

CEQA GHG Guidance
Mitigation Measures Subcommittee

DRAFT

March 4, 2009

The District has actively sought input from the ad hoc committee and the following document is still under development. The District is still receiving comments from the committee, which will be considered before finalizing this draft document.

Ad Hoc Committee Members

Bettina Arrigoni, Daniel Barber, John Beckman, David Campbell, Donna Carpenter, Dennis J. Champion, Tin Cheung, Dawn S. Chianese, Casey Creamer, Caroline Farrell, Jerry Frost, Wendy Garcia, Issac A. George, Spencer Hammond, Erin Burg Hupp, Sarah Jackson, Bob Keenan, Julia Lester, John Ludwick, Arnaud Marjollet, Michael B. McCormick, Mark Montelongo, James Mosher, Gordon Nipp, Elena Nuno, Tonya Short, Patia Siong, David Smith, Lee Smith, Dennis Tristao, Tom Umenhofer, Lisa Van De Water, and Nicole Vermilion.

See Appendix A

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Introduction

Per CEQA Guidelines, when project related impacts exceed a significance threshold the lead agency is required to impose all feasible mitigation measures. Environmental impacts from GHG emissions are global in nature and unlike environmental impacts from criteria pollutants may be mitigated through non-traditional measures. During the Greenhouse Gas (GHG) California Environmental Quality Act (CEQA) Guidance Technical Workgroup meeting an ad hoc committee was formed to provide guidance/recommendations regarding mitigation of project specific GHG emissions during the CEQA environmental review process. To facilitate discussion, the District asked subcommittee members to share their views for addressing the following questions:

Key discussion topics considered by the ad hoc committee include:

1. Should GHG mitigation be geographically limited to measures that occur within the District, within the State of California, or the United States?
2. How would a lead agency evaluate mitigation measures consisting of GHG emission reduction credits purchased from a firm selling carbon credits?
3. How would a lead agency evaluate mitigation measures consisting of GHG emission reduction activities achieved by their company outside the project area?
4. How would a lead agency determine that GHG emissions have been mitigated to less than significant if the significance threshold consists solely of a performance standard?
5. How would a lead agency determine that GHG emissions have been mitigated to less than significant if the significance threshold consists of both a performance standard and a numerical value?

Conference calls were held on February 20 and 25, 2009. The following summarizes the committee's progress.

- 1. Should GHG mitigation be geographically limited to measures that occur within the District, within the State of California, or the United States?*

The committee recognizes that mitigation measures which reduce GHG emissions can also have collateral benefits on local air quality, i.e. implementation of solar panels can reduce emissions of criteria pollutants, by reducing fossil fuel consumption. The committee suggests that lead agencies preferentially implement local GHG mitigation measures. However, global climatic change results from the cumulative impacts of project related GHG emissions and any reduction in GHG emissions would serve to mitigate project related global climatic change. The committee acknowledges the need for project proponents to have flexibility to seek the most cost effective measures for reducing project related GHG impacts. The committee does not support geographical limitations on GHG mitigation measures.

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2. *How would a lead agency evaluate mitigation measures consisting of GHG emission reduction credits purchased from a firm selling carbon credits?*

Carbon credits enable individuals and businesses to mitigate GHG emissions by offsetting, reducing or displacing the GHG emissions in another place, typically where it is more economical to do so. Carbon credits typically include renewable energy, energy efficiency and reforestation projects. Carbon credits can currently be purchased from several businesses, and more are likely to develop to match the demand for carbon credits. A key consideration of the use of carbon credits as mitigation is enforceability. Per CEQA Guidelines §15126.4(a)(2) mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instrument. The California Climate Action Registry and The Climate Registry have established lists of organizations to serve as verification bodies, providing GHG verification services. The American National Standards Institute (ANSI) is administering a GHG validation/verification body accreditation entity program under ISO 14065. The committee suggests that lead agencies limit use of carbon credits to credits which have been verified by an accredited organization, or to those accredited by the California Resources Board, or otherwise approved by the District.

3. *How would a lead agency evaluate mitigation measures consisting of GHG emission reduction activities achieved by their company outside the project area?*

The committee acknowledges that larger companies may have facilities outside the project area and can implement corporate-wide GHG reduction measures that could be used to offset project specific emissions. However, the committee acknowledges that it would not be feasible for a lead agency to verify emission reductions that occur outside their jurisdiction. The committee acknowledges that the responsibility for demonstrating adequacy of GHG emission reductions resides with the project proponent. The committee suggests that lead agencies limit mitigation to measures which have been verified by an accredited organization, or to those accredited by the California Resources Board, or otherwise approved by the District. The committee is optimistic that local verification will be more cost effective, thus, encouraging project proponents to initiate local GHG emission reductions.

4. *How would a lead agency determine that GHG emissions have been mitigated to less than significant if the significance threshold consists solely of a performance standard?*

The committee acknowledges that performance standards for development projects may not be as precise as performance standards established for stationary sources subject to air district permit requirements. For development projects, the committee suggests quantification of the emission reductions that would be achieved by a specific element within the performance standard and require mitigation that would achieve an equivalent reduction. For example, if the performance standard was to exceed Title 24 energy requirements by 30 percent and the project proponent exceeded Title 24 by 20 percent, they would be accountable for mitigating the amount of GHG emissions attributable to the 10 percent shortfall.

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For stationary source projects subject to performance standards established by the District, ARB, or other applicable government agency, the committee considered compliance with a performance standard mandatory. This concept is consistent with current permitting activities that would require compliance with Best Available Control Technology (BACT).

5. *How would a lead agency determine that GHG emissions have been mitigated to less than significant if the significance threshold consists of both a performance standard and a numerical value?*

Resolution of this question is dependent upon whether the project proponent has the option of complying with either standard, or whether the project proponent must comply with both standards. If the project proponent has the option of complying with either standard and does not meet either standard, then it is plausible that the lead agency has the discretionary authority to require mitigation to the standard of their choice. Determining if the project had been mitigated to less than significant would follow the approach discussed above for development and stationary source projects.

If the project proponent has to comply with both standards, then determining if the project had been mitigated to less than significant would require demonstration that mitigation was equivalent to both standards, using approaches discussed above.

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Appendix A

Ad hoc Subcommittee Members:

| Name | Affiliation |
|----------------------|---------------------------------------|
| Bettina Arrigoni | Global Energy Partners, LLC |
| Dan Barber | SJVAPCD |
| John Beckman | Building Industry Assoc. of the Delta |
| David Campbell | Tricor |
| Donna Carpenter | Sikand Engineering |
| Dennis Champion | Occidental of Elk Hills |
| Dawn S. Chianese | Environ |
| Tin Cheung | The Planning Center |
| Casey Creamer | California Cotton Ginners |
| Caroline Farrell | Center on Race, Poverty & Environment |
| Jerry Frost | Kern Oil |
| Wendy Garcia | Constellation Wines |
| Issac A. George | City of Arvin |
| Spencer Hammond | Chevron |
| Erin Burg Hupp | Attorney at Law-Meyers Nave |
| Sarah Jackson | Earth Justice |
| Bob Keenan | HBATK |
| Julia Lester | Environ |
| John Ludwick | Berry Petroleum Company |
| Arnaud Marjollet | SJVAPCD |
| Michael B. McCormick | PMC |
| Mark Montelongo | SJVAPCD |
| James P. Mosher | CO2 & Energy |
| Gordon Nipp | Kern-Kaweah Chapter of Sierra Club |
| Elena Nuno | Michael Brandman Assoc. |
| Tonya Short | HBA of Kern County |
| Patia Siong | SJVAPCD |
| David Smith | DMD Associates |
| Lee Smith | Attorney-Stoel Rives |
| Dennis Tristao | J.G. Boswell Company |
| Tom Umenhofer | Western States Petroleum Association |
| Lisa Van de Water | SJVAPCD |
| Nicole Vermilion | The Planning Center |

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