

March 2008 Monthly Report for MTC

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MTC

From: Tom Bulger, President
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Re: Monthly Report for March 2008

Date: April 3, 2008

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MTC Annual Washington Advocacy Trip

The MTC Commission and staff traveled to Washington DC for their annual advocacy trip on March 9th through the 12th. The commission's agenda began with a federal legislative briefing and organizational meeting on March 10th. During this trip we organized five briefings for the Commission and Bay Area partners:

- House Homeland Security Appropriation Briefing
- Senate Environment & Public Works Committee Briefing
- Senate Transportation Appropriation Committee Briefing
- House Transportation & Infrastructure Committee Briefing
- Senate Banking, Housing, & Urban Development Committee briefing

On March 10th, MTC Executive Director Steve Heminger presented the National Surface Transportation Policy & Revenue Study Commission's recommendations to the California Institute for Federal Policy and Research. The presentation was during a

luncheon attended by the California Congressional Delegation transportation staff in the Rayburn House Office Building.

During the advocacy trip we also arranged for and conducted meetings with members of the Congressional Delegations and/or their staff, including:

- Congresswoman Zoe Lofgren
- Congressman George Miller
- Congressman Pete Stark
- Congresswoman Lynn Woolsey
- Congresswoman Ellen Tauscher
- Congresswoman Barbara Lee
- Congressman Mike Honda
- Congressman Mile Thompson
- Congressman Gerald McNerney
- Senator Barbara Boxer
- Senator Dianne Feinstein
- Speaker of the House Nancy Pelosi

In addition to,

- House Highways & Subcommittee Chair, Peter DeFazio (D-OR)
- Senate Banking Committee Chair, Chris Dodd (D-CT)

On Tuesday evening we hosted the annual Congressional Reception in the House Transportation & Infrastructure Committee room. MTC Chair, Bill Dodd, served as the reception's Master of Ceremony. Chairman Dodd introduced Congresswoman Tauscher, who in turn introduced Chairman DeFazio, Chairman of the House Highways & Subcommittee. The Congressional reception was attended by several Members of the California Delegation including Congressman McNerney, Honda, and Congresswoman Lofgren as well as other key Members of Congress including Edward Markey (D-MA), Chair of the Select Committee on Energy Independence and Global Warming, and Congressman Blumenauer (D-OR), a champion of transportation issues on the Ways and Means Committee. The reception was also attended by key Congressional Committee staff and a large contingency from the Secretary of Transportation's office.

House Speaker Nancy Pelosi Infrastructure Forum

On March 12th, Tom Bulger accompanied Steve Heminger to Speaker Pelosi's infrastructure forum in the Capital. The forum was led by Speaker Pelosi along with over a dozen senior Members of Congress, including Majority Leader Steny Hoyer (D-MD), and Congressman George Miller (D-CA). The participants included Governor Chet Culver of Iowa, former Senator Warren Rudman, and representatives from Goldman Sachs.

The discussion focused primarily on whether the Speaker and the House Democratic leadership should support Senator Dodd's infrastructure bank legislation. The legislation would establish an independent National Infrastructure Bank to designate qualified transit, public housing, water, highway, bridge, or road infrastructure projects for loans, load guarantees, and other financial assistance. The bank would also issue general purpose and project-based infrastructure bonds exempt from state and local taxation.

The legislation was introduced last August and is co-sponsored by Senator Hagel (R-NE). Following the meetings, she indicated that she would like the House to take up the Senate proposal in the House; however, recognized that the likelihood of such legislation passing this year would be unlikely. The Senate Banking Committee held a hearing the day before the forum, however no action has been planned. We will continue to monitor this legislation as Congress potentially considers another economic stimulus package (see story) and more importantly, as it moves towards the next transportation bill.

CMAQ Funding Federal Share Issue

During March we worked to resolve the funding issue created by the 2007 Energy Bill. In the above reference Energy Bill passed in December 2007, language was inadvertently included stating that the minimum Federal share for CMAQ-funded projects would be 80 percent. The intent of the provision was to provide new flexibility for a State to increase the Federal share payable on a CMAQ project up to 100 percent of the cost during FY 2008-09.

In January and February 2008, the FHWA issued emails and a memorandum to its Division Administrators and a series of Q&A's stating that the minimum share for CMAQ projects is 80 percent of the cost. This initial guidance indicated that the 80 percent Federal share was a mandatory minimum for CMAQ projects. FHWA indicated that the provision enacted by Congress specifically requires that CMAQ projects be funded with a minimum Federal share of 80 percent for FYs 2008 and 2009. Thus, this specific "later-enacted amendment" relative to the Federal share for the CMAQ program eliminates the option of higher State or local shares otherwise permitted by 23 U.S.C 120.

After learning that dozens of Bay Area projects totaling over \$2 billion would be adversely effected and could not be 'put out to bid', we began to work with the Federal Highway Administration, Senate Environment & Public Works Committee, and other partners on resolving the error.

*****UPDATE*****

As we were completing our monthly report, we learned from Committee staff that after weeks of meetings, phone calls, and discussions with Federal Highways and the Congressional authorizing committees, FHWA undertook a re-analysis of its guidance and has determined that a State may increase the Federal share for CMAQ-funded projects up to 100 percent of the cost during FY 2008 and FY 2009. Additionally, a State may contribute an amount in excess of the share (20 percent) specified in 23 U.S.C. §120(c)(2), for CMAQ projects. FHWA is in the process of informing State DOTs and MPOs of this final interpretation. This change will allow the Commission and Bay Area project sponsors that are using CMAQ funds to proceed with releasing contracts.

Congressman Blumenauer Announces Legislation Establishing a Infrastructure Commission

In March, Congressman Earl Blumenauer held the third in a series of forums focused on transportation, carbon emissions, and the state of infrastructure in the nation. This third

forum included a statement from Speaker of the House Nancy Pelosi. In her statement she recognized the state of disrepair of our infrastructure and provided encouraging words for Congressman Blumenauer and his efforts.

Additionally, Congressman Blumenauer discussed the introduction of legislation, which would establish a Commission to create a lasting national infrastructure plan similar to that created by Albert Gallatin in 1808 while serving as Thomas Jefferson's Secretary of Treasury.

At the meeting, Congressman Blumenauer announced that he will be organizing a number of transportation summits throughout the next year, specifically; he would like to organize and attend a transportation summit in every Congressional district and would like to hold an infrastructure summit involving the Presidential candidates later this fall.

Executive Director Steve Heminger is scheduled to meet with Congressman Blumenauer in April to further discuss the proposal laid out.

EPA Issues Tougher Standards for Ozone

On March 12, 2008 EPA released final revisions to the National Ambient Air Quality Standards for ground level ozone. EPA revised the 8-hour 'primary' ozone standard to a level of 0.075 parts per million (ppm). The previous standard established in 1997 was 0.08 ppm. However, because ozone is measured out to three decimal places, the standard effectively became 0.084 parts per million. Additionally, EPA has changed its color-coded air quality index (AQI) to reflect the new change and adding a dark purple for hazardous conditions



States must make recommendations to EPA no later than March 2009 for areas to be designated attainment, non-attainment, and unclassifiable. EPA will make final designations by no later than March 2010. States must submit State Implementations Plans outlining how they are going to reduce ozone, the deadline for that submittal will follow in a separate ruling.

Based off of monitored air quality data from 2004-2006, 345 counties would be listed in non-attainment, a dramatic increase over the number of counties listed in non-attainment in 2002.

Many in the environmental community were disappointed that the EPA did not enact tougher standards; many in the community believe that the limit should be 60 to 70 ppm.

If the Federal Highway Administration's Congestion Mitigation & Air Quality Program (CMAQ) were to be included in the next transportation bill, this ruling would have an impact on how those funds are allocated. Consider, currently Florida and Oklahoma have no counties in non-attainment, however, under the new standards, they would each have nine counties in non-attainment.

ITS DOT Program Advisory Committee Meeting

On March 13, 2008 Tom Bulger attended the ITS DOT Program Advisory Committee meeting. At the meeting, security of proprietary information was discussed in reference to the SAFETRIP project. The committee requested that the US DOT beef up their efforts regarding security using Dept. of Defense security standards, software, and IT applications.

The committee discussed what will be demonstrated in an integrated manner at the upcoming world congress in New York City. US DOT is looking for private sector demonstrations that currently solve problems to be demonstrated at the World Congress. The Japanese automakers are expected to bring vehicles and in-vehicle manufacturers to the World Congress. This may include simulations that will include thousands of traffic data applications.

ITS JPO Strategic Planning Results:

- JPO organization staffing – small to be able to work with the modes. Includes JPO management council internal to DOT strategic planning group.

Current JPO Structure:

- Research focused on high pay off areas.
- Technology transfer of education/dissemination
- Partnerships with all levels (State & local)
- Congestion Initiative a recent addition as well as rural safety
- Over 100 ITS standards are being developed

Future trends/opportunities/barriers:

- This will be incorporated in the next two-year update of the plan, required by Congress in May, 2008.

Draft mission Statement:

- Create and demonstrate solutions to achieve safest and best performing surface transportation system in the world.

Safety, mobility, environmental, and institutional arrangement goals:

- Safety – achieve reduction at a 90% level in 20 years through new smarter/safer vehicles
- Mobility – achieve measurable improvements in the network for all modes. Enable performance measurements on the network for multi-modal applications; end to end trip planning goal requirements; integrated payment systems for tolling; congestion pricing and parking
- Environment/Energy goals – reduce vehicle pollutants by 40% over the next 20 years

Public Private Partnerships Research:

- Innovative financing
- Institutional barriers

JPO Federal Role current practice:

- Science, R&D, Tech transfer, education deployment per congress

Other activities:

- World-wide research

New Life for Technical Corrections?

In March, the Senate authorizing committees (Banking, Environment & Public Works, and Commerce) finally came to an agreement on a SAFETEA-LU technical corrections package that the House would also agree to. During the Easter recess it was rumored that the new technical corrections package, filled with changes to earmarks, would be passed in early April; however, a change regarding overtime laws for drivers of trucks of 10,000 pounds or less may derail the attempt to pass the provision through unanimous consent. Additionally, the new provision was introduced as an amendment rather than legislation meaning that it has to be tacked onto another bill. We will update this situation in April.

Federal Highways Issues FY 2008 Rescissions

In March, the Federal Highway Administration released a memo to States regarding the rescission of \$3.15 billion in unobligated contract authority called for in the Consolidated Appropriations Act of 2008 (P.L. 110-161). Pursuant to section 1132 of the 2007 Energy Act (P.L. 110-140), states may not disproportionately rescind funds from any program.

California must rescind \$297,228,463 million in contract authority, below is the maximum according to FHWA that California may rescind from each program:

- Interstate maintenance -- \$58,286,029
- National Highway System -- \$82,844,779
- STP State Flex -- \$30,552,529
- Highway Bridge -- \$62,363,238
- CMAQ -- \$53,603,696
- Metro Planning -- \$5,655,917
- Recreational Trails -- \$765,432
- Transportation Enhancements -- \$9,447,735
- Equity Bonus -- \$23,431,955

Update on Second Stimulus Package

With the Housing market collapsing and the United States inching towards an economic recession; there has been some speculation of a second stimulus package. Before Congress adjourned for the Easter recess, there was a great deal of speculation about a second economic stimulus package that would have focused on infrastructure needs. Some of the proposals that had been thrown around were dedicated funding for highway and transit projects that are ready to move to construction, establishment of an infrastructure bank, and other provisions such as equalizing the transportation fringe benefit.

However, since Congress returned on April 1st, there has been little action or discussion of putting together a second stimulus package. There has, however, been some talk about a supplemental appropriation legislation that would include additional funding for infrastructure, but would not include any other provisions. We will provide more information as it becomes available.

