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Via: E-mail to CEQA.GHG@opr.ca.gov

Office of Planning and Research (OPR)
P.O. Box 3022
Sacramento, CA 95812-3044

Re: Preliminary Draft CEQA Guideline Amendments for Greenhouse Gas Emissions

Dear OPR:

We appreciate this opportunity to comment on the Preliminary Draft CEQA Guideline Amendments for Greenhouse Gas (GHG) Emissions, released January 8, 2009.

I. GHG SIGNIFICANCE AND STATE'S GHG GOALS

We support OPR's recognition of California's existing mitigation goals for GHG emissions under AB 32. (15064.4(a)(1)) However, this ignores another important state GHG goal: the reduction target of 80% below 1990 levels laid out in Executive Order S-3-05. These longer term goals are necessary to achieve California's ultimate objective: to stabilize the climate and avoid the detrimental impacts of global warming on California.¹ California must carefully consider how current actions will impact our ability to meet our GHG emission reduction goals in 2050. We suggest the following changes (in red, bold text, with strikethrough for deletions and underline for additions) to OPR's proposed language:

- (a) A lead agency should consider the following, where applicable, in assessing the significance of impacts from greenhouse gas emissions, if any, on the environment:
- (1) The extent to which the project ~~could help or hinder~~ **is consistent with or in conflict with** attainment of the state's goals of **stabilizing the climate by** reducing greenhouse gas emissions, ~~to 1990 levels by the year 2020~~ as stated in the Global Warming Solutions Act of 2006 **and Executive Order S-3-05**. A project may be considered to ~~help~~ **be consistent with** attainment of the state's

¹ See Health & Safety Code § 38501(a&b)

goals by being consistent with ~~an adopted statewide 2020 greenhouse gas emissions limit or the~~ plans, programs, and regulations adopted to ~~implement the Global Warming Solutions Act of 2006 reduce greenhouse gas emissions;~~

In addition, we caution that determination of significance should only be tied to statewide goals for purposes of GHG emissions. Most GHG emissions co-occur with other, local pollutants, and these should continue to be evaluated under CEQA as they always have been. The state's laudable GHG reduction goals should not in any way diminish the evaluation and mitigation of other pollutants.

II. REGIONAL AND LOCAL PLANS

We strongly support the Draft Guideline's connection of GHG mitigation efforts to local and regional plans. (15064(h)(3); 15125(d); 151230(b)(1)(B); 15130(d); 15152(i). We agree with staff's assertion that a programmatic, regional approach is the most appropriate for analysis of GHGs. We would make the following two suggestions to staff:

1. We urge OPR to explicitly include "Sustainable Communities Strategy" wherever there is a list of plans from which some CEQA-related GHG benefit can be realized (see e.g., 15130(b)(1)(B) and 15152(i)); and
2. We recommend that only those plans and strategies that have themselves gone through environmental review and have an approved EIR be permitted to confer GHG-related CEQA benefits.

III. TRANSPORTATION CHECKLIST

We strongly support the changes to the Transportation/Traffic section (XVI) of CEQA checklist. For too long, questions regarding Level of Service and parking provision have dominated local planning decision-making and politics, increasing the cost and uncertainty of infill development and reducing the relative cost of building sprawl. These are welcome and wide-ranging improvements to the Guidelines that we feel will significantly benefit future land use in California. There are three specific comments we have for this section:

1. We strongly support the complete elimination of subsection f) related to parking, as put forward by staff, without change or amendment.
2. Consistent with staff's intent to remove review criteria that have little or no relationship to a project's environmental performance, we would further suggest the removal of subsection e (now d) related to emergency access. We believe emergency services provision and accommodation are treated sufficiently well in local building and fire codes and are best left to local agencies to address. The most common mitigation for so-called impacts identified under this section is street widening, which itself has negative environmental impacts and consumes land that could otherwise accommodate more productive development.

3. We strongly support the removal of the automobile Level of Service criteria. We would suggest an approach that looks at *per capita* or *per household* VMT to ensure that projects are not subject to further analysis and challenge based solely on their size, while also placing these per capita rates in a regional context. We would suggest removing a) and b) from the current Guidelines and replacing them with the following language:

- a) **Would the project exceed, or contribute toward an indirect exceedance of, the lowest of:**
- **14,000 VMT/year/household, or**
 - **70% of the average per household or per capita VMT for the local jurisdiction, or**
 - **Any applicable VMT reduction target adopted by a state or regional agency, county, municipality, or air district, or established by a mayor's or governor's executive order?**

Final language should endeavor to a) base VMT on per capita or household rates, not on a simple numerical threshold, b) minimize review for projects consistent with GHG-reducing programs and plans, and c) strengthen review for projects in those areas in which high transportation energy usage is expected.

IV. MITIGATION

The Draft proposes the following language in section (15126.4(c)). We suggest altering the language as follows (our changes to OPR's proposed language in red, bold, underlined text):

(c) Mitigation Measures Related to Greenhouse Gas Emissions

(1) Lead agencies should consider all feasible **on-site** means of mitigating greenhouse gas emissions including but not limited to emissions associated with the project's energy **and water** consumption, including fossil fuel consumption.

(2) Mitigation measures may include project features, project design, or other measures which are incorporated into the project to substantially reduce energy consumption or greenhouse gas emissions.

(3) Mitigation measures may include, where relevant, compliance with the requirements in a previously approved plan or mitigation program for the reduction or sequestration of greenhouse gas emissions, which plan or program provides specific requirements that will avoid or substantially lessen the potential impacts of the project.

(4) Mitigation measures may include project features and programs that reduce the vehicle trip generation and vehicle miles traveled generated by the project, including increases in density, improvements to transit, mixing of uses, parking fees and restrictions, prepaid transit pass programs, and other Transportation Demand Management programs.

(5) Mitigation measures may include performance standards described by the California Air Resources Board in its guidance on thresholds of significance.

(6) Mitigation measures for power plants may include measures that sequester carbon or carbon-equivalent emissions if they are approved and verified by the California Energy Commission.

(7) Where mitigation measures are proposed for reduction of greenhouse gas emissions through off-site measures or purchase of carbon offsets, these mitigation measures must be real, additional, verifiable, permanent, enforceable, and part of a reasonable plan of mitigation that the relevant agency commits itself to implementing.

As mentioned by many members of the public at the Sacramento workshop, we also would recommend that mitigation measures be as explicit as possible and given some priority or rank to guide local decision-making.

V. STATEMENT OF OVERRIDING CONSIDERATIONS

OPR's draft adds the following language to section 15093:

(d) 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 benefits.

We are concerned that the following language added to section 15093 could be interpreted as allowing statewide GHG benefits to trump local impacts from criteria pollutants. We urge OPR to remove this language.

VI. CONCLUSION

We thank you for this opportunity to comment, and look forward to seeing the next draft incorporating our suggestions above.

Sincerely,



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