TRANSPORTATION RESEARCH BOARD

**COMMITTEE ON ENVIRONMENTAL ISSUES
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Richard A. Christopher, Editor
HDR Engineering, Chicago
Richard.Christopher@hdrinc.com

DC DISTRICT COURT UPHOLDS TIERED EIS FOR CINCINNATI AREA CORRIDOR PROJECT

Submitted by Fred R. Wagner and William N. Sinclair
fwagner@bdlaw.com; wsinclair@bdlaw.com

On January 8, 2008, the United States District Court for the District of Columbia granted summary judgment in favor of the United States and the Ohio Department of Transportation, holding that a Tier 1 Record of Decision for a new multimodal transportation project that will connect Cincinnati with its eastern suburbs was not arbitrary and capricious. Environmental groups and local citizens had challenged the "Eastern Corridor" project primarily on the grounds that their preferred option for a crossing of the Little Miami River, an expansion of an existing crossing, had not been advanced to Tier 2 review in violation of the National Environmental Policy Act ("NEPA") and Section 4(f) of the Transportation Act ("Section 4(f)"). Specifically, plaintiffs alleged that the agencies violated NEPA by excluding their preferred alternative, Option 2, from review during the Tier 1 process; failing to prepare a SEIS in response to allegedly new information concerning noise impacts; and relying on a faulty price for gasoline in performing their environmental assessment. Plaintiffs further alleged that the agencies erred by finding their preferred alternative, Option 1,

would not constitute a Section 4(f) "constructive use" of the Little Miami River, which is protected under the Wild and Scenic Rivers Act.

The court first addressed plaintiffs' central argument that the agencies violated NEPA by excluding Option 2 from review during the Tier 1 process. The court disagreed, finding that the agencies' conclusion that Option 2 did not meet the project's purpose and need was well-documented in the FEIS (the court specifically focused on a chart showing the strengths and weaknesses of Options 1 and 2); supported by the record; and not arbitrary and capricious. The court concluded that Option 2 was therefore properly excluded "from NEPA-style assessment in the Tier 1 FEIS." The court went on to acknowledge plaintiffs' counter-argument that the chart could be construed as showing that Option 1 was superior to Option 2, rather than showing that Option 2 did not meet the project's purpose and need. The court concluded, however, that the latter interpretation was neither unsupported by the record nor so speculative as to fail the arbitrary and capricious standard. Finally, the court dismissed plaintiffs' argument that the determination that Option 2 failed to meet the project's purpose and need was a *post hoc* rationalization of a decision already made.

As to plaintiffs' Section 4(f) arguments, the court found that the agencies properly assessed the qualities that warranted the river's designation as a Wild and Scenic River and the impacts a new crossing would have on these qualities. Specifically, the court found that: (i) although the River supports recreational activities, such as boating, and provides opportunities for serene and quiet enjoyment, it is sullied by power lines, existing crossings, and other man-made distractions, and therefore, the agencies' conclusions regarding the River's qualities were consistent with its recreational classification under the Wild and Scenic Rivers Act, the lowest such classification; (ii) the agencies' determination that the visual impacts of a new crossing would not substantially impair existing uses due to bends in the River and mitigation efforts was supported by the record; and (iii) the agencies' determination that the relevant stretch of the River impacted by a new crossing was a Class B, not Class A, noise receptor was supported by the record.

Returning to plaintiffs' other NEPA arguments, the court concluded that a National Park Service ("NPS") report critiquing the agencies' noise-sampling procedures did not present a "seriously different picture" of the environmental landscape, and therefore, a SEIS was not required. According to the court, the NPS report suggests, "but does not prove," that more careful noise sampling procedures would produce lower levels of existing noise pollution than suggested by the agencies' data. The NPS report, however, did not suggest that post-project noise levels will exceed the regulatory maximum for a Class B receptor, and the agencies were therefore not required to change their designation of the River on the basis of the lower estimate of noise contained in the NPS report.

Finally, the court quickly dismissed plaintiffs' argument that the agencies erred by relying on a faulty gasoline price. While the court chided the agencies for basing many of their calculations on "unrealistic estimations of the cost of driving," the court concluded that the price of gasoline used by the agencies did not skew the analysis in the agencies' favor, and therefore, did not rise to a NEPA violation. *Rivers Unlimited, et al. v. United States Department of Transportation, et al.*, No. 06-Civ-1775 (D.D.C. Jan. 8, 2008).

CLIMATE CHANGE IS KEY ISSUE IN NEXT REAUTHORIZATION

Submitted By Bill Malley, Akin Gump Strauss Hauer & Feld LLP
wmalley@akingump.com

Climate change has emerged as a major issue – potentially one of the pivotal issues – in the upcoming reauthorization of the federal highway and transit programs. Led by the Center for Clean Air Policy, a number of environmental groups are advocating a major overhaul of federal transportation programs. They are urging Congress to focus the next reauthorization bill on reducing greenhouse gas (GHG) emissions from road transportation. And they have come up with a catchy name for their proposals: Green TEA.

The federal highway and transit programs were last reauthorized in August 2005, when Congress enacted the legislation known as SAFETEA-LU. As the name suggests, that legislation focused heavily on promoting highway safety. It also included significant changes to the planning and environmental review requirements for highway and transit projects. And of course it authorized substantial funding for the surface transportation programs. But the issue of climate change played little, if any role, in the debates leading up to SAFETEA-LU, and the statute did not address that issue.

Much has changed in the short period since SAFETEA-LU was enacted. Climate change has moved quickly to center stage at the federal, State, and local levels. Elected officials in both parties are proposing, and in many cases adopting, extremely aggressive targets for cutting GHG emissions. For example, a number of States have recently adopted goals of cutting their total GHG emissions by 75 to 80% from current levels (or in some cases from *1990* levels) by 2050. And while no specific reduction targets have yet been established at the federal level, Congress is actively considering several legislative proposals that would mandate similarly dramatic reductions in GHG emissions on a national scale.

The emergence of climate change as a major political issue has dramatically altered the political landscape for the next reauthorization of the highway and transit programs, which is due in 2009. It is highly likely that Congress will be considering major climate change legislation in 2009 – at the very same time it is considering reauthorization of the highway and transit programs. In fact, the same committee in the United States Senate – the Committee on Environment and Public Works – will have jurisdiction over substantial aspects of both the

climate change legislation and the transportation legislation. The convergence of these issues makes it virtually inevitable that climate change concerns will be prominent when Congress considers reauthorizing the highway and transit programs.

In this context, a number of environmental organizations – including the Center for Clean Air Policy, Environmental Defense, and the Surface Transportation Policy Project – have been developing a set of reauthorization proposals, known as Green TEA, that focus on cutting GHG emissions from road transportation by pursuing three chief goals: (1) improving vehicle fuel economy; (2) expanding the use of renewable (lower-carbon) fuels, such as ethanol; and (3) reducing the growth in vehicle miles traveled (VMT). The Green TEA proposals place particular emphasis on reducing VMT growth.

The premise for the Green TEA proposals is that current federal policy – as embodied in SAFETEA-LU – is fundamentally in conflict with the goal of reducing GHG emissions. As the Center for Clean Air Policy has stated, "SAFETEA-LU rewards *increased* vehicle miles traveled (VMT) and associated greenhouse gas (GHG) emissions." They claim that current law encourages VMT growth because funding formulas are based on VMT, fuel use, and lane miles, and because (in their view) highway projects receive more favorable funding treatment than transit projects under current federal law.

The Green TEA proposals seek to promote reductions in VMT growth by altering the funding formulas and other core provisions in SAFETEA-LU. According to a summary prepared by the Center for Clean Air Policy, Green TEA legislation would discourage VMT growth and encourage GHG emission reductions by:

- Establishing GHG emissions reductions and energy conservation as goals of the federal transportation program.

- Linking a portion of federal transportation funding to a State's progress in achieving the goals of energy conservation and GHG emissions reduction.

- Providing more funding for transit, and less for new road construction.

- Increasing support for regional transportation and land use planning and scenario analyses.

- Requiring MPOs to consider alternative land use and transportation scenarios as part of their development of long-range plans and TIPs.

- Requiring MPOs to develop plans for reducing GHG emissions and petroleum usage, and requiring them to establish GHG reduction, petroleum reduction, and mode-split goals as part of their long-range plans.

- Adding GHGs to conformity requirements under the Clean Air Act.

- Providing incentives for smart growth and transit-oriented development – for example, mileage-based insurance and congestion pricing.

- Improving VMT data collection, by requiring development of new tools and methodologies to calculate the "VMT-generating consequences of transportation plans, programs and projects (including induced demand)."

- Eliminating the "blanket eligibility of traffic flow improvement projects" under the CMAQ program.

There is not yet agreement, even within the environmental community, on all of these goals. In particular, there remains debate among environmental groups about whether Clean Air Act conformity requirements should be extended to include GHGs. But at this stage, the specifics are less important than the overall thrust of the policy proposals. The central theme clearly is that federal policy should promote GHG emissions reductions by discouraging growth in VMT.

While climate change is likely to be a major issue in the next reauthorization, it will be competing with several other major concerns. One key topic will be the need to provide a robust source of revenue both in the short term (to avoid a deficit in the highway trust fund) and in the longer term (to supplement or replace the gas tax, which is becoming a less effective funding tool as vehicles become more fuel efficient). Other major issues will include the need to address growing roadway congestion, both in major metropolitan areas and in major freight corridors, and the desire to achieve greater accountability in the transportation program through greater reliance on performance measures. All of these goals were reflected in the recent report by the National Surface Transportation Policy and Revenue Study Commission, which was created in SAFETEA-LU.

The confluence of climate change and these other major issues suggests that the next reauthorization process will involve a fundamental debate about the direction and role of the federal transportation program, not just the traditional jousting over funding levels and allocations. The outcome is far from clear, but it seems likely that climate change concerns will play a much greater role in the next reauthorization than they did in SAFETEA-LU.

For more on Green TEA proposals, see the Center for Clean Air Policy's web site: http://www.ccap.org/transportation/smart.htm.

FHWA/FTA ISSUE FINAL SECTION 4(f) REGULATIONS

Submitted By Bill Malley, Akin Gump Strauss Hauer & Feld LLP
wmalley@akingump.com

On March 12, 2008, FHWA and FTA jointly issued final Section 4(f) regulations, completing the first comprehensive update of the regulations since 1987. See 73 *Fed. Reg*.13,368. The rulemaking was initiated in July 2006 in response to a mandate in SAFETEA-LU. The new regulations fulfill the requirements of SAFETEA-LU and make many other important changes. The final rule is available at: http://environment.fhwa.dot.gov/projdev/pd5sec4f.asp.

The new Section 4(f) regulations become effective on April 11, 2008. All NEPA documents issued by FHWA or FTA after that date must comply with the new regulations. Documents that are already in progress will need to be reviewed to ensure compliance with the new regulations, if they involve the potential use of Section 4(f) resources.

Important changes in the new regulations include:

- Re-Organization and Codification in Part 774
- Procedures for Making *De Minimis* Impact Findings
- Criteria for Making "Feasible and Prudent" Determinations
- Criteria for Selecting Alternatives if Avoidance is Not Feasible and Prudent (Including New Definition of "All Possible Planning" to Minimize Harm)
- Ability to Presume Lack of Objection if USDOI Comments Are Not Received
- Deference to SHPO on Determining Applicability of 4(f) to Archeological Sites
- Clarification of Section 4(f) Requirements for Tiered EIS's
- Recognition of SAFETEA-LU Exemption for Elements of Interstate System
- Clarifications Regarding Applicability of 4(f) to Wild and Scenic Rivers
- Clarifications Regarding Findings of No Constructive Use

Re-Organization and Codification in Part 774

The Section 4(f) regulations have been comprehensively re-organized and moved to a new 23 CFR Part 774. Previously, they were included as part of FHWA and FTA's NEPA regulations in 23 CFR 771.135. The preamble to the

new regulations includes a table that correlates the relevant sub-sections in the old and new regulations. See 73 *Fed. Reg*.13,369. The regulations also include new sub-headings, which make it easier to locate relevant provisions, as well as a new definitions section.

De Minimis Impact Findings

Section 6009(a) of SAFETEA-LU amended Section 4(f) to allow findings of "*de minimis* impact" to satisfy Section 4(f) requirements. FHWA and FTA initially implemented the *de minimis* impact provisions of Section 6009 by issuing guidance in December 2005. The new regulations incorporate the recommendations contained in that guidance. Practitioners who are familiar with the December 2005 guidance will find that the new regulations largely conform to the existing, established methods for making findings of *de minimis* impact. The December 2005 guidance remains in effect.

One important change is that it will now be necessary to reference the relevant provisions of Part 774, not just the guidance, when making findings of *de minimis* impact. Key provisions include: Section 774.3(b), which is the main provision authorizing *de minimis* findings and Section 774.17, which includes a new definition of "*de minimis* impact." Several other provisions address the documentation, coordination procedures, and timing of *de minimis* impact findings.

The final rule confirms FHWA and FTA's position on one important issue that was raised by several environmental groups in comments on the proposed regulations. The groups argued that, for parks, recreation areas, and refuges, a separate finding of "all possible planning to minimize harm" is required, even after making a finding of *de minimis* impact. FHWA and FTA disagreed with this comment. Therefore, under the rule, a finding of *de minimis* impact fully satisfies Section 4(f) for parks, recreation areas, and refuges, as well as for historic sites.

"Feasible and Prudent" Alternative Determinations

Section 6009(b) of SAFEETA-LU directed USDOT to promulgate regulations clarifying the "factors to be considered and standards to be applied when determining the prudence and feasibility of alternatives" under Section 4(f). The statute also stated that the regulations "shall clarify the application of the legal standards to a variety of different types of transportation programs and projects depending on the circumstances of each case" and "may include, as appropriate, examples to facilitate clear and consistent interpretation by agency decisionmakers."

The new regulations fulfill this requirement by establishing a new definition of the term "feasible and prudent avoidance alternative." This definition – contained in Section 774.17 – is one of the most important elements of the new regulation. There are three key points to understand in reviewing this definition:

- The new regulations only apply the "feasible and prudent" test to alternatives that avoid Section 4(f) resources altogether. Therefore, the definition refers specifically to a "feasible and prudent *avoidance* alternative." If there are no feasible and prudent avoidance alternatives, the next step is minimizing harm. The feasibility and prudence tests are not applied when evaluating alternatives to minimize harm.

- The new regulations articulate a "severe problems" standard for finding an alternative imprudent. The previous regulations required supporting documentation demonstrating "unique problems," "unusual factors," or cost or impacts of "extraordinary magnitude" as a basis for finding an alternative imprudent. The new regulations allow an alternative to be found imprudent if it involves "severe problems of a magnitude that substantially outweighs the importance of protecting the Section 4(f) property." The regulation lists a series of factors that can be considered, individually or cumulatively, in determining whether this standard has been met. The preamble notes that this standard is intended to continue providing "stringent protection" for Section 4(f) resources.

- The new regulations allow the value of the Section 4(f) resource to be considered when determining whether an avoidance alternative is prudent. As explained in the proposed regulations, the regulations are intended to establish a sliding scale. An avoidance alternative that is prudent in one context may not be prudent in another. Impacts that would constitute "severe problems" in one context – and thus would justify rejecting an alternative as imprudent – may be considered acceptable in another context. The differentiator is the value of the Section 4(f) resource. If a Section 4(f) resource is highly significant, more severe problems would need to exist to justify rejecting an avoidance alternative as imprudent; conversely, if the 4(f) resource is less significant or is likely to be torn down in the near future by a private owner, less severe problems could be used as the basis for rejecting an avoidance alternative as imprudent.

Several commenters on the proposed rule objected to this change in the definition of the feasible and prudent standard. FHWA and FTA considered those comments and addressed them in the preamble to the final regulation. In essence, FHWA and FTA concluded that these modifications to the feasible/prudent test are consistent with the Supreme Court's decision in *Overton Park* and also are consistent with the intent of Congress in SAFETEA-LU.

Alternatives Selection Where Prudent and Feasible Avoidance Alternatives Are Not Available

The new regulations also contain important new provisions that govern the choice among alternatives when there is no prudent and feasible alternative that entirely avoids Section 4(f) resources. These changes were not specifically

required by SAFETEA-LU; they were included in the rulemaking in order to clarify the standards for choosing among alternatives that all use some Section 4(f) resources.

The previous regulations did not specifically address the issue of how to choose among alternatives that all use some Section 4(f) resources. This issue was primarily addressed through the Section 4(f) Policy Paper. The basic concept as expressed in the guidance was that Section 4(f) required the selection of the prudent and feasible alternative that caused the least harm to Section 4(f) resources. However, interpretations of this requirement varied, in part because of the lack of clarity in the guidance.

The new regulations should be easier to apply and ultimately may provide somewhat greater flexibility to take into account non-Section 4(f) impacts and concerns when choosing among alternatives that all involve some Section 4(f) resources. The new approach includes the following key elements:

- The alternative that causes the "least overall harm" must be selected. Section 774(c) states the basic rule to be applied when there are no prudent and feasible avoidance alternatives. The rule requires selection of "the alternative that … causes the least overall harm in light of the statute's preservation purpose." This section lists a series of factors that must be considered in determining "overall harm." This determination is *not* based solely on harm to Section 4(f) resources. It also includes consideration of ability to meet purpose and need; degree of impact to non-Section 4(f) resources; and any "substantial differences in cost" among the alternatives.

- The selected alternative must include "all possible planning" to minimize harm. Section 774.3(a)(2) requires a finding that the selected alternative includes "all possible planning to minimize harm to the property resulting from such use." This finding must be based on the new definition of "all possible planning" in Section 774.17, which defines this term to mean that "all reasonable measures to minimize harm or mitigate impacts" have been incorporated into the project. In other words, "all possible" is defined to mean "all reasonable." The definition lists criteria to consider in determining the reasonableness of potential minimization and mitigation measures.

Several commenters on the proposed regulations objected to these changes, arguing that they were inconsistent with the *Overton Park* decision as well as subsequent federal court decisions. FHWA and FTA considered and addressed those arguments in the final rule.

Ability to Presume Lack of Objection by USDOI

The new regulations retain the existing requirement for a 45-day review period by the U.S. Department of the Interior (USDOI) on all Section 4(f) evaluations. FHWA and FTA rejected comments that recommended reducing this 45-day period or eliminating it altogether. However, the new regulations do include one important change: if comments are not received within 15 days after the comment deadline, FHWA and FTA "may assume a lack of objection and proceed with the action." This is an important change because it is likely to encourage more timely comments on Section 4(f) evaluations, and it also provides clear authority to move forward if comments are not received within a short period after the comment deadline.

One important point to remember is that the requirement for a 45-day comment period applies only to a "Section 4(f) evaluation," which is defined in Section 774.17 as documentation prepared to support approval of a Section 4(f) resource based on a finding of no prudent and feasible avoidance alternative. The requirement for a 45-day review does not apply to *de minimis* impact determinations, which have separate coordination and concurrence requirements, nor does it apply to determinations made under any of the five existing nationwide programmatic Section 4(f) evaluations. Any new programmatic Section 4(f) evaluations will be developed in coordination with USDOI and other appropriate agencies, and will be published in the Federal Register before being adopted, but are not subject to the 45-day comment requirement as such.

SHPO Role in Determining Applicability of Section 4(f) to Archeological Sites

The new regulations retain the existing exemption for archeological resources that are determined to be valuable "chiefly because of what can be learned by data recovery and has minimal value for preservation in place." This provision was included in 23 CFR 771.135(g)(2). The new regulations include this exemption in 23 CFR 774.

While this exemption is retained, there is one significant change. Under the old regulation, the FHWA or FTA was responsible for deciding whether the archeological resource was valuable for preservation in place, and this only required consultation with the State Historic Preservation Officer (SHPO) or, if applicable, the Tribal Historic Preservation Officer (THPO). Under the new regulations, FHWA or FTA may make this determination only if the "officials with jurisdiction" – typically the SHPO or THPO – have been consulted and "have not objected" to the proposed finding. This is effectively a concurrence requirement, although the concurrence can be expressed through a lack of objection.

Section 4(f) Requirements for Tiered EIS's

The new regulations modify the regulations governing Section 4(f) compliance for tiered EIS's. This issue was addressed in the previous regulations at 23 CFR 771.135(o). The new regulations address the issue in somewhat more detail in 23 CFR 774.7(e).

The new regulations clarify that if a preliminary Section 4(f) approval is made in the Tier 1 study, the Section 4(f) approval will be finalized in the Tier 2 study; the previous regulations simply said that the approval should be finalized "when additional design details are available."

The new regulations also clarify the circumstances under which a Tier 1 Section 4(f) evaluation would need to be reevaluated – in effect, re-opened – as part of a Tier 2 study. The basic rule is that a preliminary approval from Tier 1 can be finalized in Tier 2 (without being reevaluated) *if no new use, other than a de minimis use,* is identified in the Tier 2 study. If a new use *is* identified in Tier 2, and is not found to be *de minimis*, then the Section 4(f) evaluation from the Tier 1 study would have to be reevaluated. The scope and extent of such a reevaluation is not addressed in the regulation and presumably would be determined on a case-by-case basis.

Section 4(f) Exemption for Elements of the Interstate System

Section 6007 of SAFETEA-LU established an exemption from Section 4(f) for the Interstate System, except for those specific elements that USDOT identified as having "national or exceptional historic significance." In December 2006, FHWA issued a list of 132 specific features of the Interstate System that met this standard and therefore must be treated as historic resources for purposes of Section 4(f). A similar exemption – with the same exceptions – has been established administratively by the Advisory Council on Historic Preservation for purposes of Section 106 of the National Historic Preservation Act.

The Section 4(f) exemption for the Interstate System became effective upon enactment of SAFETEA-LU; new regulations were not required in order for the exemption to take effect. The new Section 4(f) regulations simply acknowledge the statutory exemption as one requirement that must be considered in determining the applicability of Section 4(f). See 23 CFR 774.13(e)(2).

The statutory exemption for the Interstate System simply means that exempt elements of the System are not considered historic resources for purposes of Section 4(f) and Section 106. The exemption does not relieve FHWA and FTA of their obligation to comply with Section 4(f) and Section 106 when a project on the Interstate System has impacts on *other* Section 4(f) resources – e.g., an adjacent historic farm.

Applicability of Section 4(f) to Wild and Scenic Rivers

The new regulations include a new provision – Section 774.11(g) – which addresses the applicability of Section 4(f) to Wild and Scenic Rivers. The new provision clarifies that designation of a river under the Wild and Scenic Rivers Act does not automatically confer Section 4(f) status on the entire river. Section 4(f) applies only to portions of the river that (1) are eligible as historic sites or (b) are publicly owned and are designated or function as parks, recreation areas, or wildlife refuges. This interpretation was previously included in the Section 4(f) Policy Paper and has now been incorporated into the regulations.

Constructive Use Findings

The new regulations largely retain the previous regulation's provisions regarding findings of no constructive use. As FHWA and FTA noted in the preamble to the final rule, the constructive use provisions were adopted in 1991 and are considered to be successful in providing clear guidance. The intent of the new regulation is to maintain those standards, with only minor clarifications.

One potentially significant clarification concerns findings of constructive use for vibration impacts. Section 771.135(p)(4)(iv) in the previous rule stated that a constructive use occurs when vibration substantially impairs a historic resource, and gave as an example vibration from a "rail transit" project that is great enough to affect the "structural integrity" of a historic building. Section 774.15(e)(4) in the new regulation eliminates the reference to "rail transit" and "structural integrity." The new rule states more generally that a constructive use occurs when vibration levels are "great enough to physically damage a historic building or substantially diminish the utility of the building, unless the damage is repaired and fully restored consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties."

Other Changes in the Regulation

In addition to the changes noted above, the new Section 4(f) regulations also:

- Provides clear authority for issuance of programmatic Section 4(f) approvals, such as those that have been previously issued by FHWA and FTA;

- Clarifies that a State that has assumed FHWA or FTA's authorities pursuant to a statutory authorization (e.g., as authorized under SAFETEA-LU) can act as "the Administration" for purposes of the Section 4(f) regulations;

- Includes a comprehensive list (in the preamble to the final rule at 73 *Fed. Reg.*13,393) of all the provisions in the rule that require coordination with and/or concurrence of "officials with jurisdiction" over Section 4(f) properties.

The final rule also contains other changes, both organizational and substantive, in addition to those discussed in this article. To assist practitioners in complying with the new rule, FHWA will be updating its Section 4(f) Policy Paper and its Technical Advisory on the environmental review process for highway projects. FHWA and FTA will also be conducting outreach and training activities. For further information, see the FHWA web site: http://environment.fhwa.dot.gov/projdev/pd5sec4f.asp.

NOTES FROM THE CHAIR

Submitted by Peggy Strand
Chair, Committee on Environmental Issues in Transportation Law
mstrand@venable.com

The Committee on Environmental Issues in Transportation Law has been active working with the TRB Task Force on Climate Change. Many thanks to Fred Wagner for his involvement in this matter. Climate change is the "spotlight topic" for the TRB 2009 Annual Meeting, and is of interest to many components of the TRB family.

The 2008 July Legal Workshop is coming up soon, July 6-9, at the Omni San Diego Hotel in San Diego, CA. The Committee is sponsoring two programs. One session will provide updates on SAFETEA-LU regulations, including the new 4(f) rule, the planning regulations, and other implementation matters. The second session will address greenhouse gases and climate change with a "hands-on" focus, looking at what the transportation sector is doing now, in environmental documents and other compliance steps. Many thanks to the Committee members who helped to plan these exciting new programs.

I hope to see many of you in San Diego. We will have a Committee meeting during the Workshops, to begin planning for the 2009 TRB Annual Meeting. If you are not coming to San Diego, we will stay in touch electronically as the year continues.

NEXT DEADLINE FOR SUBMISSIONS IS JUNE 13, 2008

Anyone who would like to submit a case summary or other news for the July, 2008 edition of this newsletter should send the material to the Editor at Richard.Christopher@hdrinc.com or at chrislagra@sbcglobal.net and should use Microsoft Word. Submissions are due by the close of business on June 13, 2008.