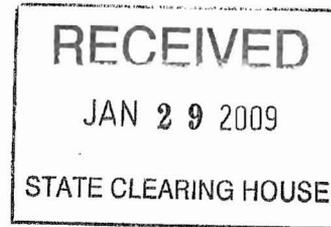




January 29, 2009



Ian Peterson
Office of Planning and Research
P.O. Box 3022
Sacramento, CA 95812-3044

Re: Preliminary Draft California Environmental Quality Act Guidelines for
Greenhouse Gases

Dear Mr. Peterson:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to review the Preliminary Draft California Environmental Quality Act (CEQA) Guidelines for Greenhouse Gases (GHG) issued by the Governor's Office of Planning and Research on January 8, 2009.

EBMUD concurs that public agencies have an obligation to address the potential environmental effects of GHG emissions from projects and to mitigate significant effects whenever feasible. In general, EBMUD finds that the proposed amendments aid in understanding how the magnitude of GHG emissions, potential associated impacts, and mitigation measures and alternatives should be calculated and evaluated. We understand and appreciate that the Draft Guidelines seek to allow lead agencies the necessary discretion to decide which model or methodology to use when quantifying GHGs, § 15064.4(b), while also offering the needed flexibility to base thresholds of significance on those adopted by other public agencies, or on well-founded recommendations. § 15064.7(c).

EBMUD is concerned about two sections in particular:

1. Determining the Significance of Impacts from GHGs (§ 15064.4(a)). This section would be difficult to implement in practice because it directs lead agencies to analyze impacts based on non-threshold factors, in addition to thresholds that may be established. For instance, projects resulting in negligible GHG emissions might be said to "hinder attainment of the state's [GHG reduction] goals," even if such impacts are well below the applicable threshold.

We suggest the guidelines should ask agencies to base their significant impacts analyses primarily on quantifiable thresholds. A threshold-based approach would facilitate greater analytical precision without compromising the identification of significant impacts. It would also comport with section 15064(b), which states that determinations of significance should be "based to the extent possible on scientific and factual data."

Ian Peterson
January 29, 2009
Page 2

2. Discussion of Cumulative Impacts (§ 15130(f)). First, it remains unclear how a lead agency should incorporate the effects of past projects into a cumulative impacts analysis. Considering that AB32 mandates the reduction of GHGs well below current levels, existing projects have arguably already resulted in a significant impact. As a result, any additional GHG contribution might necessarily be cumulatively significant.

Second, the draft offers little guidance as to what geographical limitation, if any, is applicable when analyzing cumulative impacts of GHG emissions. Greenhouse gas emissions are a global problem, and AB32 sets statewide reduction targets. It is unclear as to whether or not a lead agency limit could limit its analysis to local emissions, for example, such as those within a local air quality management district in order to address localized air quality issues.

Both problems illustrate the fundamental difficulty of applying traditional principles of cumulative impacts analysis to GHGs. "Greenhouse gases" include a wide range of substances emitted by a variety of activities and are diffused throughout the atmosphere. Subjecting GHGs to cumulative impacts analysis suggests that any emissions above a zero threshold could be considered cumulatively significant, requiring mitigation.

EBMUD would like to emphasize that these comments are preliminary and may be revised and/or augmented as the process for refining and adopting these Draft Guidelines continues.

Questions or comments concerning these comments should be address to William R. Kirkpatrick, Manager of Water Distribution Planning, (510) 297-1301, or at wkirkpat@ebmud.com.

Sincerely,



William R. Kirkpatrick
Manager of Water Distribution Planning

WRK:GAA:sb
sb09_018.doc