

# LAW OFFICE OF MARC CHYTILO

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ENVIRONMENTAL LAW

December 18, 2006

Mr. Will Kempton, Director  
California Department of Transportation  
Post Office Box 942873  
Sacramento, California 94273-0001

RE: Marin-Sonoma Narrows Project, Highway 101

Dear Director Kempton:

We are in receipt of the Caltrans response to our letter concerning this project signed by District Director Sartipi dated November 9, 2006. Thank you for considering our concerns.

In this response, Caltrans identifies several “physical deficiencies” that the project would address, including flooding and safety concerns and additional access points. TRANSDEF of course supports the safety improvements and flooding mitigation elements of the project, but recognizes those elements are not dependent upon the highway widening element of the project. Alleviating access concerns may be a legitimate project purpose arising from the safety-driven conversion of the highway to freeway status. However, because it may well cost more to construct access points to pastures than the value of the land, public open space acquisition of the lands that justify and/or necessitate these improvements should be considered as an alternative to providing interchanges and frontage road access.

The Caltrans response asserts that the MSN highway project does not preclude a future rail component. While it may not do so expressly, it may still have that effect. Typically the level of ridership on public transportation systems depends on a number of factors, including the levels of service provided by highways. When highways are congested, rail ridership increases. Increasing the capacity of Highway 101 may adversely affect the success of the competing SMART system. This impact must be evaluated in the EIR.

It is also important that the EIR examine the long-term environmental impacts of the various project alternatives. Experience in other urbanizing areas has shown that there is a practical limit to the amount of highway capacity that can be added to a corridor to meet increasing travel demand. Eventually, the highway corridor cannot accommodate the number of lanes required, the lane maximum is reached, and/or community opposition to incremental highway widening prevents further expansion. The rail alternative provides a more robust long-term alternative since incrementally increased transportation capacity in the corridor may be more appropriately scaled to meet population growth and transportation demand over longer periods of time. Rail is most successful when land use development patterns are designed around rail service, rather than highway services. The decision to blindly pursue highway widening will prejudice future

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transportation efficiencies by impairing commuter rail startup success and enabling sprawling permanent land use patterns of development that rely on automobiles to provide basic mobility needs.

As noted in our prior letter, MTC has embraced Resolution 3434 and other policy directives that recognize the need for integrated planning of regional transportation systems and land use growth patterns. These policy goals are typically not stated as “regulations” as recited in the Caltrans response. Policies identify longer-range objectives and strategies that are currently in the process of being embraced by the Bay Area’s multitude of individual municipal jurisdictions. It would be a tragedy if the Association of Bay Area Governments and Metropolitan Transportation Commission successfully convinced the Bay Area’s 101 cities and 9 counties to embrace transit-oriented development goals and a world class transit system, only to have Caltrans thwart the effectiveness of those forward-thinking programs by 1950’s era highway expansion planning. The fact that this project is contained within the Regional Transportation Plan (MTC’s Transportation 2030 Plan) does not mandate its approval. All Regional Transportation Plan projects are subject to modification and even removal from the RTP, and many RTP projects are never actually constructed.

We remain convinced that this project’s alternatives analysis must include a rail alternative, which should include the appropriate highway flood control improvements and safety elements so as to be comparable in benefit to the principal project.

There is extensive evidence that excessive automobile use is a significant contributor to greenhouse gas emissions increases and thus global climate change. Adding highway capacity, even as HOV lanes, has the effect of promoting automotive use as opposed to alternatives such as public transit. We look forward to a complete evaluation of comparative greenhouse gas emissions inventories for the project and each of the alternatives including a time frame of at least 50 years. The direct effect that transportation system planning has upon community design and thus the greenhouse gas emissions from sprawling versus compact “smart” growth patterns is well established, and should be integrated into the project impact assessment.

CEQA requires that its environmental impact disclosure and avoidance processes occur early enough in the process to ensure the project will be guided by the environmental review document, and not have the environmental review document constitute a post-hoc rationalization for the project. CEQA Guidelines § 15004(b)(2) specifically requires that agencies pursuing public projects not “take any action which gives impetus to a planned or foreseeable project in a manner that forecloses alternatives or mitigation measures that would ordinarily be a part of CEQA review of that public project.”

TRANSDEF implores Caltrans to obey the spirit and letter of CEQA and ensure that the environmental review process for the Marin-Sonoma Narrows Project integrates a robust evaluation of different strategies that can achieve the purpose of increased corridor transportation

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capacity while addressing the ancillary highway safety and flood control elements Caltrans has identified.

Thank you for your consideration of our views in this important matter.

Sincerely,

Marc Chytilo

CC: Gene Fong, Division Administrator, Federal Highway Administration  
Bijan Sartipi, Caltrans District 4 Director  
LTC Craig Kiley, US Army Corps of Engineers  
David Schonbrunn, President, TRANSDEF