

DETRICH B. ALLEN
GENERAL MANAGER

BETH JINES
Asst. GENERAL MANAGER

200 N. SPRING ST.
ROOM 2005 MS 177
LOS ANGELES, CA 90012
(213) 978-0840



ANTONIO R. VILLARAIGOSA
MAYOR

ALINA BOKDE
PRESIDENT

JOYCE M. PERKINS
VICE-PRESIDENT

MARIA ARMOUDIAN

IRMA R. MUNOZ

M. TERESA VILLEGAS

February 2, 2009

Terry Roberts
CEQA-GHG Project Manager
Governor's Office of Planning and Research
P.O. Box 3022
Sacramento, CA 95814

Subject: Preliminary Draft CEQA Guideline Amendments (1/8/2009) for Greenhouse Gas Emissions

Dear Ms. Roberts,

Thank you for the opportunity to comment informally at this early stage on the Preliminary Draft Guideline Amendments for Greenhouse Gas Emissions under the California Environmental Quality Act (CEQA) in conjunction with the January 22 Workshop in Los Angeles.

The City of Los Angeles is the second largest city in the United States, with a population of over 4 million and a land area covering nearly 465 square miles. The City of Los Angeles Department of Water and Power (LADWP) is the nation's largest municipally owned utility, and its power system serves these 4 million residents with an installed generation capacity of 7,331 Megawatts (MW) of electricity. In May 2007, Los Angeles Mayor Antonio Villaraigosa, joined by several City Councilmembers, released the City's Climate Action Plan, "Green LA: An Action Plan to Lead the Nation in Fighting Global Warming." This Plan set out the City's goal to reduce greenhouse gas emissions to 35% below 1990 levels by 2030. A large part of meeting this goal rests with the LADWP and its actions to move quickly toward renewable sources of electricity. The LADWP is committed to increasing the amount of energy it generates from renewable power sources to 20% by 2010, and to 35% by 2020. Since 2005, LADWP has nearly tripled its portfolio of renewable energy, increasing its share of renewable sources from less than 3% to 12% of total generation at the end of 2008 and is well on its way to meet the target of 20% by 2010.

Reducing emissions from municipal operations, electricity generation, and community activities in the City is critical to helping the state meet the AB 32 greenhouse gas (GHG) reduction goals; however it will also be critical to address GHG emissions from new and modified projects during the CEQA review process. The City's Planning Department acts as CEQA lead agency for most private development projects in the City. Other City departments may act as CEQA lead agency for public projects, and LADWP, as both a governmental agency and utility, has been the lead agency for most of its proposed projects. EnvironmentLA, the City's environmental policy department, provides



CEQA policy advice, and is the lead for implementation of the City's Green LA Climate Action Plan. The City Attorney's office provides guidance and legal interpretation for City staff of other departments. As such, staff of EnvironmentLA, the City Planning Department, City Attorney's office and LADWP would like to provide the following comments to ARB for consideration as the CEQA Guideline amendments are further developed.

COMMENTS

COMMENT NO. 1

Reliance on Regional Plan. City staff agrees with OPR's recognition that mitigating greenhouse gas emissions at a project level may not be as effective as implementing a programmatic approach to mitigation. This approach requires public agencies to adopt programmatic mitigation plans and programs from which to tier when they perform individual project analyses. We believe this conclusion is consistent with the provisions of CEQA. City staff agrees with the proposed amendments that encourage the reliance of project-level documents on a regional or local plan that adequately addresses greenhouse gas emissions, and the plan is one for which an EIR has been previously certified. Guideline, Section 15152 subd. (i). The proposed amendment regarding this issue provides assurance to lead agencies that are in the process of developing program level documents to address and mitigate impacts relating to greenhouse gases. City staff also supports OPR's proposed expansion of the definition of regional plans to include, among other things, the sustainable communities strategy required by SB 375, and adopted climate action plans.

COMMENT NO. 2

Preserve Discretion of Lead Agencies. City staff endorses OPR's proposed revisions to the CEQA Guidelines that preserve the discretion granted by CEQA to lead agencies in making their own significance determinations based on substantial evidence. We believe that this is consistent with the authority granted by CEQA and with CEQA case law.

COMMENT NO. 3

Section 15093(d), page 8. City staff would suggest adding "GHG reducing" benefits to the following statement as shown in bold, "When an agency makes a statement of overriding considerations, the agency may consider local adverse environmental effects in the context of region-wide or statewide **GHG reducing** benefits." For example, an increase in congestion levels at a proposed project site can be viewed in light of area-wide reductions in vehicle trips or miles traveled.

COMMENT NO. 4

Section 15126.4 (a), page 11. City staff recommends adding a new paragraph to this section, possibly identified as (a)(E), that specifically allows lead agencies to include GHG emission reductions from other project mitigation measures - such as energy efficiency measures, trip reduction measures or other air quality measures that are imposed to mitigate energy, traffic, or air quality impacts - as reducing the project's GHG impacts. It seems to make sense to formally note that proposed projects or lead agencies should be able to count all of the benefits of

mitigation measures (or design changes) that are included in a project. We suggest language similar to the following: "If a mitigation measure would reduce adverse environmental impacts in more than one impact area, e.g., traffic and greenhouse gases, the benefits of that mitigation measure can be used to reduce the mitigation burden for each impact area that benefits from the measure."

COMMENT NO. 5

Section 15126.4(c)1, page 13. A comment was raised during the January 22 workshop concerning potential double counting of mitigations for energy generation and consumption. City staff acknowledge that mitigation opportunities exist and should be encouraged for both (1) "greening" the power supply by moving toward renewable sources of electricity, and (2) improving energy efficiency and reducing consumer energy use. This should be done with careful accounting.

COMMENT NO. 6

Section 15126.4(c)1, page 13. Please make explicit that VMT reduction is one of the feasible means of mitigating greenhouse gas emissions. For example, "... including but not limited to emissions associated with the project's energy consumption, including fossil fuel consumption, and vehicle trips or vehicle miles traveled associated with the project."

COMMENT NO. 7

Clarification is requested regarding Guideline Section 15130, subpar.(b)(1)(A) and (B) and subpar. (f). Guideline 15130 relates to the discussion of cumulative impacts required in an EIR. Subpar. (b)(1)(A) and (B) state that for an EIR to have an adequate discussion of significant cumulative impacts it must include either a list of "past, present, and probable future projects . . ." or a "summary of projections contained in an adopted local or regional plan. . ." which may include a climate action plan, etc. At the same time, Subpar. (f) states that an EIR "should evaluate greenhouse gas emissions associated with a proposed project when those emissions, when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects, may result in a cumulatively considerable impact to the environment. . . ."

How do these two provisions relate to each other?

Does the proposed language mean that the "list of projects" methodology is preferred in an EIR discussion of significant cumulative greenhouse gas emissions?

Why does Subpar. (b) say that either the "list of projects" methodology or the "summary of projections" methodology can be used in an EIR, while language used in Subpar. (f) appears to say the "list of projects" method should be used for greenhouse gas emissions? *Flexibility to use either method is preferred.*

Does Subpar. (f) mean only that if a proposed project **may** have a cumulatively considerable effect, its EIR **should** evaluate greenhouse gas emissions associated with the project?

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We look forward to working with OPR staff as appropriate to finalize the Guideline amendments. Thank you, again, for the opportunity to provide you with these comments on the draft CEQA Guideline amendments. If you have any questions, or for further information, please feel free to contact me at (213) 978-0852 or Craig Tranby of my staff at (213) 978-0853.

Sincerely,



Gretchen Hardison
Director, Climate and Air Programs

C: Detrich B. Allen, General Manager, EnvironmentLA
James Caldwell, LADWP
John Dugan, City Planning Department