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NEWS RELEASE

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Bay Area Community and Environmental Groups Appeal Court Decision Seek Transit Improvements Promised by Regional Transit Agency in 1982

San Francisco, CA – Environmental and community groups filed a petition late Tuesday in the Ninth Circuit Court of Appeals asking the court to rehear arguments in a case against the Metropolitan Transportation Commission. The original case sought enforcement of a transportation control measure promised by the agency in 1982, to help clean the region's air.

The two to one decision, issued April 6, 2004, by the U.S. Court of Appeals for the Ninth Circuit in Bayview Hunters Point Community Advocates et al. v. Metropolitan Transportation Commission et al., found that MTC's state implementation plan (SIP) provision to increase mass transit ridership does not create an enforceable obligation.

The coalition is concerned that if the April decision stands, and SIP provisions become simply "goals," not enforceable rules, other transportation districts around the nation may try to get out of their commitments to clean the air as well. This case could set a damaging precedent that would undermine the ability of the EPA to enforce the Clean Air Act

In the petition filed yesterday, the coalition argues that in its April decision the court misinterpreted the law and asks that the case be considered "en banc." If the petition is granted, a larger, eleven-member panel of circuit judges will reconsider the case.

MTC Claims Performance-Based Outcomes Unfair, Unenforceable

In 1982, the Metropolitan Transportation Commission adopted a measure to increase regional transit ridership 15 percent by 1987. This measure was adopted to help bring air pollution levels in the Bay Area into compliance with the federal Clean Air Act. The goal was to increase transit ridership and thus reduce auto pollution. Unfortunately, MTC never lived up to its obligation to fund the kind of transit improvements needed to meet this target.

Today, Bay Area transit ridership is at roughly 1982 levels despite a 30 percent increase in population. Compared to other regions, MTC has been largely ineffective in getting people onto transit and its public statements show an aversion to doing so.

MTC spokesman Randy Rentschler told the San Francisco Chronicle on April 7 of this year that MTC would never have promised to “control people's behavior ... like a totalitarian state.”

Coalition Seeks Enforcement of Clean Air Act

Environmental and public health groups call MTC’s reasoning a dodge meant to cover up lackluster performance.

“Other transit agencies around the country understand how to get more people on transit,” said Susan Britton, an attorney with Earthjustice. “When agencies make transit convenient, affordable, and reliable, ridership goes up. Even Los Angeles, a city known for its love of cars, is doing a good job these days. People want options to get out of the endless traffic jam the Bay Area has become.”

“MTC has been fighting this litigation and its responsibility to clean the air for years,” said David Schonbrunn, president of TRANSDEF, one of the groups in the coalition. “While MTC has been lobbying in Washington, DC, to weaken the enforceability of transportation control measures, ailing transit agencies across the Bay Area have continued to slash service and raise fares. It’s no wonder ridership has plummeted.”

"Resources devoted to transportation by means other than the private automobile would reduce health risks from ozone as well as particulate matter," said Raquel Donoso of Latino Issues Forum. "Resetting transportation priorities would also improve access to schools, jobs, and essential services for transit dependent communities and for those who choose not to drive."

"Resources and trucks emit nearly two-thirds of all carbon monoxide pollution in the United States," said Tiffany Schauer, executive director of Our Children’s Earth. “We need to get people out of their cars if we want to clean up the air. As long as ozone levels remain high, everyone's health is at risk, especially our children’s.”

District Court Ruled in Favor of Clean Air in 2002

In July 2002, US District Court Judge Thelton Henderson ordered MTC to ensure that Bay Area regional transit operators increase regional ridership 15 percent above 1982 levels by no later than November 9, 2006. Judge Henderson found that MTC was required by law to achieve and maintain the 15 percent ridership increase and rejected MTC’s arguments that these were not enforceable measures. MTC appealed Judge Henderson’s decision to the Ninth Circuit Court of Appeals.

The plaintiff groups include: Bayview Hunter's Point Community Advocates, Communities for a Better Environment, Our Children's Earth Foundation, Transportation Solutions Defense and Education Fund, Latino Issues Forum, and Urban Habitat. Earthjustice represents the groups.

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