

A Brief History of SANDAG's Climate Change Culpability

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An agency incapable of change: the story of power, money, and deception in America's Finest City

By Duncan McFetridge

California has aggressively pursued policies to address climate change. Beginning with [Assembly Bill 32](#), enacted in 2006, the state set in motion a set of regulations designed to reduce greenhouse gas emissions.

The most notable action is the cap-and-trade policy. Because automobiles create about 40 percent of greenhouse gas emissions, the legislature enacted [Senate Bill 375](#) in 2008. This measure attacks greenhouse gas emissions by requiring regional planning agencies — such as the San Diego Association of Governments (SANDAG) — to prepare long range regional transportation plans to reduce them.

The fundamental goal is to reduce motor vehicle miles traveled (VMT), making it essentially a transit first strategy.

| *This is a story that rivals the water wars portrayed in "Chinatown."*

SANDAG is one of 17 metropolitan planning organizations (MPOs) in California. Most urban MPOs encompass multiple counties. SANDAG is the most populous single county MPO in the state, and it was the first MPO to

complete a long range regional transportation plan after the passage of SB 375.

The plan, however, was challenged in court and found to not conform with the requirements of law.

The following account describes SANDAG's effort to manipulate professional organizations, community organizations, and public opinion in a way to divert attention away from the deficiencies in the regional plan. This is a story that rivals the [water wars portrayed in "Chinatown."](#)

The first plan to come out of the much-hailed landmark SB 375 legislation to curb global warming was SANDAG's Sustainable Community Strategy. Although touted as the model for the nation, the inconvenient truth is far different. Working with attorneys from Shute, Mihaly & Weinberger of a small environmental organization, the Cleveland National Forest Foundation (CNFF) — led by forest champion Duncan McFetridge — filed a lawsuit against this mega-deception on climate action and was later joined by Attorney General Kamala Harris.

CNFF also developed the [50-10 Transit Plan](#), a transit-first solution as a real answer for VMT and GHG reductions. This plan is supported by James Mills, the "Father of California transit," who served as president pro tempore of the State Senate in the 1970s.

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A monumental 2012 [ruling](#) by Judge Taylor agreed, calling out SANDAG — the governing regional planning agency of the eighth largest metropolitan area in the country — for abusing their power and "kicking the can down the road" on climate change action.

SANDAG's response to the superior court has been one of total defiance, and they begin what can only be described as a massive campaign of intimidation and propaganda. This is demonstrated by their Climate Change Mitigation and Adaptation White Paper, the so-called purpose of which is to "to inform the development of San Diego Forward: the Regional Plan."

In 2014, CNFF called out SANDAG for its White Paper, stating:

"While this reiteration of policies and short term targets is fine and good on the surface, it tells us nothing new. Furthermore, it leaves the casual reader of the White Paper with the distinct impression that SANDAG -- as the agency responsible for regional climate change oversight and as the dutiful agency possessing full knowledge of the data, the policies and the law -- is in compliance with the law. SANDAG is the responsible public agency so we, the public, assume trust."

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The non-profit then went on to counter each of SANDAG's progressive claims of emission reductions with evidence to the contrary. CNFF's full comments and documentation can be [found here](#).

But the story of climate change deception is long in the making thanks to the SANDAG propaganda machine, with many publications tending to congratulate the public agency for a job well done. In the following article, the organization Save Our Forests and Ranchlands (SOFAR) responds to this penchant for journalistic green washing.

American Planning Association Article Regarding SB375 and SANDAG

The February issue of the American Planning Association (APA) journal published an article by Paul Shigley entitled “[Aerial Combat](#)” in which SANDAG’s implementation of landmark global warming legislation SB375 was described in glowing terms. The inconvenient truth is somewhat different. Read Save Our Forests and Ranchlands’ description of the story along with the relevant documents and decide for yourself which version is true.

In his APA article, Mr. Shigley does an admirable job of summarizing California’s valiant efforts to solve one of the most threatening environmental problems of our age. Unfortunately, however, he has chosen the worst example possible to illustrate how the landmark legislation SB 375 might be implemented. In fact, SANDAG in San Diego County has steadfastly ignored the threat of climate change, and squandered opportunities to lead the way in supporting public transportation in Southern California.

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Mr. Shigley accurately describes the California Attorney General Brown’s strong leadership in instigating legal and pre-legal settlements with public entities who flout climate change warnings. Remarkably, however, Shigley fails to mention that SANDAG was actually the subject of such pre-litigation discussions with both the [Attorney General](#), the environmental organization [SOFAR](#), the Affordable Housing Coalition, and The Transit-Riders Alliance. In fact, at the conclusion of those discussions, SANDAG signed a [settlement agreement](#) for the precise purpose of mitigating the enormous climate change impacts expected to result from its flawed transportation planning; as the AG and SOFAR had pointed out, SANDAG’s Regional Transportation Plan serves to promote urban sprawl in San Diego County’s rural areas and to encourage a transportation system committed to the automobile.

Mr. Shigley also fails to mention that SANDAG’s poor transit planning was the subject of the [ITPR](#), a scathing report by a national team of transit experts, including Robert Cervero, who was mentioned in Shigley’s article. The Attorney General specifically cited this report in its strong critique of [SANDAG’s Regional Transportation Plan \(RTP\)](#).

SANDAG itself has conceded that implementation of its Regional Transportation Plan will lead to the destruction of agricultural lands, the long-term degradation of air quality and water and biological resources, and long term impacts from increased energy use in San Diego County. Tellingly, the agency’s approval of the RTP included a Statement of [Overriding Considerations](#), which attempted to argue that these impacts could be justified for the sake of the economy. Yet, it is the economy of unsustainable development that SANDAG is promoting with its so-called 200 “smart growth centers.” (See map at p.13 of APA story article.) Randomly tossing 200 developments into a “sea of automobiles” is like “casting pearls before swine.” In fact, such haphazard planning is exactly the opposite of Cervero’s concept of a “string of pearls,” or transit-based city centers connected by rail. Importantly, the ITPR points out that San Diego County could easily meet all its growth demands if it built such transit-based centers (p.33).

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Instead of encouraging city-centered growth, the SANDAG plan, by its own accounting, promotes excessive growth in rural areas. The population in unincorporated San Diego County is projected to grow by 55%, and by an average of 42% in three rural communities, over the next 20 years. Freeway lane miles will increase by over 800 miles, leading to a 38.8 million increase in daily vehicle-miles traveled, or VMT; Gasoline consumption will increase by 31.26%, diesel consumption by 25%. To top it off, greenhouse gas emissions under the RTP will exceed existing levels by about 31%, or 5.3 million tons of CO2 per year. The [Environmental Impact Report \(EIR\)](#) for the RTP finds that this increase in GHG emissions will contribute to the exacerbation of climate change, and concludes this impact

to be significant. Id. at 4.7-34 and 4.7-38.

In sum, while California and its Attorney General have led the way in our nation's fight to control global warming, SANDAG has not shown similar leadership in San Diego. It was only through threat of litigation and a key settlement agreement that San Diego County has even a remote chance to build [transit-based communities](#) and change business as usual in Southern California. Mr. Shigley does a serious disservice by leaving out the "inconvenient truths" behind SANDAG's plan.

Below, the saga continues:

2012 RTP Lawsuit: In the four year period from 2008 to 2012, SANDAG was working on the next RTP update. This entailed extensive hearings, comments, studies and critical decision making leading to the final adoption of the 2012 RTP.

However, with no substantial change regarding land use, transportation, and climate change impacts as directed by our 2007 settlement agreement noted above, CNFF files a lawsuit against the 2011 RTP/Sustainable Communities Strategy in December 2011. Attorney General Kamala Harris intervenes in the lawsuit in 2012. SANDAG responded by launching a massive and expensive propaganda campaign during Superior Court Proceedings:

1. SANDAG gets three former governors to write an [editorial](#) extolling the virtues of SANDAG's first-in-the-nation plan that "would reduce GHG emissions and pollution." **This statement was proven false by the final ruling.** The editorial further states that the climate change lawsuit is an example of a frivolous lawsuit and why California Environment Quality Act (CEQA) needs to be changed. [Berkeley Law](#) answers this outrage.
2. [Editorial](#) by *UT* the day before the court hearing suggesting Judge should change his ruling.
3. SANDAG Amicus Briefs submitted at trial court rejected by the judge for reasons of timeliness and because amici are more appropriate at the appellate level.
4. The California Chapter of the American Planning Association (APACA) joins in California Association of Councils of Government's (CALCOG) Amicus Brief defending SANDAG.

SANDAG Response: Deny, delay, divert. Sacramento campaign involving public relations firms, MPOs, labor officials, public officials. SANDAG launches a campaign to stop Attorney General Harris from intervening.

February XX, 2012

The Honorable Kamala D. Harris
California Attorney General
1300 I Street, Suite 1740
Sacramento, CA 95814

Re: Lawsuit Challenging SANDAG's 2050 Regional Transportation Plan

Dear Attorney General Harris:

Our coalition is deeply concerned about your decision to intervene in the lawsuit filed against the San Diego Association of Governments' [SANDAG] Regional Transportation Plan and Sustainable Communities Strategy (RTP/SCS). SANDAG's plan meets all state-mandated carbon reduction requirements under SB 375 and was the product of extensive public input and review. Responsible, regional planning efforts should be allowed to proceed without intervention from the state. Please consider meeting with our coalition to discuss our concerns at time that is convenient for you.

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STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH



EDMUND G. BROWN JR.
GOVERNOR

KEN ALEX
DIRECTOR

February 14, 2012

Hasan Ikhata
Executive Director
Southern California Association of Governments
816 W. Seventh Street, 12th Floor
Los Angeles, CA 90017

Dear Mr. Ikhata,

The Governor's Office of Planning and Research (OPR) appreciates this opportunity to provide input on the Southern California Association of Governments (SCAG) 2035 Draft Regional Transportation Plan (RTP). This letter highlights aspects of SCAG's RTP that we think could inform other Metropolitan Planning Organizations' (MPOs) RTPs, and includes some suggestions for possible improvement. Additionally, we enclose comments shared with us by the California Department of Public Health.

(Click for full PDF document)

Victory at Superior Court: Judge ruled SANDAG abused discretion, “kicked the can down the road,” and failed to disclose to the public the GHG emissions of plan discrepancy between EO-S-3-05 targets and the SANDAG trajectory. Over the long-term, SANDAG’s plan will increase GHG emissions 700% above EO targets by 2050.

New Propaganda Campaign Begins at Appellate Level: SANDAG submits Amicus brief from all government bodies (counties and cities) in the state of California, hundreds of contractors, chambers of commerce, business groups etc. The model argument made by these groups is found in the APA amicus petition:

“This effort [SANDAG RTP planning] necessarily involves striking a balance between complex and sometimes competing goals. Any decision that does not account fully for this complexity could have unintended consequences, cause inefficient environmental review, waste public resources, and deprive lead agencies of the discretion they must retain in order to make difficult policy decisions about how their communities should grow and evolve in the coming decades” (pg 2).

“All cities and counties in California have a compelling interest in this case because of its potential for improperly intruding on the exercise of discretion over local planning decisions and determinations of thresholds of significance” (CALCOG Amici pg 4).

But “agency discretion” is exactly what the court said SANDAG abused in concealing from the public the long term GHG impacts of the “model for the nation” plan which actually increased rather than decreased GHG emissions. Discretion to do what, one may ask? Deceive the public about climate stabilization, about alternatives, about impacts in every socioeconomic category?

I-5 Caltrans Lawsuit: The first major project out of the 2050 RTP is the widening of the I-5. The program level failure at SANDAG is connected to the project level (I-5) failure. Health impacts, land use, and climate change are compromised by SANDAG’s programmatic failure.

For example, the health impact analysis was missing from I-5 Environmental Impact Report. Caltrans claimed the health impacts study was done at program level while SANDAG claimed health impacts would be done at the project level. The result: no health impact analysis.

In retaliation, SANDAG penalized EHC by canceling approved grant for community outreach by EHC

| to educate the neighborhood on pollution and health impacts.

A [Stanford amicus](#) brief filed in the SANDAG RTP lawsuit described in great detail the missing health impact analysis at both project and program level. CNFF files a lawsuit against [Caltrans](#).

Environmental Health Coalition (EHC) signed on to Stanford amicus brief. In retaliation, SANDAG penalized EHC by canceling approved grant for community outreach by EHC to educate the neighborhood on pollution and health impacts.

SANDAG followed up by writing a new conflict-of-interest agreement for Community-Based Organizations, applying a policy test for grant recipients wherein policy differences would have to be reported to SANDAG and could subsequently lead to termination of the grant.

MPOs called for Self-Assessment at Strategic Growth Council & Blame CEQA: SANDAG and other MPOs demanded to self-assess their climate change performance in which they blame CEQA for their poor planning. Read the comments [here](#).

SANDAG & Caltrans Connection: State Smart Transportation Initiative provided a [scathing report](#) on Caltrans' failures. Gary Gallegos, Muggs Stolls and other SANDAG staff come from Caltrans, making their dominance is rampant at SANDAG.

The report found that Caltrans is "significantly out of step with best practices in the transportation field and with the state of California's policy expectations." Furthermore, Caltrans has worked against state policy on GHG emissions as the report finds that "even though transportation is the source of 40% of greenhouse gas emissions, the (Caltrans) strategic plan was written as though the law did not exist."

Similarly, SANDAG, in their response to Judge Taylor in their appellate arguments and in their report to the Strategic Growth Council, acted as though they are a law unto themselves: above CEQA, above the courts, above public scrutiny.

RTP Update 2015: SANDAG again refused to model transit first alternative in new RTP update. The new network scenario, which was adopted by the Board on Sept. 12, 2014, projected only 3-4 percent of a regional transit mode share in 2050.

This tiny transit mode share is incomprehensible because SANDAG's own Urban Area Transit Strategy aims at a range of 15-25 percent transit mode share in the urban core to meet the requirements of SB 375.

"The goals of the transit strategy are twofold: first, maximize transit ridership in the greater urbanized area of the region; and second, test the role of the transit network to reduce vehicle miles traveled and greenhouse gas emissions" ([SANDAG](#))

In spite of this so-called lofty goal to maximize transit ridership and reduce VMT, it turns out SANDAG spent millions of taxpayer dollars contradicting its own transit strategy. They did this in order to [buy the media](#) concerning the freeway-first plan, and by diminishing the critical importance of "transit-first" and its proven benefits to housing, environment, health and urban mobility.

Measure A: Ballot measure shenanigans. SANDAG again mislead the public:

"Emails obtained by VOSD reveal that top SANDAG officials were told the agency's economic forecasts — and therefore the numbers it showed voters about last year's Measure A — were way off almost a year before the 2016 election. Instead of acting, the agency continued to rely on numbers they'd been told were faulty, misleading voters in the process and keeping important information from potential watchdogs." ([VOSD](#))

Gambling: SANDAG placed a risky gamble and lost a lot of taxpayer money:

“SANDAG bet big that interest rates would go up. Instead, rates went down and stayed down – they’re still down. That unforeseen event – persistent and historically low-interest rates – cost the agency millions.

As a result, SANDAG now has a roughly \$100 million liability hanging over its head. It’s already spent \$3.5 million out of pocket that it didn’t anticipate. And it spent \$22 million to get out of a portion of its bad bet using borrowed money that will end up costing \$42.5 million to repay.” (VOSD)

Conclusion: In this short but comprehensive history we have a documented list of SANDAG’s continuous betrayal of the public trust both in financial irregularities and in planning deceptions at an enormous cost to the future well-being of the region