothing to suggest that the RTP as a whole will have potentially significant parking impacts. The Court agrees with SBCAG that the level of detail contained in the EIR, with respect to local street impacts, including parking, is appropriate for a program level EIR of this type, and that CEQA review of such impacts is better addressed in the project-specific environmental review.

**Public health impacts** The petition is denied with respect to its contentions related to public health impacts. Petitioner challenges the EIR's failure to discuss the "health impacts" which it contends result from the RTP. In essence, Petitioner contends that the emphasis of the RTP is on roadway improvements, rather than on commuter rail and other transit options, or on bicycle and pedestrian travel, and thereby tends to promote single occupancy and other vehicular travel. Petitioner then contends that such single occupancy vehicle travel leads to social isolation and a sedentary lifestyle. Social isolation and sedentary lifestyles, under Petitioner's theory, then in turn lead to adverse health impacts. SBCAG responds that Petitioner failed to exhaust its administrative remedies with respect to this challenge, in that only a generalized comment about health was made in passing by Petitioner, which was insufficient to notify SBCAG of the claimed impacts. SBCAG also contends that public health impacts were evaluated throughout the EIR, in discussions of air quality, water quality, facility maintenance, and hazardous materials.

SBCAG's point about Petitioner's failure to exhaust administrative remedies on this issue is well taken. The comment letter's discussion of health was limited to the fact that cycling and walking were made more dangerous and unpleasant when more traffic occurred on local streets. Health impacts from social isolation and a sedentary lifestyle are not evoked by that description, and at best are only remotely related to the comment that was made.

Under Guidelines, § 15126.2(a), an EIR's discussion of environmental effects should include health and safety problems caused by physical changes. The EIR in question did so, in evaluating health impacts in discussions of air quality, water quality, facility maintenance, and hazardous materials. No information has been provided to the Court that would even suggest that single occupancy vehicle usage would result in social isolation and sedentary lifestyles at all, much less that these social effects would have resulting health impacts. The EIR is sufficient on this issue.

**Project definition** The petition is denied with respect to its contentions regarding the project definition. CEQA does not expressly mention the term "project description," but it has long been held that an accurate, stable, and finite project description is the indispensable prerequisite to an informative and legally sufficient EIR. The EIR must be prepared with a

sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences. *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20, 26. However, the project description itself should not supply extensive detail beyond that needed for evaluation and review of the environmental impact. Guidelines, § 15124. A general description of the project's characteristics is required. *Dry Creek*, supra, 70 Cal.App.4th at 28.

Guideline § 15124 sets forth the specific technical requirements for an EIR's project description, and requires (a) the precise location and boundaries of the proposed project to be shown on a detailed map, including a regional map; (b) a statement of the objectives sought by the proposed project, including the underlying purpose of the project; (c) a general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals (if any) and supporting public service facilities, and (d) a statement briefly describing the intended uses of the EIR, including a list of the agencies expected to use the EIR in their decisionmaking, a list of permits and other approvals required to implement the project, and a list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. The courts have generally rejected arguments that additional information is required beyond the specific requirements of Section 15124.

The project description for the RTP is set forth at Section 2.0 of the EIR. It contains all of the required elements set forth in Guideline, § 15124. Petitioner briefly challenges the sufficiency of the project 'definition', contending in a summary fashion that the EIR failed to provide sufficient information about what Measure A is in order for the public to evaluate the impact of that project on the environment. Within its discussion of the Action Element of the RTP, the EIR's project description identifies each new program and plan project within the RTP, and its action year, with separate tables for highway and intersection projects, bikeway and pedestrian projects, railroad projects, transit projects, ITS/TDM projects, and airport projects. The project description expressly notes that several of program and plan RTP projects would be funded in part or in whole by Measure A funds, and that all Measure A projects were included within the 2008 RTP update. It describes Measure A (which had not been passed at the time) as the successor to Measure D, which provided for a 1/2 cent sales tax over a period of 20 years, and dedicated those revenues solely to fund transportation and projects and programs. A chart separately sets forth the details of Measure A projects. Maps detail the locations of all proposed projects.

Petitioner's challenge makes no effort to explain or identify how or why the description of Measure A within the project description is insufficient. The Court finds that it is legally adequate, and therefore denies the petition as to this challenge.