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May 2008 Monthly Report for MTC

To: Steve Heminger, Executive Director
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From: Tom Bulger, President
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Re: Monthly Report for May 2008

Date: June 5, 2008

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- **House Transportation & Infrastructure Committee Clears “Saving Energy through Public Transportation Act of 2008”**
- **Infrastructure Forum – “Rebuilding & Renewing America Towards a Twenty-First Century Infrastructure Investment Plan”**
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Senate Set to Consider Climate Change Legislation

Following the Memorial Day recess, the Senate will turn its attention to S. 2191, the ‘Warner-Lieberman Climate Security Act’. The bill is designed to reduce the amount of carbon dioxide and other greenhouse gases released into the atmosphere by 2 percent a year starting in 2012 until emissions are reduced by 66 percent in 2050.

The bill uses a "cap-and-trade" system wherein the government would cap the amount of pollution a company is allowed to emit -- which would be lowered each year -- but would also give companies some flexibility by allowing them to buy pollution credits from companies whose emissions fall below their caps.

Under the bill, the government would auction off the credits and use some of the proceeds to help consumers who are expected to get hit by higher energy costs. It is expected that the auction will generate in excess of \$100 billion a year.

Of the allowances sold, an escalating percentage (starting at 1% and increasing to 3%) will be set-aside for a transportation fund. Of those funds, 65% of the funding will be distributed through the FTA's 5307 formula to designated recipients for projects eligible under section 5307, 30 percent shall be distributed to State and local governmental authorities for design, engineering, and construction of new fixed guideway transit projects or extensions to existing fixed guideway transit system, and 5% will be set aside for transportation demand management projects.

It is estimated that 1% will equal roughly \$1 billion. As such, \$650 million will be for 5307, \$300 million for new starts, and \$50 million a year for demand management.

Additionally, 2% of the total proceeds or roughly \$2 billion will be set aside for the Energy & Environment Block Grant program for Cities and Counties. VMT reduction is a major component of this program.

Finally, states are provided a 4% set-aside (\$4 billion) for general emission reduction programs; VMT reducing techniques are explicitly made eligible under the program.

In total, the legislation would set aside between \$7 and \$9 billion a year, all of which can be used for transit

The legislation has been passed by the Senate Environment & Public Works committee, and is now on the Senate floor. We have sent an advance copy of the manager's amendment to MTC staff and have also been working with the Senate on this bill for several months and were successful in determining the outcome of several issues. It is unlikely to pass into law this year, but will certainly be a top priority next Congress.

House Transportation & Infrastructure Committee Clears "Saving Energy through Public Transportation Act of 2008"

On May 15, 2008 the House Transportation & Infrastructure Committee introduced and cleared HR 6052, the "Saving Energy through Public Transportation Act of 2008". This legislation includes the transit related provisions that were not included in the energy bill that was passed last December, H.R. 6. The legislation also includes a number of new provisions including a requirement that all Federal employees are offered the transit benefit authorized by section 132(f) of the Internal Revenue Code and language which increases the Federal share for parking facilities at rail stations to 100% unless the grant recipient requests otherwise. Below is a brief summary of the legislation

- **Section 3 – Grants to Improve Public Transportation Services** – Authorizes an additional \$750 million for FY 2008 and FY 2009 for the 5307 urban formula grants. Additionally, it authorizes \$100 million for FY 2008 and FY 2009 for section 5311 grants. It should be noted that these funds are only authorized and would need to be appropriated separately. The funds may be used for operating costs if the recipient certifies that the funds are being used to reduce fares or they may be used to expand public transportation services.

- **Section 4 – Increased Federal Share for Clean Air Act Compliance** – Increases the Federal share for alternative fuel vehicle related equipment from 90 percent to 100 percent of the net project cost for fiscal years 2008 and 2009.
- **Section 5 – Transportation Fringe Benefits** – Requires that all Federal employees are offered the transit benefit authorized by section 132(f) of the Internal Revenue Code and that the Secretary of Transportation shall issue guidance on nationwide implementation of the program. The guidance shall contain a uniform application for use by all Federal employees applying for benefits under the program. The provision also requires each Federal agency to develop and submit a review of the program.
- **Section 6 – Capitol Cost of Contracting Vanpool Pilot Program** – This provision establishes a pilot program which would allow for private vanpool operators to use fare revenue for the purposes of growing and expanding the program. The pilot program is limited to 5 area nationwide, 3 in urban areas, 2 in rural areas.
- **Section 7 – Increased Federal Share for End-of-Line Fixed Guideway Stations** – Increases the Federal share for parking facilities at rail stations to 100% federal unless the grant recipient requests otherwise.

The House Government Reform Committee must also clear or waive jurisdiction of the legislation because of the provisions in section 5. It is expected that the House will consider the legislation shortly. However, it does not appear as though the Senate will take action on the legislation. During consideration of HR 6, the Senate dropped these provisions from the bill, unless there has been a change of heart, it is unlikely that Senate Banking Committee will consider this legislation.

Additionally it is unlikely that if it is passed and signed into law those funds will be appropriated for section 3. However, if they are, it would mean an additional \$128.5 million for California in Section 5307 money for FY 09, and \$4.4 million in section 5311 funds.

Infrastructure Forum – “Rebuilding & Renewing America Towards a Twenty-First Century Infrastructure Investment Plan”

On May 9th, Tom Bulger participated in a forum on the development of a 21st century infrastructure investment plan held at the Woodrow Wilson Center. A wide variety of Congressional members, union leaders, transportation experts, and stakeholders attended and spoke at the event. This event was organized as a part of Congressman Blumenauer’s drive to increase the visibility of the nation’s infrastructure needs. In his remarks Congressman Blumenauer suggested Speaker Pelosi was supportive of the effort to catalog and develop a national infrastructure plan similar to that of Thomas Jefferson and Theodore Roosevelt. Subsequently, Congressman Blumenauer introduced legislation that would establish such a commission, HR 5976.

**Technical Corrections Legislation Not Yet Signed by President;
Senate Banking Introduces New Technical Corrections**

Well over a month after the House and Senate passed HR 1195, SAFETEA Technical Corrections Act of 2008, the legislation has yet to be signed into law. Constitutionally, once legislation is presented to the President, he has three options, sign it into law, veto it, or allow 10 days to pass and let it become law without his signature or his veto.

HR 1195 was passed by the House and Senate on April 30th, 2008 and was then cleared for the White House; however, it was not presented to the President for his signature. It has been speculated that when the legislation was passed and sent to the President in early May, the White House refused to accept it. Several possible scenarios arose; the most prevalent was that the President was refusing to be presented all legislation until after his daughter's wedding (with the exception of the farm bill). The constitutionality of the entire issue is up for debate.

However, the legislation was officially presented to the President on June 3rd and he now has 10 days to act on the legislation.

Shortly after the passing of HR. 1195; the Senate Banking Committee introduced and acted upon a second technical corrections bill, S. 3075, which includes a number of changes to projects listed in the transit title of SAFETEA and none of which are Northern California projects.

Senate Environment & Public Works Committee Goods Movement Hearing

On May 8th, the Senate Environment & Public Works Committee held a hearing on goods movement. During the hearing, witnesses testified regarding the need for a freight program. Committee members estimated a \$5 billion shortfall between current transportation requests and projected revenues in 2009, and the three panelists suggested everything from fees on bills of lading and added mileage taxes to leveraging privately held assets. All three witnesses recognized the fact that some states may need to impose tolls on the interstate system in order to meet increasing demands.

The hearing also focused on raising revenue based upon a vehicle miles traveled fee. Senator Boxer and Senator Inhofe reject suggested automated mileage reporting. Senator Boxer stated that future highway revenue may be tied closer to per-mile taxes, but the federal government shouldn't be armed with automated devices showing where truckers and motorists travel. Boxer told the panelists that she and Sen. James Inhofe have voiced opposition to black-box-type devices automatically showing authorities where citizens travel, and suggested a voluntary reporting system.

Mortimer Downey, a former U.S. Transportation Secretary, told the committee he believed that technology-based systems showing truck locations could be implemented sooner than such technology for automobiles, and probably would be welcomed. Such systems could report mileage driven for fees and taxes, Downey said. He also doubted that voluntary compliance would work.

Department of Homeland Security Announces FY 2008 Infrastructure Protection Activities Grants

On May 16th, the U.S. Department of Homeland Security (DHS) announced more than \$844 million in grant awards as part of its Infrastructure Protection Activities (IPA) grant program. Grants are provided to strengthen security at ports and enhance security related to transit, trucking, and intercity bus systems.

Fiscal Year 2008 IPA awards represent a 29 percent increase from last year. They include:

- **Port Security Grant Program: \$388.6 million**
The Port Security Grant Program (PSGP) supports sustainable, risk-based efforts to enhance access control and credentialing, protect against an Improvised Explosive Device (IED) and other non-conventional attacks, and conduct exercises for disaster-response scenarios.
 - *Bay Area Marine Exchange of the San Francisco Bay Region: \$26,772,907*

- **Transit Security Grant Program: \$380.1 million**
The Transit Security Grant Program (TSGP) supports sustainable, risk-based efforts to protect critical transit infrastructure, particularly against explosives and non-conventional threats that could cause major disruption to commerce and significant loss of life. Of the amount provided, \$4.9 million will be for the freight rail security grant program. Additionally, of these funds \$25 million will be for the intercity passenger rail program, these funds are provided to AMTRAK to harden underground and underwater track and tunnels against IEDs, train key employees in counter-terrorism, and expand visible deterrence activities.
 - *San Francisco, CA: \$25,433,749*

- **Intercity Bus Security Grant Program: \$11.2 million**
The Intercity Bus Security Grant Program (IBSGP) provides awards to operators of fixed route intercity and charter bus companies serving one or more defined UASI jurisdictions.

- **Buffer Zone Protection Program: \$48.5 million**
The Buffer Zone Protection Program (BZPP) provides grant funding for security and risk-management capabilities at state and local levels to bolster pre-designated critical infrastructure sites, such as chemical facilities, financial institutions, nuclear and electric power plants, dams, stadiums, and other high-risk/high-consequence facilities.

- **Trucking Security Grant Program (TSP): \$15.5 million**
The Trucking Security Grant Program (TSP) provides an award to a single grantee selected through a competitive process. The funding will

support: participant identification and recruitment, planning, training, communications, and information analysis and distribution.

Susan Binder Leaves FHWA for Senate EPW

On May 29th, Tom Bulger attended and spoke at Susan Binder's Federal Highway Administration farewell event. Mrs. Binder held a number of positions at FHWA, most recently as Executive Director of the National Surface Transportation Policy and Revenue Study Commission. Mrs. Binder will join the Senate Environment & Public Works Committee as a senior policy staff.

Congressman Rogers (R-MI) Introduces Energy Independence Legislation

In May, Congressman Mike Rogers (R-MI), co-chair of the ITS Caucus, introduced HR 6161, the 'American Energy Independence Act'. The legislation sets a goal of establishing July 4th, 2015 as America's Energy Independence Day. The legislation authorizes a combination of tax credits and new programs that would aim to reduce our dependence on foreign oil. One provision of note is language that would allow states to use CMAQ funds beyond the 3-year limit for operating expenses for ITS related projects.

It is highly unlikely that this legislation will be considered, however, several of the provisions offered, including the provision related to use of CMAQ funds, could be included in legislation that this or the 111th Congress considers.