



## Board of Governors

**Joan Harrington, Chair**  
Santa Clara University  
School of Law

**Fred W. Alvarez**  
Jones Day

**Alina Ball**  
UC Hastings College of the Law

**Barbara J. Chisholm**  
Altshuler Berzon LLP

**Martin R. Glick**  
Arnold & Porter LLP

**Bruce Ives**  
LifeMoves

**Dolores Jimenez**  
Kaiser Permanente

**Leo P. Martinez**  
UC Hastings College of the Law

**Anita D. Stearns Mayo**  
Pillsbury Winthrop Shaw Pittman  
LLP

**Robert H. Olson**  
Squire Patton Boggs (retired)

**Rohit K. Singla**  
Munger, Tolles & Olson LLP

**Abdi Soltani**  
ACLU of Northern California

## Staff

**Guillermo Mayer**  
President & CEO

**John T. Affeldt**  
**Richard A. Marcantonio**  
Managing Attorneys

**Isabel Alegría**  
Director of Communication

**Liz Guillen**  
Director of Legislative  
& Community Affairs

**Deborah Harris**  
Director of Development

**Sumi Paik**  
Director of Finance &  
Administration

**Angelica K. Jongco**  
**Samuel Tepperman-Gelfant**  
Senior Staff Attorneys

**Rigel S. Massaro**  
**Chelsea Tu**  
**David Zisser**  
Staff Attorneys

**Anne Bellows**  
Attorney & Equal Justice Works  
Fellow

**Angela Perry**  
Law Fellow

**Patty Leal**  
Finance Manager

**Karem Herrera**  
Legal Administrative Coordinator

**Madelyn Wargowski**  
Development & Administrative  
Assistant

**Jesse White**  
Communication Coordinator

April 1, 2016

**BY EMAIL:** [mre@ccta.net](mailto:mre@ccta.net)

Martin Engelman, Deputy Executive Director, Planning  
Contra Costa Transportation Authority  
2999 Oak Road, Suite 100  
Walnut Creek, CA, 94597

Re: Environmental Review of Draft Transportation Expenditure Plan

Dear Mr. Engelman:

For nearly a year, the Contra Costa Transportation Authority (CCTA) has committed to integrating its development of the Transportation Expenditure Plan (TEP) for a new sales tax measure within the larger development of a fiscally-constrained Countywide Transportation Plan (CTP). In particular, the Authority promised to conduct an analysis of alternatives for the TEP as part of its study of CTP alternatives in an Environmental Impact Report.

We write on behalf of the Sierra Club, Urban Habitat and Public Advocates to express deep concern that the Authority appears to be on the brink of renegeing on this important commitment.

By way of background: On May 20, the Board effectuated a fundamental reorientation of CCTA's process for adopting its new CTP. A central part of that decision was the Board's approval of staff's recommendation to treat "the CTP and the TEP as part of the same overall CEQA 'project' and analyz[e] their impacts together in one CEQA document." (Staff rep., 5/20/15, p. 1.) Consistent with this reorientation, the July 31, 2015 Notice of Preparation stated that the alternatives to be analyzed in the new SEIR were "specifically intended to inform the development of a 2015 Draft Transportation Expenditure Plan (Draft TEP)." (NOP, p. 4.)

Since then, CCTA identified three alternatives for inclusion in the EIR's analysis, and stated that the draft EIR would be made available in January or February of this year – something that has not yet occurred. The draft, as CCTA confirmed, would analyze the three alternatives not only for important environmental impacts, including GHG reduction, but also against regional performance measures, as required by MTC's Guidelines on Countywide Transportation Plans. CCTA also confirmed

Brad Beck  
April 1, 2016

Page 2

that the EIR would include the equity analysis of those alternatives, also required by MTC.

As we noted in a May 27 letter to Chair Pierce and Planning Committee Chair Abelson – and reiterated in our initial comments on the NOP on August 7 – this approach makes good sense, both for ensuring legal compliance and for developing a performance-based and cost-effective sales tax plan through a process that provides agencies, stakeholders and the broader public with meaningful information about alternative sets of investment priorities. The NOP states this rationale even more pointedly: “[t]he results of this recirculated [SEIR] are also expected to assist the Regional Transportation Planning Committees and the Expenditure Plan Advisory Committee in consideration of their development of an upcoming Transportation Expenditure Plan.” (NOP, p. 6.)

It is now becoming increasingly evident that the Authority may have abandoned its previous commitments, and may proceed to adopt a TEP that has neither been studied against alternatives nor subjected to any environmental review whatsoever. Leaving aside for now the legal implications of such a breach of CCTA’s prior commitments to the public,<sup>1</sup> we urge the Board to complete the promised analysis of alternatives prior to taking any action to put a new sales tax measure on the ballot.

Should a measure that will commit sales tax revenues for many years come before the voters in November without any analysis of distinct alternatives against environmental, performance and equity criteria, voters will face questions of trust as well as questions about whether the proposed TEP makes wise use of their taxpayer dollars. Questions of trust will arise as CCTA is viewed as having broken important promises by voters who will be asking themselves whether they can trust CCTA to keep its current promises about how it will use these new funds. Those same voters, when they ask whether the priorities established in the TEP have risen to the top in performance analysis against alternative approaches, will find no answers. Many will be dismayed to learn that even the most basic environmental review of the proposed TEP has not been conducted.

Very truly yours,



Richard A. Marcantonio  
Managing Attorney

Cc: David Hudson, Chair ([dhudson@sanramon.ca.gov](mailto:dhudson@sanramon.ca.gov))  
Janet Abelson, Chair, Planning Committee ([jabelson@ci.el-cerrito.ca.us](mailto:jabelson@ci.el-cerrito.ca.us))

---

<sup>1</sup> Notwithstanding *Sustainable Transportation Advocates of Santa Barbara v. Santa Barbara County Association of Governments*, 179 Cal. App. 4th 113 (2009), we believe that under the circumstances present here, CCTA’s adoption of a TEP pursuant to Pub. Util. Code §§ 180201, 180206 without prior certification of a proper EIR under CEQA may be unlawful.

Brad Beck  
April 1, 2016

Page 3

Randell H. Iwasaki, P.E., Executive Director ([riwasaki@ccta.net](mailto:riwasaki@ccta.net))  
Ross Chittenden, Deputy Executive Director, Projects ([rchittenden@ccta.net](mailto:rchittenden@ccta.net))  
Mala Subramanian, Esq. ([Malathy.Subramanian@bbklaw.com](mailto:Malathy.Subramanian@bbklaw.com))