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16 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION

18 BAYVIEW HUNTERS POINT COMMUNITY) Case No. C-01-0750 TEH
19 ADVOCATES, COMMUNITIES FOR A BETTER)
ENVIRONMENT, LATINO ISSUES FORUM,)
20 OUR CHILDREN'S EARTH FOUNDATION,)
SIERRA CLUB, TRANSPORTATION) **DECLARATION OF KIRSTEN**
21 SOLUTIONS DEFENSE AND EDUCATION) **TOBEY IN SUPPORT OF**
FUND, and URBAN HABITAT PROGRAM, a) **PLAINTIFFS' MOTION FOR**
22 project of the TIDES CENTER,) **SUMMARY JUDGMENT ON**
Plaintiffs,) **REMEDIES**
vs.)
23)
24 METROPOLITAN TRANSPORTATION)
COMMISSION, SAN FRANCISCO MUNICIPAL)
25 RAILWAY, and ALAMEDA-CONTRA COSTA)
TRANSIT DISTRICT,)
26 Defendants.)

1 I, KIRSTEN TOBEY, do hereby declare:

2 1. I have been employed by the California Regional Office of Earthjustice as a Research
3 Associate since May 31, 2001. Earthjustice Research Associates support Earthjustice attorneys by
4 collecting, organizing, and analyzing factual information relevant to proposed or ongoing litigation.

5 2. Since June 2001, under the direction of Earthjustice Managing Attorney Deborah
6 Reames, Staff Attorney Bruce Nilles, and more recently, Project Attorney Anne Harper, I have been
7 primarily responsible for obtaining, organizing and managing all documents relevant to this case.
8 This has included extensive research into transportation planning in the Bay Area and tracking
9 ridership levels for the region, as well as research on the health impacts of air pollution.

10 **2002 Ridership trends**

11 3. Table 1 is a summary of data I collected from the American Public Transit Association
12 (APTA) quarterly database at <http://www.apta.com/stats/ridershp/index.htm>, except as noted below.
13 For all the six major transit operators except for MUNI¹ and Golden Gate Transit, I collected data on
14 the number of unlinked trips for the first half of fiscal year 2002 (FY02), i.e., July 1, 2001 through
15 December 31, 2001², as well as the number of unlinked trips for the same time period in the previous
16 year (July 1, 2000 through December 31, 2000). I collected the same data for Contra Costa Transit
17 Authority and Caltrain (Peninsula Corridor Joint Powers Board), which were the only Bay Area
18 operators aside from the “six major” operators with complete ridership reporting in the APTA
19 database for these quarters. I then used basic mathematical functions to calculate the percent change
20 in ridership between the first half of FY01 and the first half of FY02, as shown in the table below. I
21 also calculated a rough estimate of FY02 total ridership by doubling the ridership for the first half of
22 the fiscal year. True and correct copies of the Bay Area transit operators’ entries in the APTA
23 database for the third and fourth quarters of both 2000 and 2001 are submitted herewith as

24
25 ¹ San Francisco Municipal Railway does not list its ridership on the APTA database, so I assumed MUNI’s ridership in
FY02 stayed at the same level as FY01.

26 ² The APTA database collects ridership statistics on a calendar-year basis, so its “third quarter” refers to the third quarter
27 of the calendar year, July through September. The third quarter of the calendar year is the first quarter of the fiscal year
for Bay Area transit operators. I used data for the third and fourth quarters of each calendar year to calculate ridership for
the *first half* of the fiscal year.

1 Attachment 1.

2 4. Golden Gate Transit's ridership was not reported on the APTA database for July-
3 September of 2000 (i.e., 1st quarter of FY01). In order to obtain this data, I submitted an email
4 request to Harvey Katz, Senior Planner at the Golden Gate Bridge Highway and Transit District. Mr.
5 Katz responded to my inquiry and sent me an Excel spreadsheet with Golden Gate Transit's
6 ridership data for the second halves of both FY01 and FY02. A true and correct copy of Mr. Katz's
7 March 15, 2002 email, as well as a true and correct copy of the attached spreadsheet, is submitted
8 herewith as Attachment 2. I summarized the data from this spreadsheet and incorporated it into
9 Tables 1 and 2.

10
11 **Table 1. % change in ridership, 1st half of FY01 to 1st half FY02, and estimated FY02 ridership**

| Transit Operator | APTA Jul-Dec 2000 | APTA Jul-Dec 2001 | % change 1st | |
|-------------------|-------------------|-------------------|-------------------------|---------------------|
| | | | half FY01-1st half FY02 | Est. FY02 Ridership |
| AC | 31,025.5 | 36,106.5 | 16.4% | 72,213.0 |
| BART | 51,602.8 | 48,523.2 | -6.0% | 97,046.4 |
| GG ¹ | 5,924.1 | 5,515.5 | -6.9% | 11,031.0 |
| MUNI ² | N/R | N/R | N/R | N/R |
| SamTrans | 9,003.2 | 8,817.1 | -2.1% | 17,634.2 |
| VTA | 29,730.0 | 27,411.9 | -7.8% | 54,823.8 |
| CCCTA | 2,352.2 | 2,387.2 | 1.5% | 4,774.4 |
| Caltrain | 5,144.1 | 5,132.3 | -0.2% | 10,264.6 |

19 ¹Data for July-Dec 2000 as reported by the operator

20 ²MUNI does not participate in the APTA ridership reporting program

N/R = not reported

21 Ridership data collected from American Public Transit Association quarterly transit ridership
22 reports for Calendar years 2000 and 2001. Data for July-December 2001 represent the first
23 half of FY02.

24 5. For Table 2, FY01 ridership is summarized from Brittle Exhibit D. For MUNI and all
25 other operators, I assumed no change in ridership from FY2001 to FY2002. For Tables 3 through 6, I
26 used the same 2002 ridership estimate as in Tables 1 and 2, including the assumption that MUNI and
27 the "other" operators will have no increases in ridership from FY01 to FY02.

Table 2. Estimated FY02 Ridership and % Change from FY01 to FY02

| Transit Operator | FY01 Ridership | Est. FY02 Ridership | % Change FY01-FY02 |
|-----------------------|----------------|---------------------|--------------------|
| AC | 71,529 | 72,213 | 1.0% |
| BART | 103,919 | 97,046 | -6.6% |
| GG | 11,618 | 11,031 | -5.1% |
| MUNI | 236,205 | 236,205 | 0.0% |
| SamTrans | 18,136 | 17,634 | -2.8% |
| VTA | 58,160 | 54,824 | -5.7% |
| All other | 33,471 | 33,471 | 0.0% |
| Regional total | 533,038 | 522,424 | -2.0% |

FY01 Ridership as reported in Brittle Exh. C

Table 3. Operators' Share of Ridership in 1983 and 2002

| Transit Operator | 1983 Ridership | % of 1983 total | 2002 Ridership | % of 2002 total | % change 1983-2002 |
|-----------------------|------------------|-----------------|------------------|-----------------|--------------------|
| AC | 75,450.0 | 15.0% | 72,213.0 | 13.9% | -4.3% |
| BART | 57,777.9 | 11.5% | 97,046.4 | 18.7% | 68.0% |
| GG | 11,573.7 | 2.3% | 11,031.0 | 2.1% | -4.7% |
| MUNI | 293,293.8 | 58.3% | 236,205.0 | 45.4% | -19.5% |
| SamTrans | 17,665.4 | 3.5% | 17,634.2 | 3.4% | -0.2% |
| VTA | 36,945.0 | 7.3% | 54,823.8 | 10.5% | 48.4% |
| All other | 10,731.8 | 2.1% | 33,471.0 | 6.4% | 211.9% |
| Regional total | 503,437.6 | 100.0% | 522,424.4 | 100.4% | 3.8% |

Table 4. Per Capita Ridership Increase 1983-2002

| | 1983 | 2002 |
|------------------------------|---------------|-------------|
| Ridership | 503,437.6 | 522,424.4 |
| Population | 5,372,900.0 | 6,953,100.0 |
| Ridership per capita | 0.0937 | 0.0751 |
| % Change 1983 to 2002 | -19.8% | |

Table 5. Per Capita Ridership Increase 1983-2006 Assuming TCM 2 Target Met

| | 1983 | 2006 (TCM 2 Target) |
|------------------------------|---------------|---------------------|
| Ridership | 503,437.6 | 578,953.2 |
| Population | 5,372,900.0 | 7,257,880.0 |
| Ridership per capita | 0.0937 | 0.0798 |
| % Change 1983 to 2002 | -14.9% | |

ABAG Population projections for 2005 and 2010 available at <http://www.abag.ca.gov/abag/overview/pub/p2002/regional.html>;
Population growth assumed linear between 2005 and 2010

Table 6. Distance to TCM 2 Target

| | |
|----------------------|--|
| 1983 ridership is | 503.4 mab |
| TCM 2 Target is | 579.0 mab |
| 2001/02 ridership is | 522.4 mab |
| 2001/02 Ridership is | 3.8% above 1983 levels |
| 2001/02 Ridership is | 11.2% and 56.5 mab short of the TCM 2 target |

Service cuts and fare increases

6. Since February 2002, I have been collecting information from the Bay Area’s six major transit operators and Caltrain regarding adopted or anticipated fare increases and reductions in service.

AC Transit

7. I downloaded from AC Transit’s website, www.actransit.org, two staff memos prepared for meetings of the Board of Directors:

- GM Memo No. 02-077c (“Consider setting two public hearings on Thursday, May 30, 2002...to receive public comment on and consider proposed changes to AC Transit fares”)
- GM Memo No. 02-150 (“FY2002-03 General Manager’s Recommended Budget”)

8. True and correct copies of GM Memo no. 02-077c and GM Memo No. 02-150 are

1 submitted herewith as Attachments 3 and 4, respectively. As indicated on the memo, GM Memo
2 No. 02-077c was provided to the AC Transit Board of Directors at its meeting May 2, 2002. This
3 memo discusses three different options for implementing fare increases and asks the Board to
4 consider setting public hearings to receive public comment on proposed AC Transit fares. GM
5 Memo No. 02-150 was provided to the AC Transit Board of Directors at its meeting on May 10,
6 2002. This memo presents the General Manager's budget for FY2003 and notes a "planned fare
7 increase effective July 1, 2002" at page 4. It also notes that "staff will evaluate service reduction
8 options as economic conditions dictate" at page 5.

9 **BART**

10 9. In response to my inquiry regarding potential cuts in service, I received an email from
11 Pamela Herhold of BART's Financial Planning office. A true and correct copy of Ms. Herhold's
12 April 4, 2002 email is submitted herewith as Attachment 5. In her email, Ms. Herhold notes that
13 "BART has shortened some trains, mostly at the beginning or the end of the morning and evening
14 peak periods. Recently, some of those trains were lengthened where passenger loading justified the
15 action... No trains have been cut from the schedule."

16 10. On Thursday May 16, 2002 I received from Patricia Williams, BART Assistant District
17 Secretary an email response to my faxed request for documents regarding potential fare increases. In
18 her email, Ms. Williams offered to provide me with a copy of the staff report on revenue sources to
19 be presented to the Board on May 23, 2002. On May 22, 2002, I obtained this staff report from Ms.
20 Williams, and it is submitted herewith as Attachment 6. This staff report discusses that recent
21 declines in ridership represent the "largest ridership drop in 22 years." Staff Report at 4.
22 Additionally, this staff report presents to the Board of Directors potential fare increases and fare
23 surcharges to be considered at pp. 20-22.

24 **Caltrain**

25 11. I downloaded from Caltrain's website a page entitled "Caltrain seeks input on proposed
26 schedule changes." A true and correct copy of this web page, downloaded from
27 www.caltrain.com/caltrain/whatsnew/changes.html, is submitted herewith as Attachment 7. This
28

1 page presents, among other things, proposals to eliminate several trains and to convert other trains
2 from limited-stop to local service.

3 12. Also from Caltrain's website, I downloaded the minutes from Caltrain's April 4, 2002
4 Board meeting. A true and correct copy of these minutes is submitted herewith as Attachment 8. The
5 minutes indicate that a public hearing was held to consider increasing Caltrain's fares and that the
6 directors adopted the fare increase. Caltrain April 4, 2002 minutes at page 4.

7 **Golden Gate Transit**

8 13. I downloaded from Golden Gate Transit's website a public announcement regarding a
9 5.4% increase in bus and ferry fares effective July 1, 2002. A true and correct copy of this
10 announcement, downloaded from www.goldengate.org/news/ferry/faresincrease070102.html, is
11 submitted herewith as Attachment 9.

12 **SamTrans**

13 14. I downloaded an announcement entitled "SamTrans to Hold Public Hearing on Proposed
14 Service Modifications," from the SamTrans website at
15 www.samtrans.com/samtrans/whatsnew/modifications.html. This site describes proposed cuts in
16 service, including eliminating five bus routes. I also downloaded a public announcement entitled
17 "SamTrans Board Approves Fare Adjustments" from
18 www.samtrans.com/samtrans/whatsnew/fares.html. This site indicates that adult single-ride fares
19 will increase from \$1.10 to \$1.25 as of August 25, 2002. True and correct copies of these two public
20 announcements are submitted herewith as Attachment 10.

21 **VTA**

22 15. I downloaded from VTA's website an announcement regarding proposed service
23 reductions effective July 8, 2002. This announcement, available at
24 www.vta.org/news/2002_proposed.html, is submitted herewith as Attachment 11. It proposes,
25 among other things, eliminating five bus routes and reducing the frequency of light rail service.
26
27
28

1 **Ridership increase projects**

2 16. Since March 2002, I have been collecting information regarding the seven “Major Near
3 Term Transit Expansion Projects that will Promote Ridership Increases” listed in Table 5B of
4 MTC’s Final Conformity Analysis for the 2001 RTP and TIP amendment 01-32. Since I found no
5 ridership projections for these specific projects in the Conformity Analysis or the RTP, I inquired
6 with the operator of each project to compile ridership projections.

7 **BART to San Francisco International Airport (SFO)**

8 17. At the Harmer E. Davis Transportation Library at UC Berkeley, I reviewed the June 1996
9 BART-SFO Final Environmental Impact Report/Final Environmental Impact Statement
10 (FEIR/FEIS). A true and correct copy of the cover page, table of contents, and chapter 1.3: Transit
11 Impact Assessment and Mitigation is submitted herewith as Attachment 12. This document indicates
12 that with the BART to SFO extension in place, regional ridership will be 23,200 (1.8%) higher than
13 under “no-build” conditions in 2010. BART-SFO FEIR/FEIS at 3.1-15.

14 **Regional Express Bus Program**

15 18. I obtained by email from Don Morgan at MTC a “Bus Delivery Schedule” for the
16 Regional Express Bus Program. Mr. Morgan’s April 9, 2002 email and the attached schedule are
17 submitted herewith as Attachment 13. No ridership estimates were available from MTC for this
18 program.

19 **Caltrain Express**

20 19. Submitted herewith as Attachment 14 is a true and correct copy of an email I received on
21 Monday April 29, 2002 from Diana Lee of the Strategic and Long Range Planning Department at
22 Caltrain responding to my request for ridership estimates for the Caltrain Express project. Ms. Lee’s
23 email indicates that no ridership estimates are available for the Caltrain Express projects, but that
24 ridership forecasts will be available one to two months from the date of her email.

25 **MUNI Metro light rail Third Street Corridor**

26 20. I reviewed and photocopied selected chapters from Volume 1 of the Final Environmental
27 Impact Statement/Final Environmental Impact Report (FEIS/FEIR) for the MUNI Third Street Light
28

1 Rail Project at the MUNI offices located at 401 Van Ness Avenue in San Francisco. True and correct
2 copies of the cover, table of contents, and Chapter 3.2.1- TRANSIT (pp. 3-28 through 3-36) are
3 submitted herewith as Attachment 15. Table 3-6 of this document shows weekday ridership in 2015
4 in the Third Street corridor to be 2,450 daily riders higher with the Third Street “Initial Operating
5 Segment” than under the “no-build” alternative. This increase represents a 2% increase in ridership
6 in the corridor by 2015 over the No-Build alternative. Ridership projections for 2015 in this
7 document assume that the New Central Subway, as well as the Initial Operating Segment, are
8 operational. The New Central Subway portion of the Third Street Light Rail extension is projected to
9 be completed no earlier than 2011.

10 **VTA Tasman East light rail extension**

11 21. According to the VTA website http://www.vta.org/tasmaneast-capitol/tas_overview.htm,
12 expected daily ridership after opening will be 3000-4000 riders after the line becomes fully
13 operational in Summer 2004.

14 **VTA Capitol Corridor light rail extension**

15 22. According to the VTA website http://www.vta.org/tasmaneast-capitol/cap_overview.htm,
16 expected daily ridership after opening will be 3000-4000 riders after the line becomes fully
17 operational in Summer 2004.

18 **VTA Vasona light rail**

19 23. According to the VTA website <http://www.vta.org/vasona/overview.htm>, expected daily
20 ridership after opening will be 8000-9000 riders after the line becomes fully operational in Spring
21 2005.

22
23 **CARB letter to MTC**

24 24. On May 16, 2002 I requested and received by fax the following documents from Lois
25 Van Quill in the Office of Legal Affairs of the California Air Resources Board (ARB):
26
27
28

- June 16, 1999 Testimony of Dr. John Holtzclaw for the Sierra Club on the Draft San Francisco Bay Area Ozone Attainment Plan, a true and correct copy of which is submitted herewith as Attachment 16.
- August 6, 1999 Letter from Francis Chin, MTC General Counsel to Kathleen Walsh, ARB General Counsel, and attached November 20, 1996 Memorandum from MTC Deputy Executive Director to MTC Advisory Council, a true and correct copy of which is submitted herewith as Attachment 17.
- October 26, 1999 Letter from Kathleen Walsh, ARB General Counsel to Francis Chin, MTC General Counsel, a true and correct copy of which is submitted herewith as Attachment 18.

AB 595

25. I downloaded AB 595 (Brown), 1997 from www.leginfo.ca.gov/bilinfo.html. A true and correct copy of this bill is submitted herewith as Attachment 19.

1991 RTP Excerpt

26. I reviewed and photocopied portions of MTC's 1991 Regional Transportation Plan the MTC Library. A true and correct copy of the cover page, table of contents, and Appendix V, page A-18 is submitted herewith as Attachment 20.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 24th day of May, 2002.

KIRSTEN TOBEY