



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

**California Environmental Quality Act  
Guidelines Update**

**Public Review  
Comments & Responses**

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RESPONSE TO COMMENTS RECEIVED ON THE CEQA GUIDELINES UPDATE AND REVISED THRESHOLDS

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<b>Letter #</b>	<b>Date</b>	<b>Contact</b>	<b>Affiliation</b>
1	2/26/2009	Jessica Range	SF Planning
2	2/26/2009	Amy Cohen	BAEHC
3	2/26/2009	Noah Housh	City of Santa Rosa
4	2/26/2009	Rich Walter	ICF Jones & Stokes
5	3/6/2009	Jenny Bard	Breathe California
6	3/10/2009	Nora Monette	David J Powers
7	3/23/2009	Shari Libicki	Environ
8	3/24/2009	Darin Ranelletti	City of Oakland
9	4/27/2009	Rich Walter	ICF Jones & Stokes
10	5/14/2009	Rachel Hiatt	SFCTA
11	6/1/2009	Tom Rivard	SF Public Health
12	6/2/2009	Rajiv Bhatia	SF Public Health
13	6/23/2009	Gillian Adams	ABAG
14	6/26/2009	Michael Zischke	Cox Castle Nicholson
15	7/1/2009	Jennifer Schulte	Environ
16	9/8/2009		NRDC
17	9/9/2009	Karen Cohn	SFATF/BAEHC
18	9/9/2009	Michael Koinath	Environ
19	9/9/2009	Jennifer McDougall	UC Berkeley
20	9/23/2009	Jennifer Schulte	Environ
21	9/24/2009	David Clore	LSA
22	9/24/2009	Shabnam Barati	Impact Sciences
23	10/5/2009	John Rahaim	SF Planning
24	10/5/2009	James Reyff	Illingworth and Rodkin
25	10/6/2009	Richard Lyon/Paul Campos	CBIA & HBA
26	10/7/2009	Nora Monette	David J Powers
27	10/8/2009	Gary Darling	Delta Diablo Sanitation District
28	10/8/2009	Bill Wycko	SF Planning
29	10/9/2009	Joni Pattillo	City of Dublin
30	10/9/2009	Eric Angstadt	City of Oakland
31	10/9/2009	Jackie Kepke	CA Wastewater Climate Change Group
32	10/9/2009	Rajeev Bhatia	Dyett & Bhatia
33	10/11/2009	David Schonbrunn	Transdef

34	10/12/2009	Doug Kimsey	MTC
35	10/13/2009	Gillian Hayes	City of Santa Rosa
36	10/14/2009	Brian Mathews	Stopwaste
37	10/16/2009	Jennifer McDougall	UC Berkeley
38	10/19/2009	Shari Libicki	Environ
39	10/20/2009	Richard Lyon/Paul Campos	CBIA & HBA
40	10/22/2009	Annette Walton	Stanford Real Estate Office
41	10/23/2009	Wendel Brunner	Contra Costa Health Services
42	10/26/2009	Belinda Smith	
43	10/26/2009	Charles Bryant	City of Emeryville
44	10/26/2009	Bill Wycko	SF Planning
45	10/26/2009	Dan Marks	City of Berkeley
46	10/26/2009	Bill Quinn	CEEB
47	10/26/2009	Terrence Grindall	City of Newark
48	10/26/2009	Matthew Vespa	Center for Biological Diversity
49	10/26/2009	Christine Cordero	Ditching Dirty Diesel Collaborative
50	10/26/2009	Jared Bluemenfeld	SF Environment
51	10/26/2009	Jeff Schwob	City of Fremont
52	10/26/2009	Gordon Mar	Bay Area Environmental Health Coalition
53	10/26/2009	Patrick Roche	Contra Costa County Conservation Dept.
54	10/26/2009	Albert Lopez	Alameda County Community Development
55	10/26/2009	Kathleen Livermore	City of San Leandro
56	10/26/2009	Susan Frost	City of Livermore
57	10/26/2009	David Schonbrunn	Transdef
58	10/26/2009	Peter Ingram	City of Redwood City
59	10/26/2009	Jenny Bard	Breathe California
60	10/26/2009	Carmela Campbell	City of Union City
61	10/26/2009	Catherine Reheis Boyd	WSPA
62	10/26/2009	Gloria Thornton	SF Asthma Task Force
63	10/26/2009	Paul Jensen	City of San Rafael
64	10/26/2009	Ernest Pacheco	Citizens Against Pollution
65	10/28/2009	Joseph Horwedel	City of San Jose

Comment Letter #: 00  
Master Responses to Comments

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Response to Comments:

**MR-1 Desire to balance the potential for unintended consequences of proposed thresholds (e.g., administrative burden, discouraging infill) with scientific basis and disclosure of significant impacts under CEQA.**

Several commenters expressed a concern that BAAQMD's proposed thresholds would result in preparation of an Environmental Impact Report (EIR) or Mitigated Negative Declaration (MND) for many projects that would have otherwise been accompanied by an Initial study (IS) or exempt from environmental review. Specifically, commenters were concerned that the proposed screening levels for GHG emissions and TAC impacts would result in the need for a more rigorous level of environmental documentation than has been previously required of Lead Agencies.

These are indeed very important considerations, but above all, the determination to prepare an EIR is based on the potential for significant effects on the environment that cannot be addressed by a MND (CEQA Guidelines Section 15064). Air quality impact significance criteria, in the case of BAAQMD's proposed thresholds, are based on substantial evidence. Evidence includes epidemiologic data and scientific studies linking the impact on public health with air pollutant emissions concentration data, evaluated and analyzed with the BAAQMD's subject matter expertise. See Appendix D of the updated CEQA Guidelines, *Justification for Thresholds*, for detailed descriptions of substantial evidence and threshold development.

BAAQMD acknowledges that preparation of an EIR is typically more costly and takes months or, in some cases, years more to prepare than initial studies, negative declarations, or exemptions. However, the purpose of CEQA is to disclose significant impacts to the public, inform the public that the environment is being protected, inform public agencies on the environmental consequences of their discretionary actions, and hold public agency representatives accountable for their actions. BAAQMD's proposed air quality thresholds are based on substantial evidence. If there is a fair argument that a proposed project would exceed BAAQMD's proposed thresholds (once adopted), and impacts cannot be mitigated to below the thresholds, then an EIR would be required. Administrative convenience is not an appropriate basis for BAAQMD to adopt a less stringent threshold of significance, especially given that substantial evidence supports the connection between the proposed thresholds and a project's significant impact or cumulatively considerable contribution to a cumulative significant impact.

The proper place for Lead Agencies to balance the consequences of their discretionary approvals is in the Findings and Statement of Overriding Considerations. If the Lead Agency believes that a project's benefits outweigh the environmental concerns associated with implementing the project, then the Agency may still approve the project, and adopt a Statement of Overriding Considerations (CEQA Guidelines Sections 15092, 15096(h)). If BAAQMD were to adopt a threshold based on administrative convenience, rather than substantial evidence, the public may be deprived of the opportunity to be informed about environmental impacts on its community or on public health. If a proposed development project would expose its residents to unhealthy concentrations of air pollutants, then

that is pertinent information to which the public and decision makers need access. The proposed thresholds are the basis for determining whether receptors would be exposed to substantial pollutant concentrations as a result of a project. Similarly, if a proposed project would generate emissions greater than either of the proposed GHG thresholds (i.e., 1,100 MT CO<sub>2</sub>e/year and 4.6 MT CO<sub>2</sub>e/service population/year), the project would result in a cumulatively considerable contribution of GHG emissions to the cumulative impact of climate change, and would impair the state's ability to comply with AB 32 mandates.

**MR-2 The proposed GHG threshold would essentially eliminate the CEQA infill exemption.**

There are two exemptions for infill projects in the CEQA Guidelines. Section 15195 provides a specific exemption for Residential Infill Projects and Section 15332 provides a more general, categorical exemption for infill projects.

Projects that comply with all five criteria outlined in the Residential Infill Exemption, CEQA Guidelines Section 15195, would be exempt from CEQA notwithstanding the proposed GHG thresholds, so long as the project does not fall under any of the exceptions stated in Section 15195(b), including the requirement that there is no "reasonable possibility that the project will have a project-specific, significant effect on the environment due to unusual circumstances." The fact that a project may exceed one or both of the proposed quantitative GHG thresholds would not, on its own, signify that the project will have a project-specific, significant effect on the environment due to unusual circumstances. The proposed GHG thresholds represent the level at which the impacts of a project would be considered cumulatively considerable under CEQA. However, as explained in previous documents, no single project on its own could have GHG emissions so high that such emissions cause a significant impact on global climate change. Thus, in general, the application of the proposed GHG thresholds would have no impact on the applicability of the Residential Infill Exemption. Before applying the exemption, however, as always, the lead agency must consider whether the project would cause another impact which would create a "reasonable possibility that the project will have a project-specific, significant effect on the environment due to unusual circumstances."

In addition, many projects would still be considered for exemption under Section 15332 of the CEQA guidelines, In-Fill Development Projects. This categorical infill exemption is intended to exempt projects from procedural requirements that would not have a significant impact on the environment. According to BAAQMD's analysis of its proposed GHG thresholds, projects that would exceed the 4.6 MT CO<sub>2</sub>e/SP/year threshold or the 1,100 tons CO<sub>2</sub>e/year threshold would contribute substantially to the cumulative impact of climate change, and would therefore have a significant impact. Thus, it would be appropriate for projects that do not meet BAAQMD's thresholds to either change project attributes, design, etc., to meet the thresholds or disclose potential climate change impacts and mitigate those impacts as feasible, either through preparation of an MND or an EIR (or a focused EIR if climate change were the only impact for which there is a fair argument that the impact may be significant).

**MR-3 The proposed approach to GHG analysis in the Guidelines would not promote regional smart growth and does not minimize CEQA process requirements for certain projects that further the region's smart growth goals.**

Staff notes that the purpose of the CEQA thresholds is to identify what BAAQMD would consider a significant air quality impact under CEQA, not to promote regional smart growth or other policy objectives of BAAQMD. Staff has developed proposed GHG thresholds or levels of GHG emissions which, based on substantial evidence developed with BAAQMD's expertise, will have a significant impact under CEQA. Nevertheless, Staff believes that application of the proposed GHG thresholds will encourage regional smart growth and infill development because it will be more difficult for Greenfield development to meet the proposed thresholds.

For a cumulative impact to be significant, the project must result in a cumulatively considerable contribution to a significant impact. AB 32 is California's leading legislation which sets the state's near-term goals for reducing GHG emissions, in order to begin to solve the cumulative impact of global climate change. As explained in detail in the *Proposed Thresholds of Significance* Report, Staff has developed proposed GHG thresholds such that projects that comply with the thresholds will comply with AB 32 goals and therefore not be cumulatively considerable because they will be helping to solve the cumulative problem as addressed by AB 32.

Staff believes that its proposed qualitative threshold of compliance with a Qualified Climate Action Plan (or equivalent policies, ordinances and programs) will serve to encourage careful upfront planning for smart, GHG-efficient regional growth. Under the proposed threshold, for lead agency's that have adopted a Qualified Climate Action Plan (or equivalent policies, ordinances and programs), projects that are consistent with such plans will be afforded a presumption of insignificance. Thus, when a lead agency conducts programmatic planning for smart growth within its jurisdiction, consistent with the goals of AB 32, CEQA process requirements for individual projects consistent with such planning will be minimized based on Staff's proposed thresholds.

For lead agencies without Qualified Climate Action Plans (or equivalent policies, ordinances and programs), BAAQMD has proposed two quantitative GHG thresholds that would apply at the project-level: 1,100 MT CO<sub>2</sub>e/year and 4.6 MT CO<sub>2</sub>e/SP/year, which also encourage smart growth. Thus, if a proposed project would conflict with AB 32 goals by accommodating development in a GHG-inefficient way (i.e., would result in greater than 4.6 MT CO<sub>2</sub>e/SP/year) or the emissions are considered substantial (i.e., 1,100 MT CO<sub>2</sub>e/year), the project would result in a cumulatively considerable contribution to the cumulative impact of climate change, and the impact would be significant. If a project would generate less than 1,100 MT CO<sub>2</sub>e/year, it would result in less-than-cumulatively considerable GHG emissions, and this impact would be less than significant. If the project would generate more than 1,100 MT CO<sub>2</sub>e/year, but less than 4.6 MT CO<sub>2</sub>e/SP/year, the project's GHG emissions would comport with achieving AB 32 emission reduction goals, and the project's cumulative impact would be less than considerable and, therefore, less than significant. Thus, a large project can still be considered to have a less-than-significant impact on GHG emissions if it meets the 4.6 MT CO<sub>2</sub>e/SP/year threshold, which would only be possible if the project accommodates growth in a very GHG-efficient manner (i.e., the project is well-planned). Similarly, a comparatively small project that exceeds 1,100 MT CO<sub>2</sub>e/yr or 4.6 MT CO<sub>2</sub>e/SP/year can have a cumulatively considerable, and therefore, significant impact on GHG emissions. The cumulative effect of many projects that would generate individually limited GHG emissions is at the very heart of this cumulative impact issue.

The basis of the 4.6 MT CO<sub>2</sub>e/SP/year GHG threshold is closely aligned with the very aggressive emission reduction goals of AB 32. See Appendix D of the *Draft Air Quality Guidelines* for threshold justification and development. Vehicle miles traveled is one of the best indicators of a land use development project's GHG emissions. Thus, if a project increases density, mix of land uses, jobs/housing balance, transit proximity and orientation, connectivity, these are the ways by which the project would promote mode shift away from vehicle travel, and reduce the project's GHG emissions. Implementing energy efficiency measures and water conservation measures would also act to reduce the project's GHG emissions. Increasing density and jobs/housing balance increases the project's service population (denominator in BAAQMD's proposed GHG threshold), which would bring the project closer to meeting the 4.6 MT CO<sub>2</sub>e/SP/year threshold. Thus, the proposed GHG thresholds very much promote "smart-growth" in the region.

The approach to application of BAAQMD's proposed thresholds would treat projects equally, prima facie, but project attributes that would reduce GHG emissions would be revealed in the analysis. The approach is location-sensitive because proximity to transit, employment, and amenities would act to reduce vehicle trips and VMT, which would be reflected in the project's estimated GHG emissions.

The proposed GHG efficiency-based service population threshold treats all projects equally, is based on substantial evidence, and sheds light on a project's consistency with the state's AB 32 GHG reduction goals as considerations for significance determination.

Specifically, commenters were concerned that BAAQMD's proposed approach does not minimize CEQA process requirements for certain projects that further the region's smart growth goals. CEQA requires substantial evidence in support of significance thresholds and BAAQMD's thresholds are closely tied to AB 32 GHG reduction goals (substantial evidence), which relates the thresholds themselves to promotion of smart growth principles. Thus, projects that truly incorporate the appropriate level of smart growth principles and design features would not exceed the quantitative thresholds and thereby be eligible for streamlined CEQA process requirements.

**MR-4 A quantitative GHG threshold will promote piecemealing of projects.**

Commenters shared concerns that BAAQMD's proposed "bright line" threshold of 1,100 MT CO<sub>2</sub>e/year will promote piecemealing (i.e., segmentation) of projects in order to be perceived as resulting in GHG emissions below the threshold and avoiding the subsequent requirement to implement feasible mitigation. This concern is valid, and is a common issue in other resource areas. CEQA Guidelines 15378 broadly defines "Project" as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment..."

As explained in *Citizens Ass'n for Sensible Dev. of Bishop Area v. County of Inyo* (1985) 172 Cal. App. 3d 151, CEQA mandates "... that environmental considerations do not become submerged by chopping a large project into many little ones--each with a minimal potential impact on the environment--which cumulatively may have disastrous consequences." *Citizens Ass'n for Sensible Dev. of Bishop Area v. County of Inyo* (1985) 172 Cal. App. 3d 151, 165 citing *Bozung v. Local Agency Formation Comm'n*,

(1975) 13 Cal. 3d 263, 283-284; *Rural Land Owners Ass'n. v. Lodi City Council* (1983) 143 Cal. App. 3d 1013, 1024.

Thus, it would be at the peril of an applicant or lead agency to approach development in a piecemeal fashion in order to evade the bright line threshold, as piecemeal review will not withstand legal scrutiny and lead agencies will risk having their CEQA analyses overturned.

Furthermore, under Staff's proposal, lead agencies will also have the option of applying the proposed GHG efficiency-based threshold. Lead agencies may find that GHG efficient well-integrated and well-planned projects can meet 4.6 MT CO<sub>2</sub>e/SP/year threshold and thus have the presumption of insignificance, even where those projects would have GHG emissions greater than the bright line threshold.

**MR-5 Proposed GHG thresholds will interfere with SB 375 implementation.**

Development of regional emission reduction targets, due in 2010, and Sustainable Community Strategies (SCS) pursuant to SB 375, due in 2013, are still years away. BAAQMD's proposed GHG thresholds are intended to serve as interim thresholds, and will be revisited by BAAQMD, as appropriate. Qualifying projects would still enjoy CEQA streamlining benefits offered by SB 375, and BAAQMD's proposed thresholds would not supersede or interfere with SB 375 implementation in any way. It is anticipated that the same type of low carbon development needed to meet the regional GH targets are the same as those meeting the proposed thresholds. Finally, SB 375 does not preempt land use authority reserved for local governments.

**MR-6 Limitations of modeling tools.**

Many commenters were concerned with the applicability of modeling tools currently available to perform emissions estimates. Particular concerns included the applicability of URBEMIS to the BAAQMD's jurisdiction. However, no commenters offered suggestions for alternative methods or emissions modeling tools. Advantages of URBEMIS are that it is a widely-used program by CEQA practitioners, and offers consistency in emission factors and standardized calculation methods. BAAQMD acknowledges the limitations of URBEMIS, but in the absence of another publicly available air quality modeling program, recommends use of URBEMIS for evaluation of air quality impacts. BAAQMD's proposed analytical methodology includes steps to attempt to make URBEMIS more project-specific, wherever possible, such as overriding default model assumptions to reflect project design features and location attributes.

It is possible that new emissions modeling tools will become available in the years ahead that will be more sensitive to project attributes, but until that time, the limitations of modeling tools do not excuse the Lead Agency from making a meaningful attempt at evaluating an impact. BAAQMD has offered guidance for doing so in its *CEQA Draft Air Quality Guidelines*. If a Lead Agency has access to a model or method that it believes is more appropriate for evaluation of air quality impacts, the Lead Agency should explain the reasoning within the CEQA document that supports deviation from BAAQMD's guidance. Lead Agencies are also encouraged to consult with BAAQMD on use of alternative approaches to emissions modeling.

**MR-7 More detailed guidance is requested on a variety of topics.**

Many commenters sought additional detailed guidance, additional screening tables, and prescriptive text on a variety of topics. Several of these requests were addressed in the current version of the *CEQA Draft Air Quality Guidelines*. However, the proposed Guidelines are intended to serve as general guidance and cannot prescribe a methodological approach for every type of project or situation. Basic methodology for common project types and situations is provided. Additional technical resources will be provided and updated on the District website. The Lead Agency still must use its judgment in applying the guidelines to a given situation. BAAQMD strongly encourages Lead Agencies to consult with the District whenever necessary. If an Agency is unsure of how to apply the guidance to a particular situation, the Agency should seek input from District staff.

**MR-8 Inadequate public process and outreach for the CEQA Guidelines Update.**

The Air District has provided, and invited, a number of opportunities for stakeholder input and public participation during the development process of the CEQA Guidelines update.

Air District Staff hosted the first workshop on the CEQA Guidelines update on February 26, 2009. At that time, Staff introduced the CEQA Guidelines update process, which thresholds are anticipated to be revised and developed, and invited public input on potential concepts for thresholds.

In April 2009, Staff hosted a series of three workshops (on 4/27, 4/29, and 4/30) throughout the Bay Area to present threshold options for criteria pollutants, toxics, odors, and greenhouse gas emissions. Prior to the workshops, staff published a preliminary workshop draft thresholds of significance options report for public comment. The options in the report were identified by stakeholders at the first CEQA workshop and by Air District staff and our consultants.

On September 4, Staff published a *CEQA Draft Air Quality Guidelines* for public comment. The comment due date was scheduled for September 25 and then extended to October 9 and subsequently to October 26, 2009.

The next round of workshops, four all together, were held in September/October 2009 (on 9/8, 9/9, 9/10, and 10/2). At the workshops, Staff presented the recommended thresholds of significance included in the *CEQA Draft Air Quality Guidelines* and solicited public input.

Staff reviewed the proposed thresholds with the CARE Task Force on September 23, 2009. Staff also held meetings and made presentations during this process with business organizations, local government staff, and other stakeholder groups to receive input on District proposals.

On October 8, the Air District released a *Revised Draft CEQA Thresholds Options and Justification Report* for public comment. The report contained revised thresholds based on stakeholder input received at the September/October workshops. The report provided substantial evidence and justification for the District-recommended thresholds. Comments on the Thresholds Report were due on October 26, 2009.

Staff reported to the Board of Directors on the status of the CEQA Guidelines updated at the Executive Committee meetings on March 16, June 29, and September 24, 2009; at the September 10, 2009

Climate Protection Committee meeting; and is schedule to do so at the November 16, 2009 Stationary Source Committee meeting.

On November 2, Staff published the *Proposed CEQA Thresholds of Significance* report, which contains Staff's revised recommended thresholds, based on stakeholder comments and further BAAQMD Staff review and analysis, and the substantial evidence supporting those thresholds. The Air District will initiate a public hearing to consider testimony for the staff-recommended thresholds detailed in the report. The public hearing will start on Wednesday, November 18, 2009 and will be continued on Wednesday, December 2, 2009, at which time the Board of Directors will consider adoption of the proposed thresholds. Written comments on the staff-recommended thresholds are due November 23.

#1



# CEQA Guidelines Update Comment Card

## We need your input!

The Bay Area Air Quality Management District is updating its CEQA Guidelines and is seeking your input. The CEQA Guidelines Update will review, revise, and develop significance thresholds, assessment methodologies, and mitigation strategies for criteria pollutants, air toxics, odors, and greenhouse gas emissions.

## CONTACT INFORMATION (Optional):

Name: Jessica Range  
Affiliation: SF Planning  
Email: Jessica.range@sfplanning.org

① Will the white paper put forth thresholds + an analysis —  
(drawbacks + benefits) of each threshold?

② How closely are you working w/ CARB on their GHG thresholds?  
How are you going to make sure they are in sync?

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#1



Comment Letter #: 1

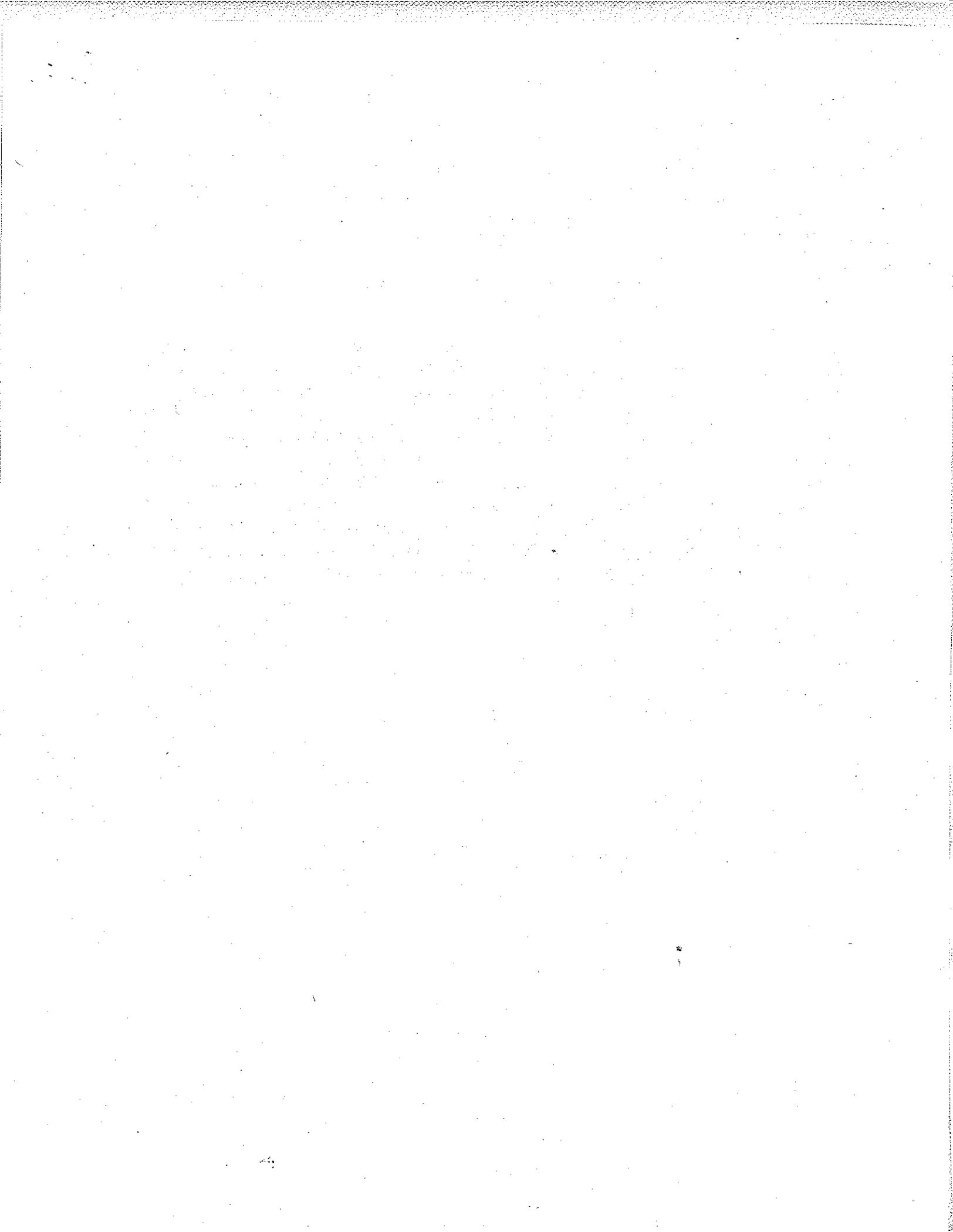
Date: February 26, 2009

From: Jessica Range, City of San Francisco Planning Department

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Response to Comments:

- 1-1 Yes, the Draft CEQA Thresholds Options Report, published in April 2009, evaluates the different threshold options being considered for each threshold.
  
- 1-2 Early on the Air District worked closely with the California Air Resources Board (CARB) staff to develop a statewide GHG threshold. However, it is our understanding that CARB's work on developing a statewide GHG threshold has been suspended indefinitely. Given the increasing urgency to address the impacts of climate change in a substantive and consistent approach, repeated calls for assistance from local agencies on how to address climate change in CEQA analyses and the absence of direction from state agencies, the Air District feels it is appropriate and necessary to move forward with an interim CEQA threshold for GHG emissions. As stated in the *Proposed Thresholds of Significance* report (November 2, 2009), the proposed GHG thresholds are interim thresholds and will be revisited as AB32 Scoping Plan measures and SB 375 are implemented or when CARB develops a statewide GHG threshold. The Air District's proposed GHG thresholds are based on AB 32 GHG emission reduction goals and take into consideration emission reduction strategies outline in ARB's Scoping Plan.



2/26/09



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### CONTACT INFORMATION (Optional):

Name: Amy Cohen  
Affiliation: BAEHC  
Email: acohen@go.ego.edu

- preliminary comments: D. more protective stas. in high impact areas are <sup>inc. for increase</sup> ~~needed~~ <sup>needed</sup>
- incremental approach fails to fully eval. potential health & env't impacts. a real cumulative approach that considers ~~the~~ <sup>pre-existing</sup> concentrations & existing burdens on impacted populations is critical.
- compliance w/ the thresholds signif. does not automatically mean the proposed project would not have significant impacts. must allow for "fair argument" & potentially signif. impacts.
- need signif. criteria for TALS criteria (esp PM2.5) <sup>as this is a health and welfare concern</sup>



Comment Letter #: 2

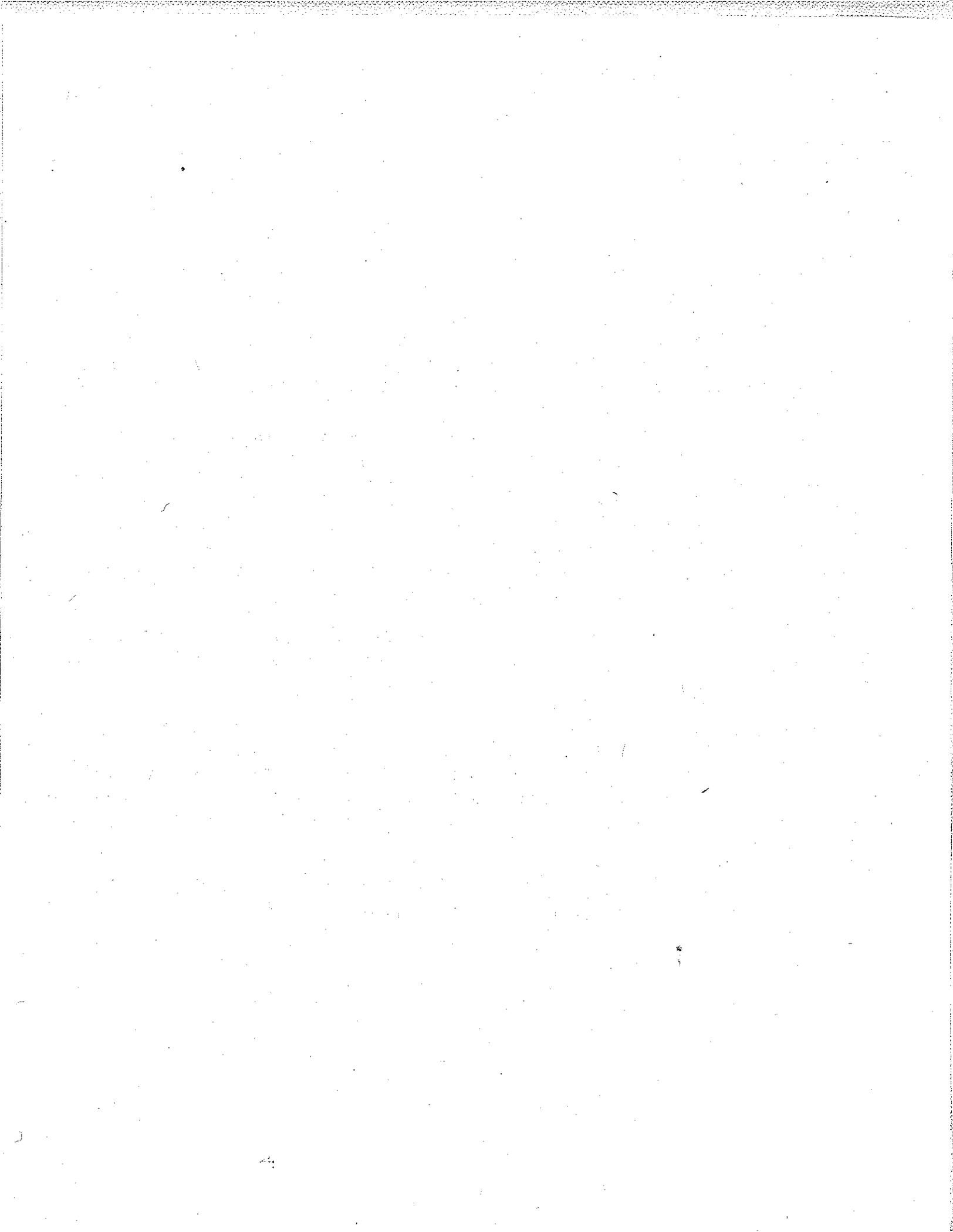
Date: February 26, 2009

From: Amy Cohen, Bay Area Environmental Health Coalition

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Response to Comments:

- 2-1 The Proposed Thresholds of Significance report (November 2, 2009), recommends a single community risk and hazards threshold for all areas in the Bay Area, including impacted communities. Staff agrees with several commenters that the problem of certain areas being disproportionately adversely impacted should be addressed as a cumulative impacts problem. Staff has revised the proposed thresholds to do so. Under staff's current proposal, areas that are disproportionately burdened with TAC emissions sources in the local vicinity will benefit from a cumulative analysis threshold that will require projects to evaluate the cumulative impact of all such sources within a 1,000 foot radius of the proposed project. This revised approach will provide a tool for lead agencies to carefully consider whether to site new sources or receptors in disproportionately burdened areas, without establishing different health risk standards for different segments of the population. In addition, the Air District believes that withdrawing the earlier, more stringent threshold, is also appropriate in light of using OEHHA's more conservative risk factors (substantially increasing estimated risk levels) and the addition of community risk reduction plans. Risk reduction plans provide a programmatic approach to a localized problem, address existing sources of risks and hazards, and require design standards of new development not always available through the CEQA process.
- 2-2 The *Proposed Thresholds of Significance* report contains individual project and cumulative thresholds for community risk and hazard. The cumulative approach considers all existing and planned emission sources within a 1,000 foot radius from the fence-line of a source or receptor.
- 2-3 The CEQA Guidelines are meant to assist lead agencies in evaluating a proposed project or plan's air quality impacts. The CEQA Guidelines do not fit or capture all situations; it is a lead agencies responsibility to judge whether the CEQA Guideline thresholds may or may not apply to a proposed project or plan. Compliance with an adopted threshold does not necessarily mean a project has a less than significant impact; the "fair argument" standard under CEQA prevails. See also Master Responses MR-3 and MR-7.
- 2-4 The *Proposed Thresholds of Significance* report contains significance criteria for criteria pollutants, ozone precursors, greenhouse gas, air toxic emissions, and odors.



# CEQA Guidelines Update Comment Card

## We need your input!

The Bay Area Air Quality Management District is updating its CEQA Guidelines and is seeking your input. The CEQA Guidelines Update will review, revise, and develop significance thresholds, assessment methodologies, and mitigation strategies for criteria pollutants, air toxics, odors, and greenhouse gas emissions.

### CONTACT INFORMATION (Optional):

Name: Noah Housh  
Affiliation: City of Santa Rosa  
Email: nhoush@srcity.org

- Please provide quantitative thresholds (bidding scale seems appropriate)
- Need community or regional specific thresholds for real improvements in those areas
- Should include project, cumulative, & existing impacts for thresholds  
ie. proximity to transit use of local materials
- Identify specific mitigations or methodologies to mitigate impacts
- Provide direction on methodologies for measuring project/cumulative levels of GHG impacts We currently use the Urbem's software but have no direction on its effectiveness or standardization
- Separate out temp impacts (construction) vs. permanent (vehicle trips/miles per day)



Comment Letter #: 3

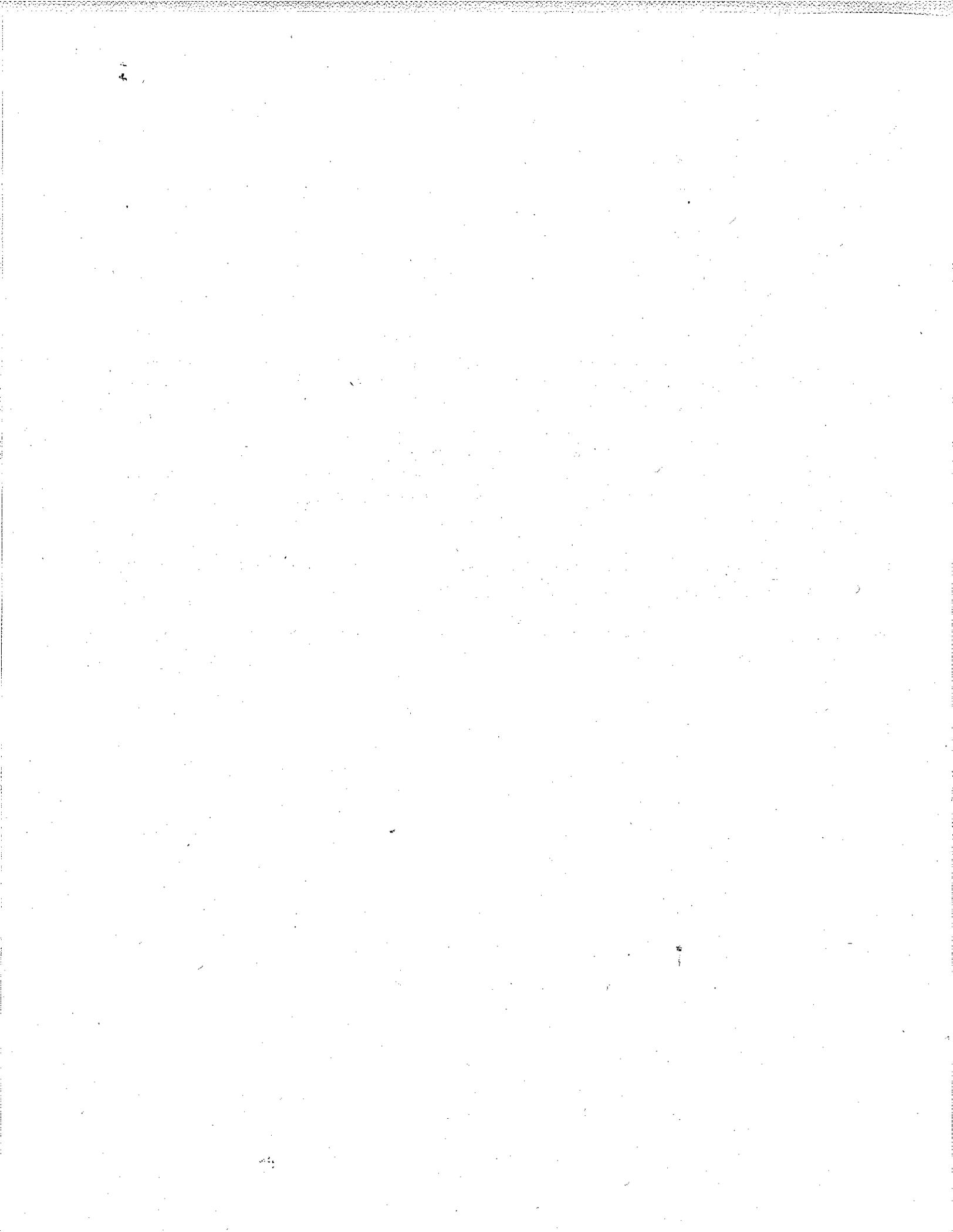
Date: February 26, 2009

From: Noah Housh, City of Santa Rosa

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Response to Comments:

- 3-1 The *Proposed Thresholds of Significance* report (November 2, 2009) provides quantitative significance criteria for criteria pollutants, particulate matter from fugitive dust, greenhouse gas, air toxic emissions and odor impacts.
- 3-2 The *Proposed Thresholds of Significance* report contains individual project and cumulative thresholds for community risk and hazard. The cumulative approach considers all existing emission sources within a 1,000 foot radius from the fence-line of a source or receptor.
- 3-3 The updated CEQA Guidelines (most recent draft published in September 2009) contains methodologies and mitigation measures to mitigate impacts from construction and operational activities in projects and plans for criteria pollutants, ozone precursors, greenhouse gas, and air toxic emissions, local carbon monoxide, and odor impacts.
- 3-4 The updated CEQA Guidelines provides direction on methodologies for evaluating greenhouse gas emissions, including direct and indirect GHG emissions.
- 3-5 The *Proposed Thresholds of Significance* report provides thresholds for construction and operation related emissions separately.



# CEQA Guidelines Update Comment Card

2/26/09

#4

H1, GRES!

## We need your input!

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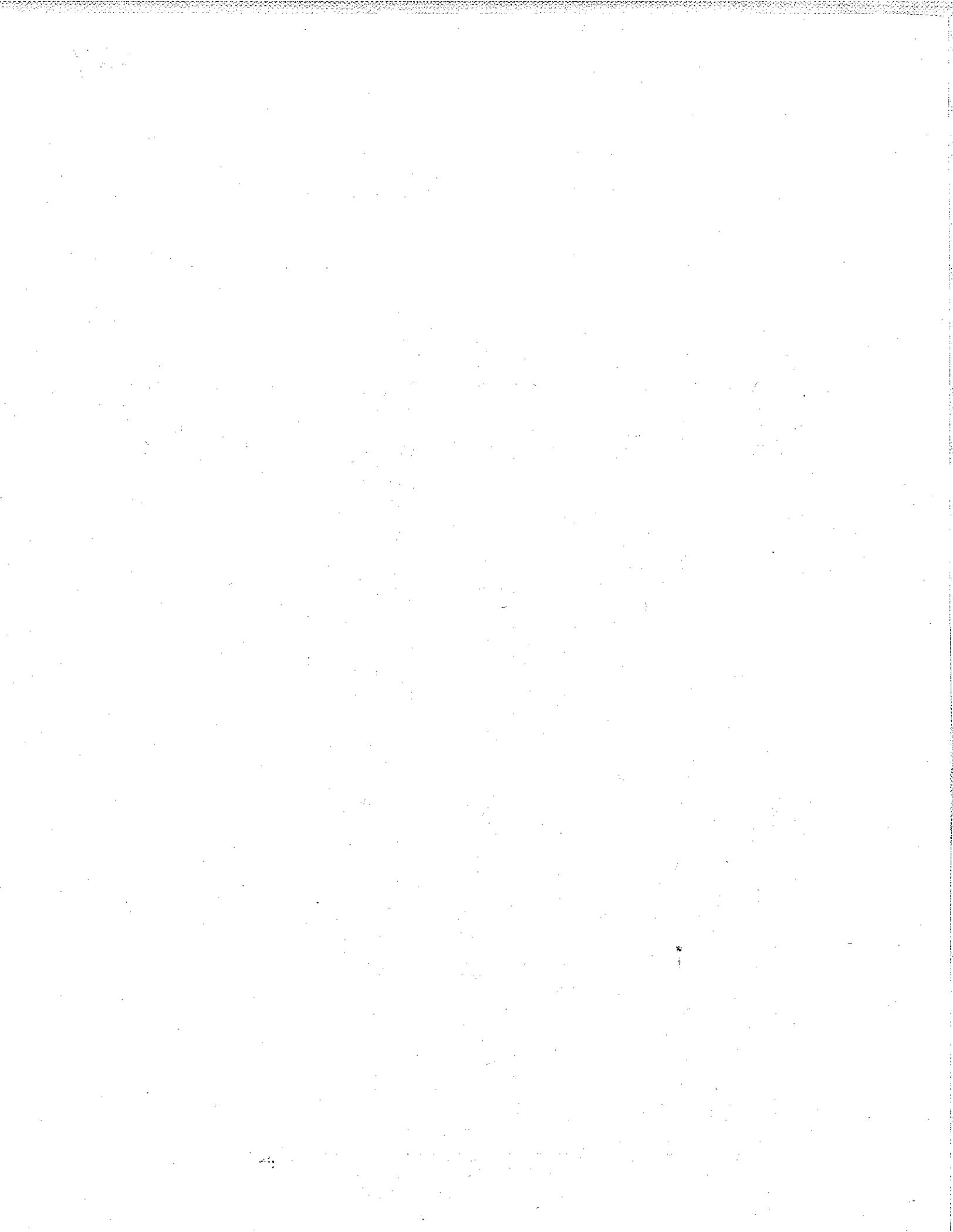
## CONTACT INFORMATION (Optional):

Name: RICH WALTER  
Affiliation: ICF JONES & STOKES  
Email: rwalter@jstokes.com

① DPM: Make sure and evaluate both project-level and cumulative thresholds for cancer risk (e.g. if 10 in a million and project is under - what is the cumulative impact?)

② DPM: Please provide guidance on screening analysis and dispersion analysis. Suggest tiering of effort for efficiency.

③ GHG: Think careful about VMT. Consider leaving VMT GHG to EIRIS Planning Dept



Comment Letter #: 4

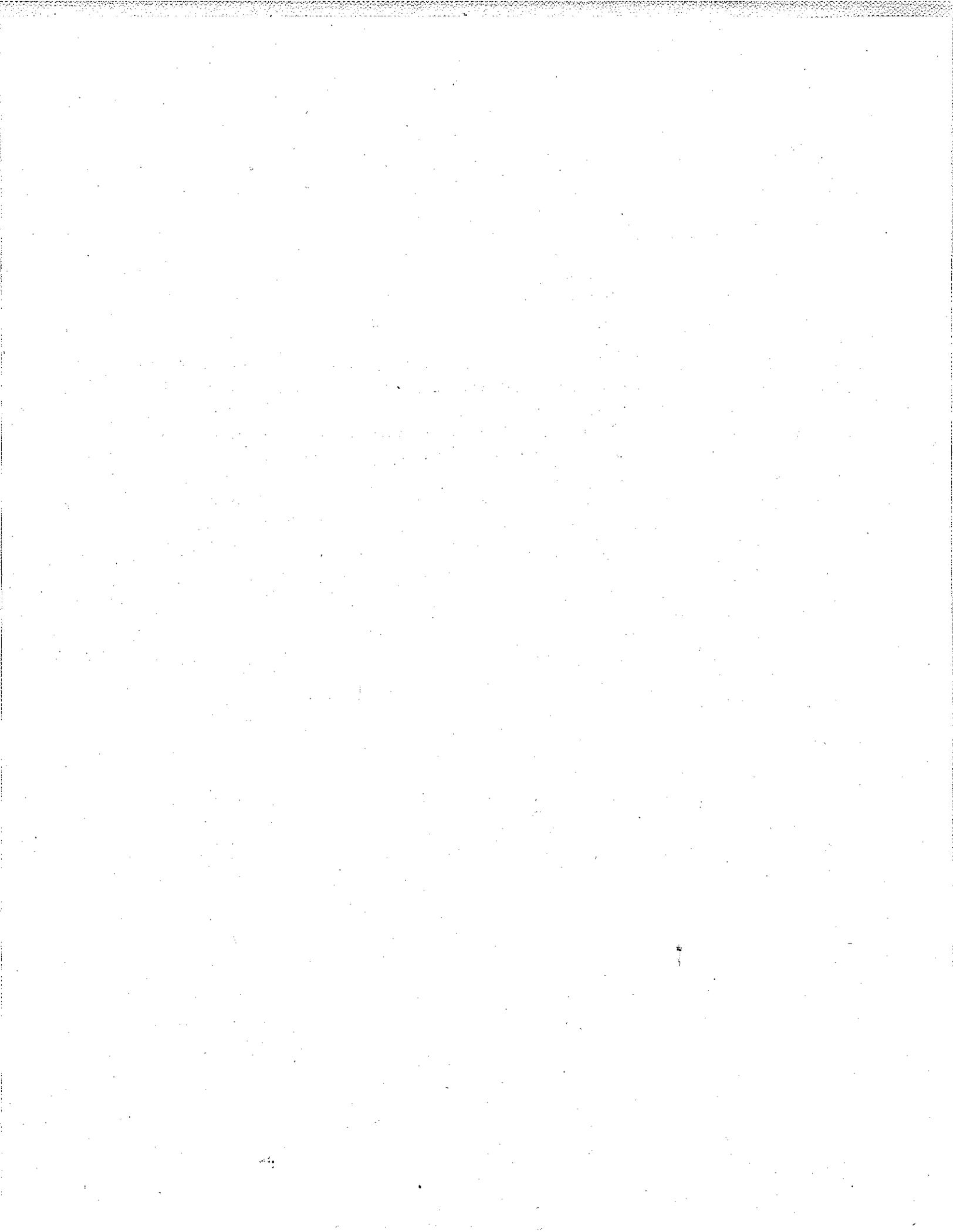
Date: February 26, 2009

From: Rich Walter, ICF Jones and Stokes

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Response to Comments:

- 4-1 The *Proposed Thresholds of Significance* report (November 2, 2009), contains individual project and cumulative thresholds for community risk and hazard including specific threshold for PM<sub>2.5</sub>, and cancer and non-cancer risk.
- 4-2 The Air District intends to provide tables with screening analysis and risk modeling from toxic air emission sources in the Bay Area to assist lead agencies in evaluating community risk and hazard.
- 4-2.1 As stated in the *Proposed Thresholds of Significance* report (November 2, 2009), the proposed GHG thresholds are interim thresholds and could be revisited when SB 375 required plans have been fully adopted.



#5

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**From:** Jenny Bard [mailto:JBard@alac.org]  
**Sent:** Friday, March 06, 2009 5:07 PM  
**To:** Nadine Wilmot  
**Subject:** RE: Clean Air Plan comments

Hi Nadine,

Attached are the summary recommendations that the public health subgroup came up with that we will be discussing as full Advisory Board on Wednesday. We included as #10 that "appropriate" recommendations be included in public hearing process for the CEQA guidelines update and Clean Air Plan. Let me know if these recommendations attached can be incorporated or if I need to submit something separately.

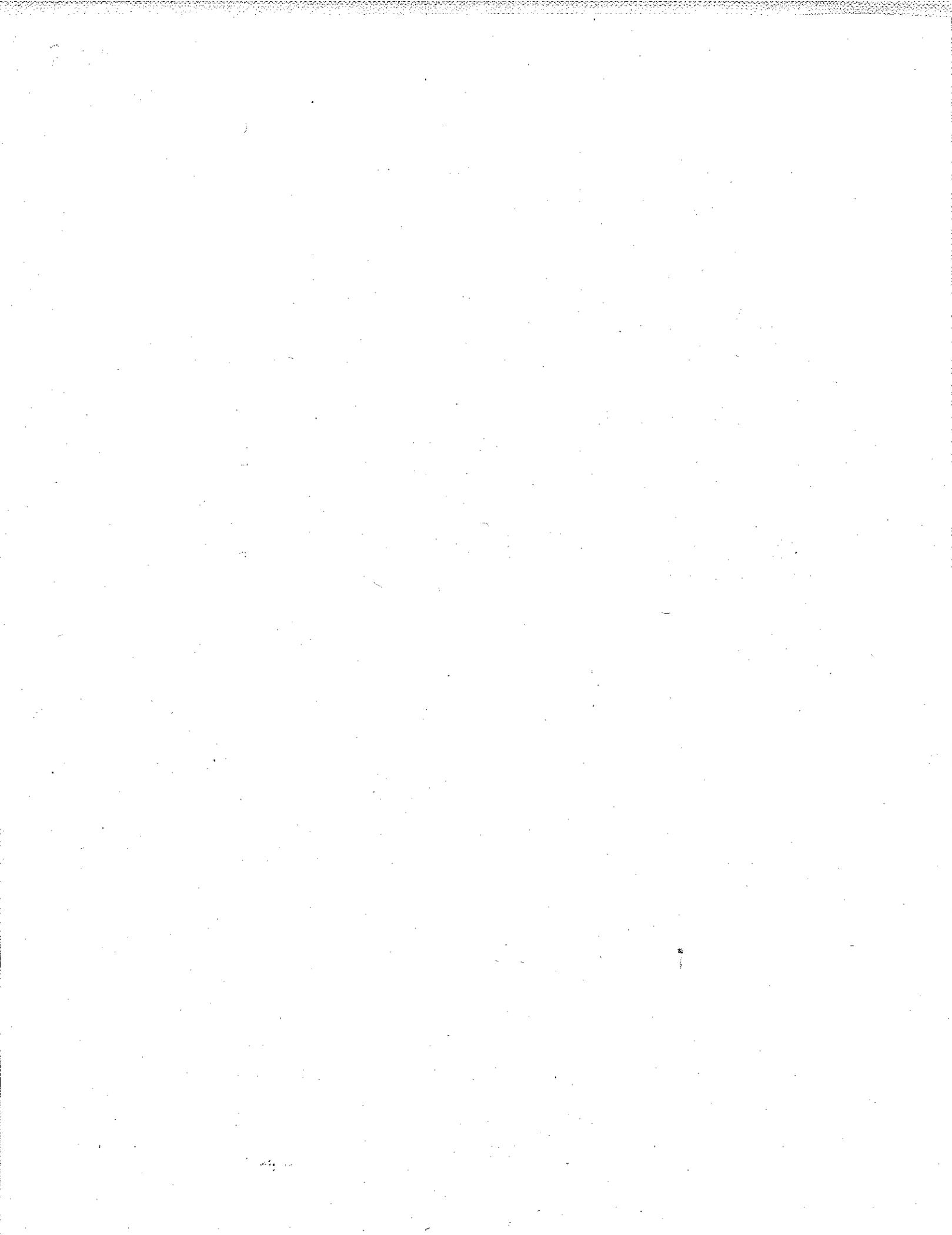
I would also like to include health impact assessments as they relate to cumulative impacts analysis, as one of the specific recommendations from the health officer presentations.

Thank you!

Jenny

Jenny Bard  
Regional Air Quality Director  
American Lung Association of California  
*Fighting for Air*

115 Talbot Avenue  
Santa Rosa, CA 95404  
707-527-5864  
707-542-6111 fax  
[www.californialung.org](http://www.californialung.org)



DRAFT REPORT ON THE FEBRUARY 11, 2009 ADVISORY COUNCIL MEETING  
ON AIR QUALITY AND PUBLIC HEALTH FOR DISCUSSION BY THE  
ADVISORY COUNCIL

SUMMARY

The following presentations were made at the February 11, 2009 The Advisory Council Meeting on Air Quality and Public Health:

1. *Community Air Risk Evaluation Program (CARE) Overview* by Phil Martien, PhD, CARE Program Manager, Bay Area Air Quality Management District.
2. *Public Health, Air Quality, & Equity* by Dr. Anthony Iton. Anthony Iton, M.D., J.D., MPH is the Alameda County Health Officer. Dr. Iton received his training at Johns Hopkins Medical School, Cornell/New York Hospital, Yale, and UC Berkeley and is board certified in internal medicine and preventive medicine. Dr. Iton also has a law degree and a Master's of Public Health from UC Berkeley and is a member of the California Bar. He has worked as an HIV disability rights attorney, a health care policy analyst with Consumers Union West Coast Regional Office, and as a physician and advocate for the homeless at the San Francisco Public Health Department. Dr. Iton primary interest is the health of disadvantaged populations and the contributions of race, class, wealth, education, geography, and employment to health status. He has asserted that the biggest single contributor to our country's vulnerability to bioterrorism is the lack of a universal system of health insurance for all Americans. Dr. Iton collaborated with California Newsreel in the creation of *Unnatural Causes ... Is Inequality Making Us Sick?* This is currently being shown on public television stations across the country.
3. *Health Disparities in Contra Costa* by Dr. Wendel Brunner. Dr. Wendel Brunner is the Director of Public Health for the Contra Costa County Health Services Department. Contra Costa has a population of over one million people with 18 cities in the San Francisco Bay Area. The Health Department has been working the City of Richmond to develop and implement a Health Element for the Richmond General Plan. Since he became public health director nearly 20 years ago, Dr. Brunner has stood boldly behind movements such as environmental justice, an effort to force government and industry to counter years of neglect suffered by poor minority neighborhoods. In 1984, with Brunner as director, the county became the first in the nation to adopt a strict anti-smoking ordinance. In 2000, the county adopted a "zero tolerance" policy toward domestic violence.
4. *Air Pollution Hot Spots: Unregulated Health and Environmental Justice Issues in the United States* by Dr. Rajiv Bahtia. Dr. Bhatia received his Medical

Doctorate from Stanford and a Masters in Public Health from UC Berkeley. He has practiced medicine since 1989. Since 1998, he has served as the Director of Occupational and Environmental Health for the City and County of San Francisco's Department of Public Health. Bhatia is also an Assistant Clinical Professor of Medicine at the University of California at San Francisco and teaches a course in the Health Impact Assessment of Public Policy at UC Berkeley.

5. *Air Quality and Public Health Santa Clara County* by Dr. Martin Fenstershieb. Dr. Marty Fenstersheib has been the Health Officer for Santa Clara County since 1994. He has been active at the local, state and national levels in the area of disaster preparedness since 1997. Dr. Fenstersheib has made various presentations about Pandemic Influenza to various community groups and organizations. Dr. Fenstersheib is the VP of the Santa Clara County Medical Association and the past President of the California Conference of Local Health Officials.

The speakers discussed health disparities related to air quality and potential mitigation measures in Alameda, Contra Costa, Santa Clara and San Francisco counties.

#### DISCUSSION MEETING

.....

KEY POINTS – for discussion by Advisory Council

1. Ill health is concentrated in low-income communities of color. Health and Social inequities are positively correlated with exposure to sources of air pollution, such as freeways and industrial sources.
2. Communities need to be armed with information and tools to protect Public Health. Air Quality data is not presented in a form that is easily accessible or usable to either Public Health or the General Public. This concern applies both to the content of the data (e.g., quantitative data, geographies represented) and the language (reading level) of the data presented.
3. More detailed and localized data are needed to assist public health departments in assessing health impacts from air pollution sources. Data drives policy.
4. PM 2.5 has greater health impacts than ozone and toxic air contaminants (TACs), 10 times more than ozone and 20 times more than TACs in California. Federal and State programs geared towards criteria pollutants address regional targets and do not identify hotspots. This represents an important gap in monitoring.
5. Integration of Public Health into land use decision-making is critical, but the financial constraints of Public Health Departments necessitate BAAQMD cooperation and guidance in this process.
6. The Environmental Impact Report (EIR) process is one of the means that the air district has to require mitigation of health impacts from land use planning. Don't limit what BAAQMD does, or what data it makes available, to what is within the regulatory jurisdiction. BAAQMD can foster greater improvement in Public Health, and in community relations, by expanding its leadership role beyond what it is legally required to do. If we have strong regional targets to reduce greenhouse gases (GHG), we get the co-benefits of reduction in all pollution.
7. BAAQMD must be more proactive in regulating mobile sources of pollution within the legal constraints. Indirect Source Review is important for this reason.
8. BAAQMD should recognize roadways as a source to be measured—much of the data made the connection between roadways and health outcomes in the bordering communities. Areas within 500 feet of roadways are generally the most impacted and there are reliable models of air dispersion to predict pollution accumulation.
9. BAAQMD is a fellow health agency whose charge is to improve air quality to protect public health. There was a theme of collaboration—Public Health has a strong relationship with the community and can facilitate linkages between BAAQMD and community groups.
10. One of the ways to create change is to shift the status quo imbalance of power (industry and policymakers vs. community). This imbalance is the root cause of health inequity. BAAQMD can play an important role in helping communities advocate for themselves.

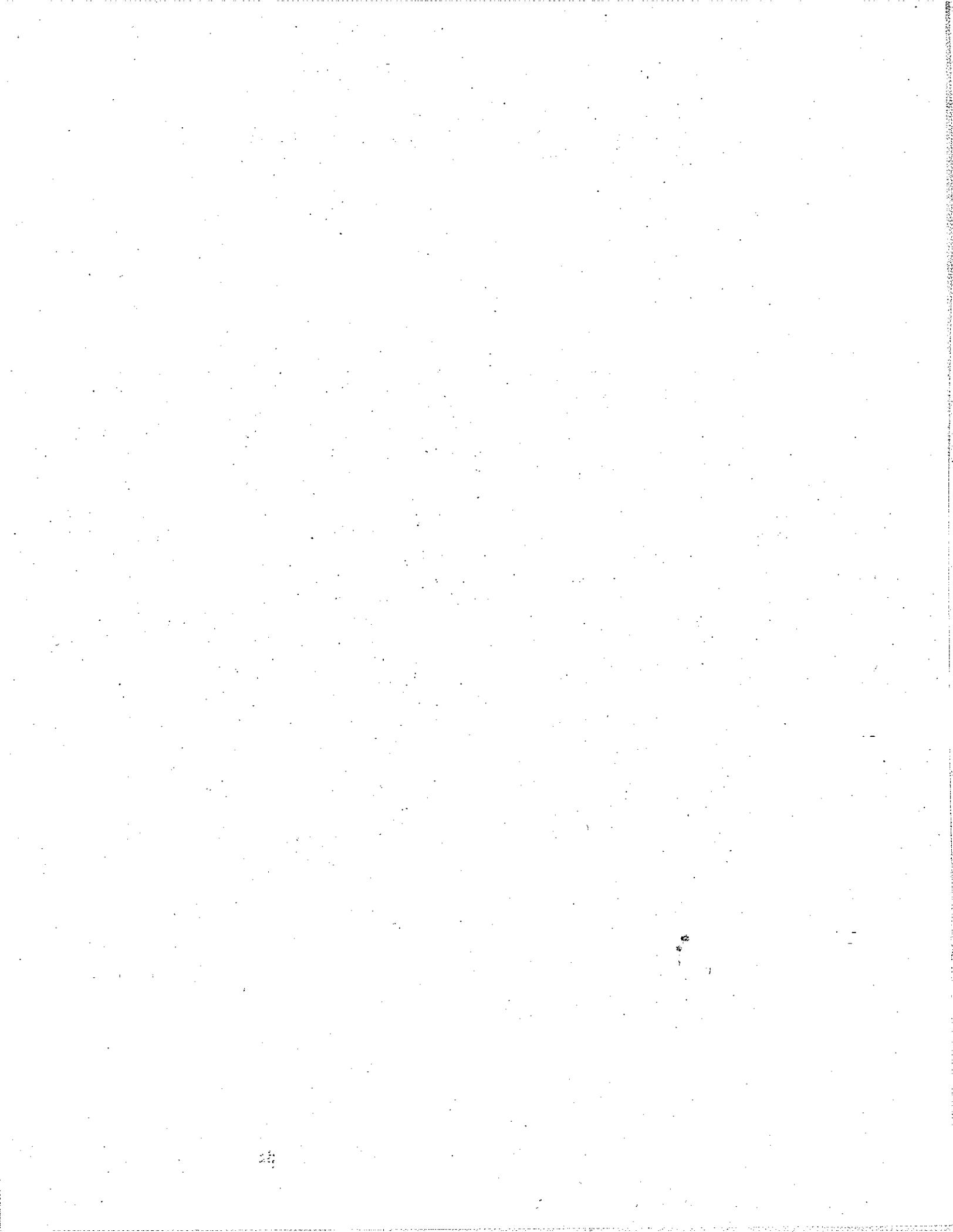
EMERGING ISSUES – for discussion by Advisory Council

1. Health Disparities and the relationship to *Cumulative Impacts*.
2. Noise pollution has negative health impacts, and is often present in the same locations as other pollutants.
3. Roadways are currently unregulated sources, falling outside the focus of both BAAQMD and CARB.
4. The use of Health Impacts Assessments is a promising part of the Environmental Review process.
5. The study of the health impacts of fine PM is a growing field in environmental health research.

RECOMMENDATIONS – for discussion by Advisory Council

1. Incorporate Fine PM into the CARE Program and require “hot spot” analysis of regional projects. Also, incorporate this hot spot analysis into updated CEQA guidelines. Consider establishing a PM 2.5 action level. Consider additional localized saturation monitoring studies along freeway corridors and in impacted areas, like the CARE Program West Oakland Measurement Study.
2. Collect data at the neighborhood level, through monitoring or modeling, and through *community based participatory methods*, like the CARE Program West Oakland On-road Diesel Truck Survey, to better assess localized impact. Data should be understandable enough that community residents can use it to push for change. Conduct monitoring to confirm modeling results (ambient concentrations) of PM emissions from major roadways.
3. Add a Health Officer (HO) position to the BAAQMD staff, similar to the position at the South Coast AQMD. The HO could provide guidance on decision making, help educate the public on health impacts of air pollution, and assist local governments with land use planning strategies that reduce air pollution and greenhouse gasses.
4. Set strong regional GHG reduction targets that will have co-benefits of reducing air pollution in impacted communities
5. Increase technical assistance to local jurisdictions for land use planning, such as establishing General Plan best practices and commenting on EIR’s.
6. Identify roadways as sources for TACs and criteria air pollutants. BAAQMD can provide technical assistance by preparing a methodology for measuring this source in Environmental Review processes and providing mitigation strategies.
7. Be more aggressive in requiring pollution reduction plans from major polluters, such as ports, and in monitoring implementation of those plans.
8. Support implementation of Container Fees at Ports to pay for air pollution mitigation and public health programs (rather than for congestion relief, which means an increase in PM and GHG), and support the anticipated state level resurrected Lowenthal bill. Investigate other strategies to fund emissions reduction and transit, such as gas taxes and increased vehicle license fees.
9. Implement Indirect Source Rules (ISR) and ensure protection for overburdened communities

10. Incorporate appropriate recommendations from the health officer presentations into the public hearing process for the CEQA Guidelines update and the Clean Air Plan 2008. Present this full report to the Board of Directors.



Comment Letter #: 5

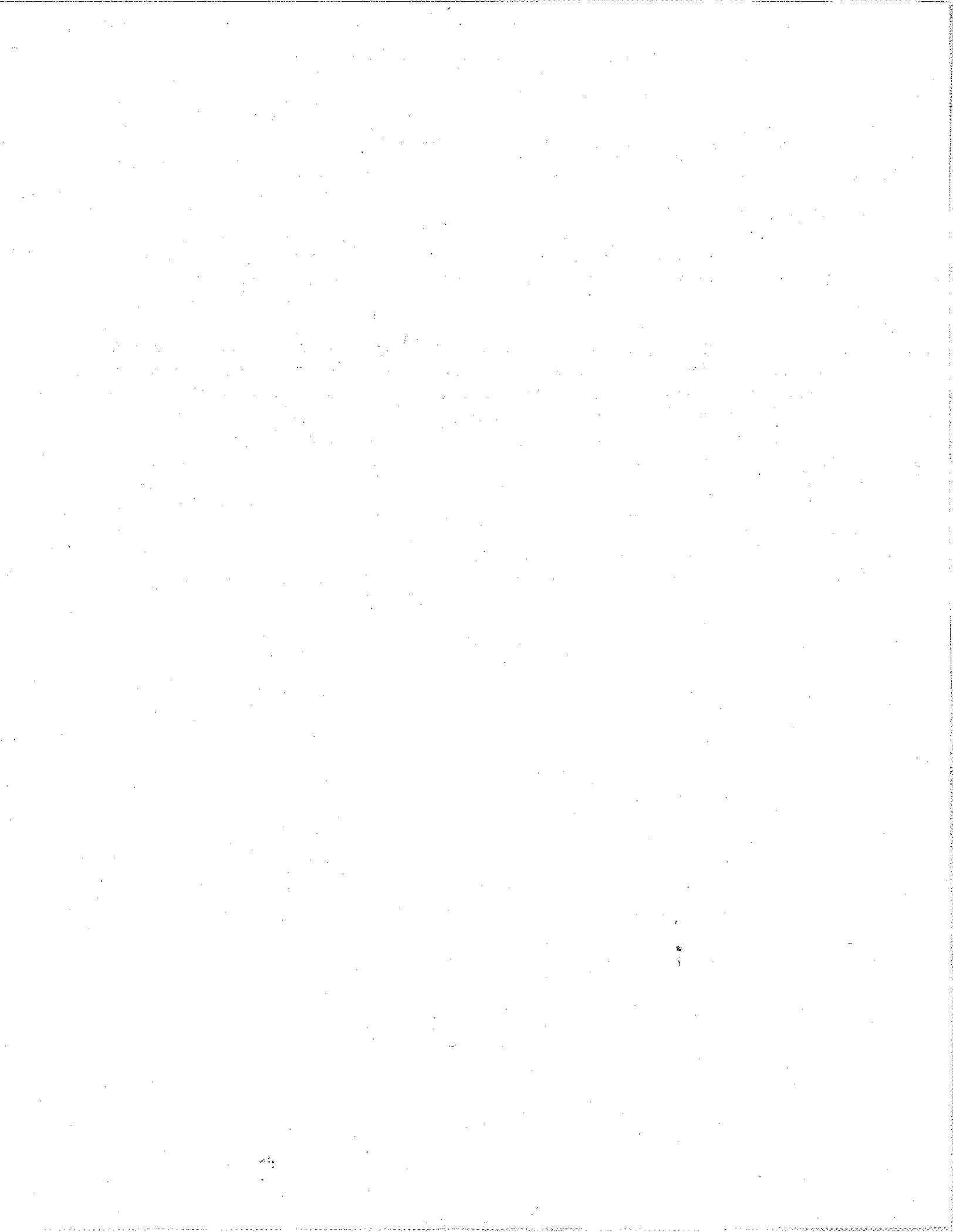
Date: March 6, 2009

From: Jenny Bard, Regional Air Quality Director, Breathe California

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Response to Comments:

- 5-1 The *Proposed Thresholds of Significance* report (November 2, 2009), contains individual project and cumulative thresholds for community risk and hazard including specific threshold for PM<sub>2.5</sub>, and cancer and non-cancer risk.
  
- 5-2 The Air District intends to provide tables with screening analysis and risk modeling from toxic air emission sources in the Bay Area to assist lead agencies in evaluating community risk and hazard as part of the CEQA Guidelines. The CEQA Guidelines also contains recommended analysis methodologies and mitigation measures for evaluating and reducing community risk and hazard impacts.



**From:** Nora Monette  
**To:** Gregory Tholen;  
**CC:**  
**Subject:** Comments on BAAQMD CEQA Guidelines Update - Cumulative Thresholds for Criteria Pollutants  
**Date:** Tuesday, March 10, 2009 11:45:06 AM  
**Attachments:**

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Greg,

I would like to submit comments for the District's consideration as a part of the BAAQMD CEQA Guidelines Update.

The current BAAQMD CEQA Guidelines identify thresholds of significance for several types of impacts, including cumulative air quality impacts. I would like to recommend that the focus of cumulative impact assessment be on general plan impacts and a consideration of changes in both population *and* jobs.

As was mentioned at the workshop on February 26<sup>th</sup>, there is a very short period (if at all) when a local general plan is consistent with the ABAG projections upon which the most recent Clean Air Plan is based. ABAG projections are updated every two years and the Clean Air Plan is updated less frequently. In addition, General Plans can be modified up to four times per year. Since this is the case, there needs to be a mechanism or specific method for evaluating modifications to plans during these interim periods.

ABAG Projections are just that, projections of population and job growth at a discrete point in time. The actual population or job growth that occurs, and the location of that growth, is often different than projected due to economic and other factors. That said, overall the growth may not be substantially different than anticipated by local agencies or BAAQMD. For an example, please refer to a comparison ABAG projections and actual growth in the City of San Jose (see [http://www.sanjoseca.gov/planning/gp\\_update/meetings/03-09-09/ABAG\\_Growth-v-Actual.pdf](http://www.sanjoseca.gov/planning/gp_update/meetings/03-09-09/ABAG_Growth-v-Actual.pdf)) and a comparison of projected growth in San Jose General Plans to actual growth (see [http://www.sanjoseca.gov/planning/gp\\_update/meetings/03-09-09/GP\\_Growth-v-Realized.pdf](http://www.sanjoseca.gov/planning/gp_update/meetings/03-09-09/GP_Growth-v-Realized.pdf)). This may also be the case for other local jurisdictions within the Bay Area.

As to a methodology, perhaps the method for evaluating cumulative modifications to

6-1

General Plans could be based upon a sensitivity analysis of the amount of additional jobs and housing growth (or VMT and/or VHT) that would result in new physical impacts and trigger the need for additional mitigation measures (i.e., transportation control measures included in General Plans). If cumulatively, changes to a jurisdiction's General Plan (and/or General Plan buildout within a subregion or County) would be great enough to require changes to CAP measures, a jurisdiction could be required to add additional transportation control measures to their General Plan as mitigation. This would require that jurisdictions keep track of all General Plan changes after the latest adoption of a Clean Air Plan. A consistency determination would then be made by either the local jurisdiction, the County, ABAG, or BAAQMD using a standard methodology. The consistency determination could also factor in the location and type of growth and whether it would be considered consistent with the CAP as "smart growth".

6-1

Keeping a "running total" of consistency of General Plan Land Use Diagrams with CAP assumptions and mitigation measures would allow projects consistent with a General Plan to "tier" off analysis done either for a General Plan update or cumulative General Plan amendments.

For individual development projects where there is no General Plan amendment, I would like to recommend that the thresholds for cumulative impacts discussed on page 18 of the current BAAQMD CEQA Guidelines be changed. If a project is consistent with the currently adopted General Plan *and* would not have a significant impact from project operations, it would not be considered to have a cumulative air quality impact that would require preparation of an EIR. This would assume that substantial cumulative effects have been analyzed as a part of a strengthened and refined General Plan cumulative analysis under the updated Guidelines. That analysis may also consider factors such as infill, transit access, and density and not merely population or job increases in a vacuum. This would be consistent with the current Guideline references to relative changes in VMT.

6-2

Thank you for your consideration of these comments and we look forward to reviewing the draft Thresholds White Paper in April.

**Nora Monette**  
Principal Project Manager  
David J. Powers & Associates  
phone: 408.248.3500 ex. 132  
fax: 408.248.9641

DJP&A is a Green Business  
*Please Recycle*

Comment Letter #: 6

Date: March 10, 2009

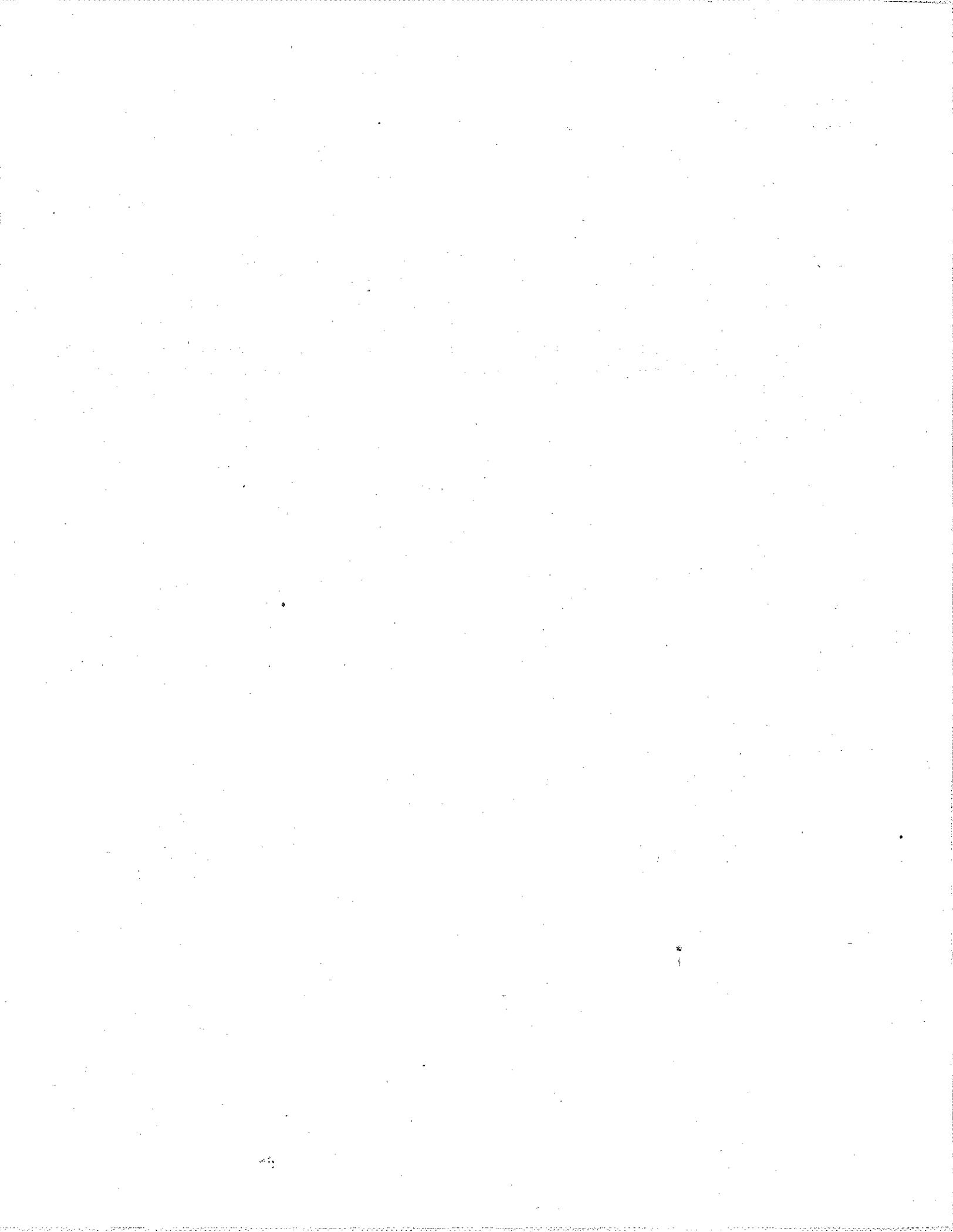
From: Nora Monette, Principal Project Manager, David J. Powers & Associates

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Response to Comments:

6-1 The revised plan-level GHG threshold in the *Proposed Thresholds of Significance* report (November 2, 2009) reflects the commenter's suggestion. The revised plan-level GHG threshold recommends that if a proposed project is consistent with an adopted qualified climate action plan, or Sustainable Communities Strategy, it can be presumed that it will not have significant GHG emission impacts. In addition, for local governments that have not yet adopted a qualified climate action plan as defined by the CEQA Guidelines, they have the option to demonstrate that their collective set of climate action policies, ordinances, and other projects are consistent with AB 32.

6-2 See response above.



**ENVIRON**

March 23, 2009

Mr. Greg Tholen  
Principal Environmental Planner  
Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109

**Subject: GDC Comments on the BAAQMD CEQA Threshold Guidelines**

Dear Mr. Tholen:

On behalf of the Green Developer's Coalition (GDC) member companies, ENVIRON is submitting comments on the development of Bay Area Air Quality Management District (BAAQMD) Greenhouse Gas (GHG) Thresholds of Significance under California Environmental Quality Act (CEQA), presented during the February 26<sup>th</sup> BAAQMD CEQA Guidelines Update meeting. The GDC consists of developers who believe that large master-planned communities can balance employment, housing, and shopping for new population centers, while also helping to meet California's sustainability and GHG emissions goals. Since June 2008, ENVIRON has represented the GDC on the South Coast Air Quality Management District (SCAQMD) CEQA GHG threshold working group.

The GDC supports the development of a state-wide approach to greenhouse (GHG) threshold guideline development for CEQA purposes, such as is currently being undertaken by the California Air Resources Board (ARB). Because ARB is currently drafting CEQA GHG threshold guidelines, the GDC recommends that BAAQMD should not adopt CEQA GHG threshold guidelines at this time, but rather, look to ARB for guidance.

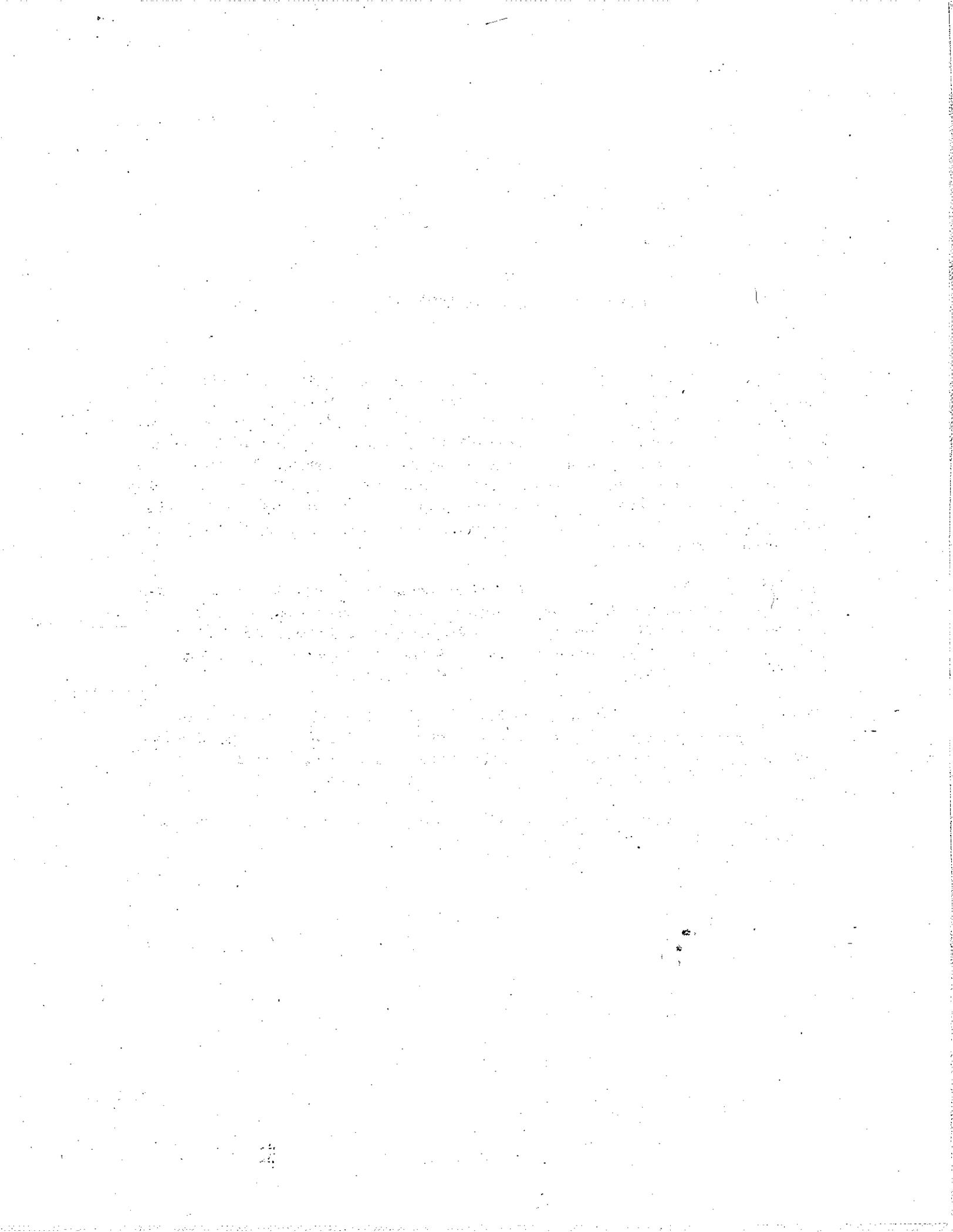


Whereas the localized emission and dispersion of air toxics within an air basins warrants regional regulatory oversight, GHG emissions are a global issue that are not impacted by local geospatial emissions concentrations or meteorological effects. Accordingly, there is little rationale for the development of GHG threshold guidelines on a local level.

We appreciate the opportunity to comment on the development of the CEQA Thresholds of Significance.

Sincerely,

Shari Beth Libicki, Ph.D.  
Global Air Quality Practice Area Leader



Comment Letter #: 7

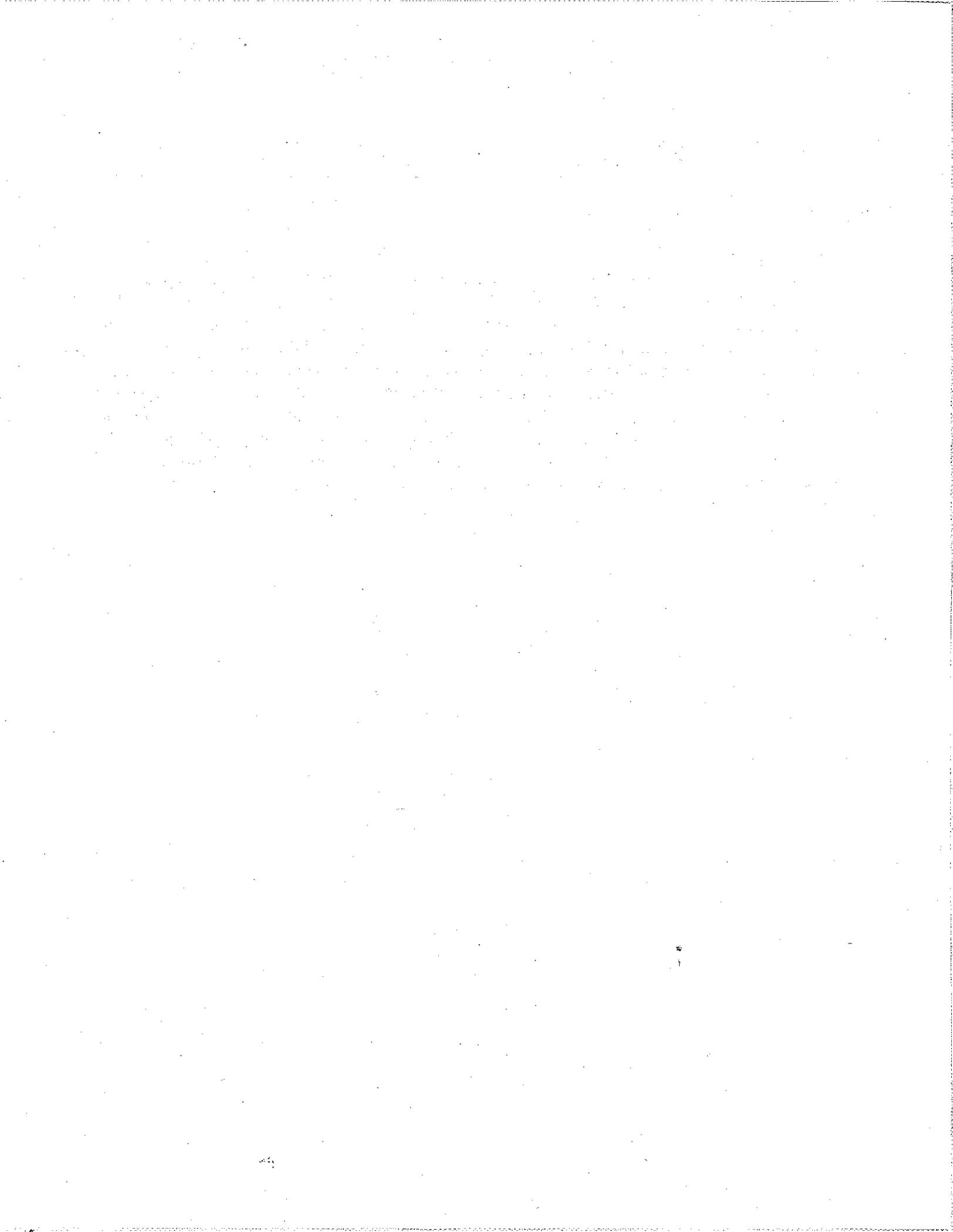
Date: March 23, 2009

From: Shari Labicki Ph.D, Principal, Environ

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Response to Comments:

7-1 Early on the Air District worked closely with the California Air Resources Board (CARB) staff develop a statewide GHG threshold. However, it is our understanding that CARB's work on developing a statewide GHG threshold has been suspended indefinitely. Given the increasing urgency to address the impacts of climate change in a substantive and consistent approach, repeated calls for assistance from local agencies on how to address climate change in CEQA analyses and the absence of direction from state agencies, the Air District feels it is appropriate and necessary to move forward with an interim CEQA threshold for GHG emissions. As stated in the *Proposed Thresholds of Significance* report (November 2, 2009), the proposed GHG thresholds are interim thresholds and will be revisited as AB32 Scoping Plan measures and SB 375 are implemented or when CARB develops a statewide GHG threshold. The Air District's proposed GHG thresholds are based on AB 32 GHG emission reduction goals and take into consideration emission reduction strategies outline in ARB's Scoping Plan.



**From:** Ranelletti, Darin  
**To:** Gregory Tholen;  
**CC:**  
**Subject:** BAAQMD CEQA Update Comments  
**Date:** Tuesday, March 24, 2009 10:27:13 AM  
**Attachments:**

Greg,

I attended the February 26, 2009, public workshop on the BAAQMD CEQA Guidelines Update. Thank you for the workshop and the opportunity to review and comment on BAAQMD's approach to the CEQA Guidelines Update. The City of Oakland expects to submit formal comments on the draft of the revised CEQA Guidelines when they are published. In the meantime, we have the following preliminary comments:

The City supports clean air policies and the analysis of air quality impacts during the planning and environmental review process. However, BAAQMD needs to consider the effects of new thresholds on infill development that may be consistent with local, regional and state development goals. Projects that would otherwise normally be exempt from environmental review under CEQA that now exceed the new thresholds would require a Mitigated Negative Declaration or an EIR. The preparation of a Mitigated Negative Declaration or an EIR is certainly a disincentive to infill development due to the time, expense and uncertainty involved. New thresholds that would trigger an impact and require a Mitigated Negative Declaration or an EIR for ordinary transit-oriented infill development would run counter to current initiatives to encourage infill. In order to protect air quality and introduce a level of certainty to the planning and environmental review process, the City recommends that the revised CEQA Guidelines identify specific performance standards and/or project features (e.g., air filters and transportation demand management (TDM) measures in new projects) that, when uniformly incorporated into development projects in accordance with section 15183(f) of the State CEQA Guidelines, will substantially mitigate potential environmental effects such that the project is self-mitigating and



8-1

the potential air quality impacts of the project under CEQA are considered less than significant. Therefore, a Mitigated Negative Declaration or an EIR would not be required, but the health of project residents and the surrounding population would be protected.

8-1

Like other cities, the City of Oakland is in the process of preparing a Climate Action Plan to encourage energy efficiency and the reduction of greenhouse gas emissions. New BAAQMD climate change thresholds that are inconsistent with local climate plans would result in confusion and inefficiencies in the planning and environmental review process. The City recommends that the revised thresholds defer to locally adopted climate plans, where these plans are adopted, when determining greenhouse gas impacts. So, for example, if a city determined that a proposed project is consistent with the city's climate plan, then the project's potential impact related to greenhouse gas emissions would be considered less than significant. This approach would introduce more certainty into the planning and environmental review process and encourage more cities to adopt energy- and climate-oriented plans and policies.

8-2

Feel free to contact me if you have any questions.

Regards,

Darin Ranelletti

---

Darin Ranelletti, Planner III  
City of Oakland, Planning and Zoning Division  
250 Frank H. Ogawa Plaza, Suite 3315  
Oakland, California 94612  
510-238-3663 direct phone  
510-238-6538 fax

Comment Letter #: 8

Date: March 24, 2009

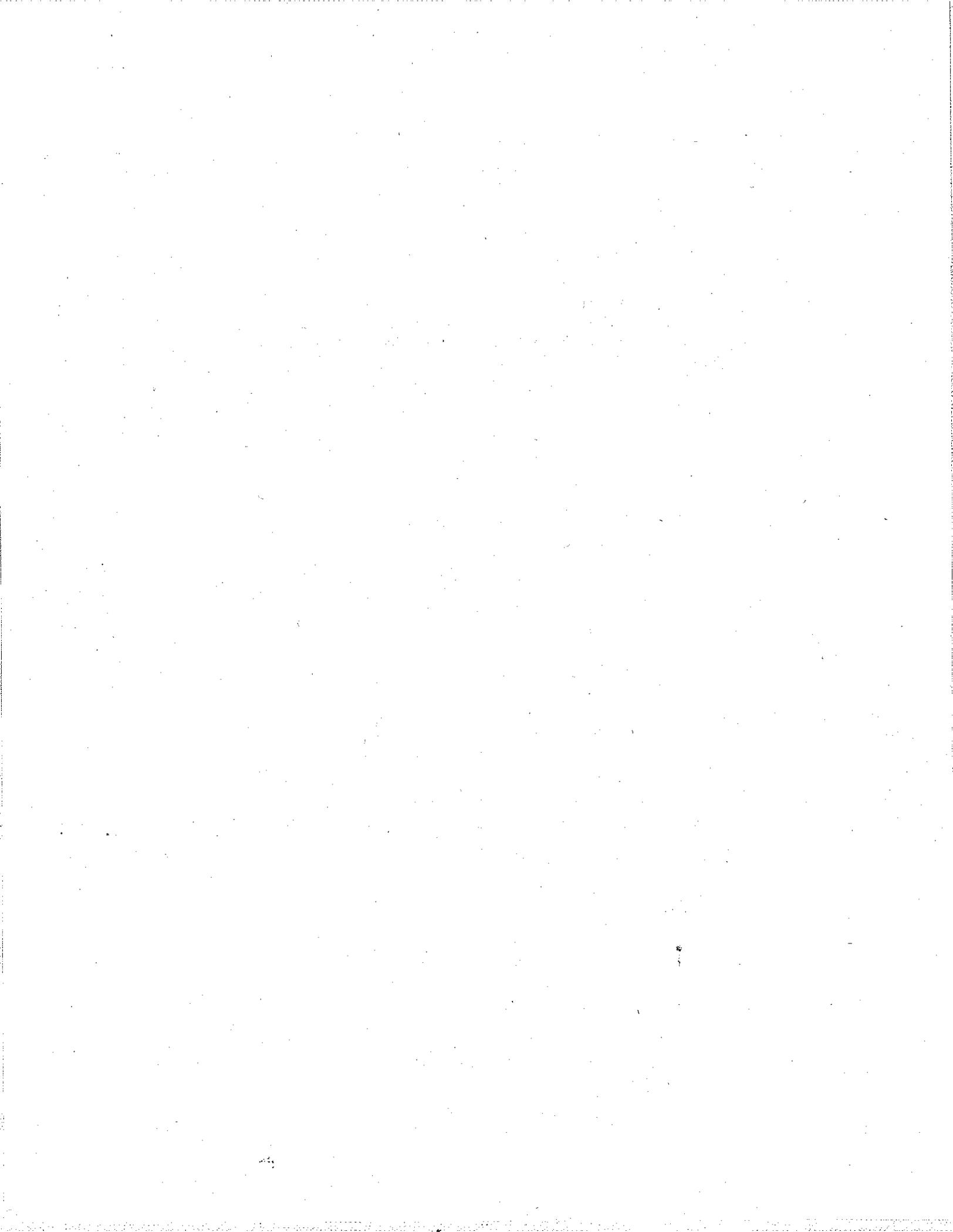
From: Darin Ranelletti, Planner III, Planning and Zoning Division, City of Oakland

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Response to Comments:

8-1 See Master Responses MR-1 and MR-2.

8-2 In response to this and similar comments, Air District staff, in their final Proposed Thresholds of Significance, has refined the greenhouse gas thresholds to include an initial step where a lead agency may determine that a project in compliance with a qualified climate action plan has a less than significant impact on climate change.



# CEQA Guidelines Update Comment Card

5/27/09

BAAQMD/EDAW/RIMPO:

## We need your input!

### CONTACT INFORMATION (Optional):

The Bay Area Air Quality Management District is updating its CEQA Guidelines and is seeking your input. The CEQA Guidelines Update will review, revise, and develop significance thresholds, assessment methodologies, and mitigation strategies for criteria pollutants, air toxics, odors, and greenhouse gas emissions.

Name: RICH WALTER  
Affiliation: LC FLOWERS & STOKES  
Email: rwalter@jisanet.com

① ~~Allow project applicants to demonstrate~~

25 to 35% reduction by comparison of default/BAD 646

calculation to project 646 emissions. Example:

large 700 projects - assume 500 units x 5 tons CO<sub>2</sub>E/unit =

2500 tons > 1,175 tons. Doesn't make sense to

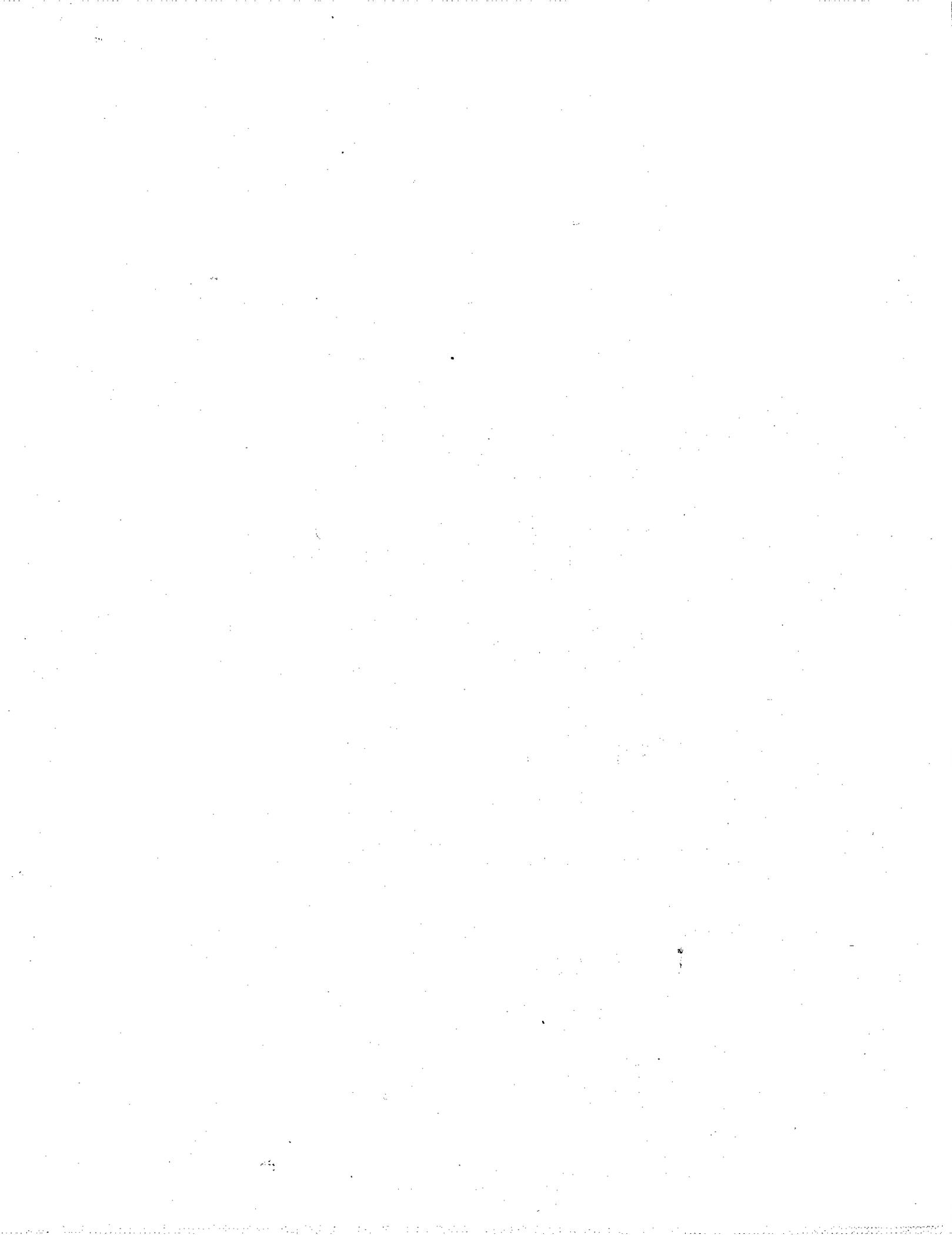
make "good" development get 25-35% "more" mitigation on

top of good design. I think if you do the math, you will

find that if you allow credit for the BAD there are b/w

DIRECT EMISSIONS & BAD, ~~4~~ you will still get 2.0 ~~MAAT~~!

② GREAT JOB!



Comment Letter #: 9

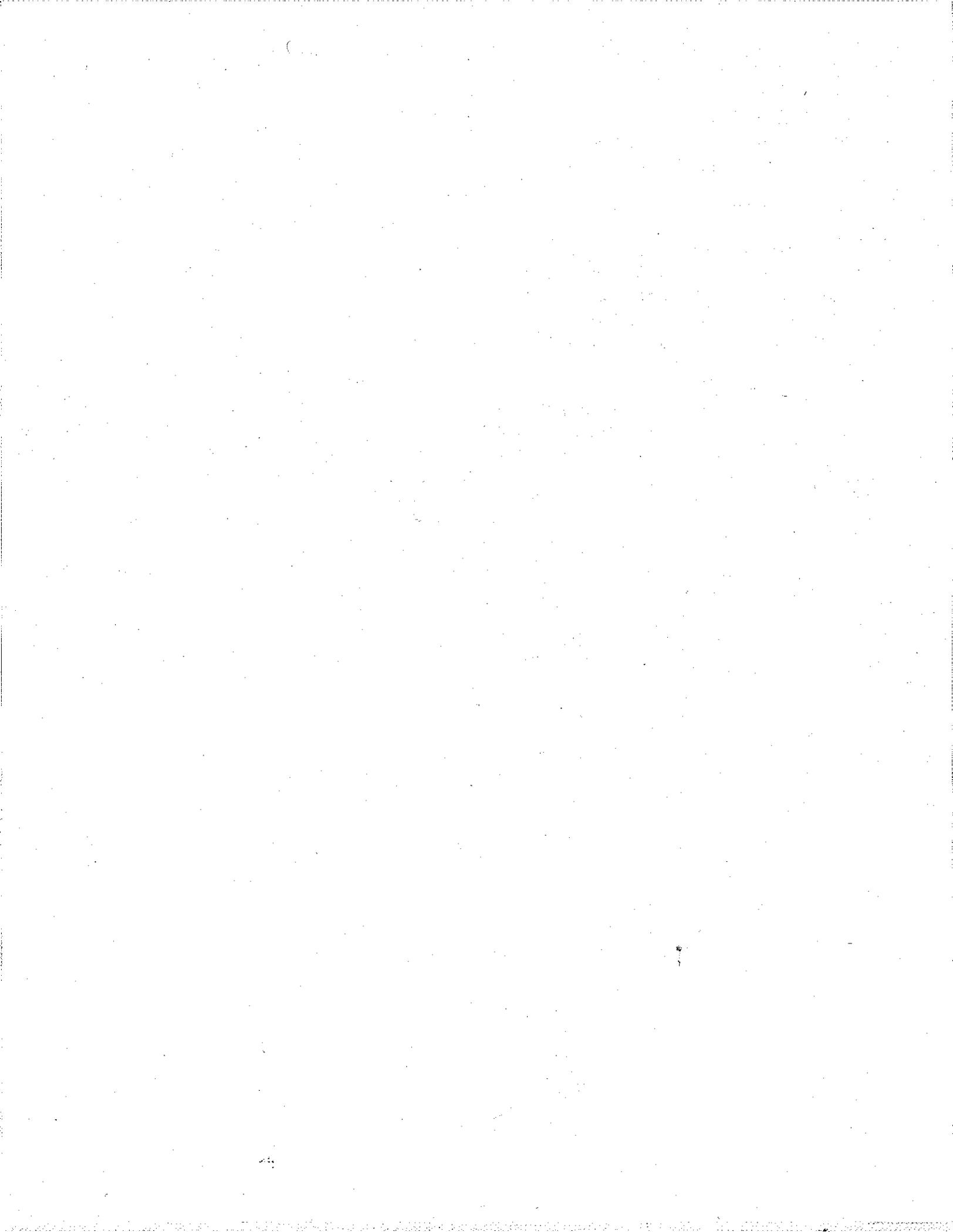
Date: April 27, 2009

From: Rich Walter, ICF Jones and Stokes

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Response to Comments:

- 9-1 The Air District is recommending a GHG threshold for proposed projects that is intended to achieve the percent reductions mentioned by the commenter. The *Proposed Thresholds of Significance* report (November 2, 2009) states the proposed GHG thresholds for proposed projects and plans. See also Master Responses MR-2 and MR-3.



#10

**Sigalle Michael**

**From:** David Vintze  
**Sent:** Thursday, May 14, 2009 6:16 PM  
**To:** Gregory Tholen  
**Subject:** FW: CEQA Workshop Presentation  
**Attachments:** BAAQMD\_ceqa\_guide.pdf

Please file this as a comment on the thresholds and prepare a response

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**From:** David Burch [mailto:bikeburch@hotmail.com]  
**Sent:** Thursday, May 14, 2009 6:02 PM  
**To:** Gregory Tholen; David Vintze; David Burch  
**Subject:** FW: CEQA Workshop Presentation

Greg / Dave

I'm forwarding msg below that came to my hotmail address a couple weeks ago. (I just checked it for first time in a while.)

Some comments from bike advocates re: CEQA & LOS.

Dave B

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**From:** debhub@igc.org  
**To:** bikeburch@hotmail.com  
**CC:** andrew@bayareabikes.org  
**Subject:** CEQA Workshop Presentation  
**Date:** Tue, 28 Apr 2009 20:17:29 -0700

Hi Dave- Hope all is well. I haven't been closely following the CEQA debate, but this relates to BAAQMD, so I thought I'd forward it to you. Best, Deb

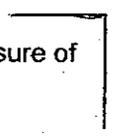
Deb Hubsmith  
P.O. Box 663  
Fairfax, CA 94978  
415-454-7430  
debhub@igc.org

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**From:** Rachel Hiatt [mailto:rachel.hiatt@sfcta.org]  
**Sent:** Tuesday, April 28, 2009 5:24 PM  
**To:** Andy Thornley; Andrew Casteel  
**Cc:** Robert Raburn; debhub@igc.org; Jason Patton; Michelle.DeRobertis@vta.org; Dave Campbell  
**Subject:** RE: [Advocacy] Fwd: CEQA Workshop Presentation

Hi All,

I think the BAAQMD's workshop is peripherally related to reforming the use of LOS as the measure of Transportation impact in the State Guidelines and in San Francisco.



10-1

The BAAQMD's Guidelines just deal with air quality (AQ) thresholds, true. The AQ thresholds are related to LOS only in the sense that LOS is used as a "screening criterion" to indicate when there may be AQ impacts. See page 16 of the attached, where "LOS impacts" are one of the triggers for a project needing to perform CO analysis. The message here should be that since we're discontinuing LOS as the measure of transportation impact, project sponsors and the Air District will need to rely on a different "trigger" for analyzing CO emissions (such as ATG).

10-1

It would be great if BAAQMD would reinforce our message that LOS is not a good indicator of any other air pollutant other than CO. The Appendix A in the BAAQMD's guidelines lists other relevant 'air quality' legislation, and lists the CMP requirements in this category. Our efforts could be buttressed if BAAQMD more clearly acknowledged that LOS is not a good measure of air quality (and that the CMP legislation is really about reducing driving delays, and not about air quality).

-Rachel

---

**From:** andy.sfbike@gmail.com [mailto:andy.sfbike@gmail.com] **On Behalf Of** Andy Thornley  
**Sent:** Tuesday, April 28, 2009 3:19 PM  
**To:** Andrew Casteel  
**Cc:** Robert Raburn; debhub@igc.org; Jason Patton; Michelle.DeRobertis@vta.org; Dave Campbell; Rachel Hiatt  
**Subject:** Re: [Advocacy] Fwd: CEQA Workshop Presentation

I've been laying off engagement with the BAAQMD CEQA process because I didn't think it had anything in it dealing with Transportation topic analysis, just straight air quality thresholds, let me know if someone has a shortcut to anything in the BAAQMD work that speaks to LOS or Transportation topic stuff and I'll jump right on it . . .

--Andy--

On Tue, Apr 28, 2009 at 2:51 PM, Andrew Casteel <[andrew@bayareabikes.org](mailto:andrew@bayareabikes.org)> wrote:  
Hi Robert,

Thanks for the talking points. I will bring these up in the public comments section.

Andrew Casteel  
Executive Director  
Bay Area Bicycle Coalition  
510.250.0909  
510.250.0906 fax  
[www.bayareabikes.org](http://www.bayareabikes.org)

On Apr 28, 2009, at 2:42 PM, Robert Raburn wrote:

Retention of Level of Service (LOS) standards in CEQA prioritize motorized travel over other modes. LOS thresholds limit the ability of the Air District promote Clean Air and reduce Greenhouse Gas Emissions. Local jurisdictions are likewise constrained in their ability to implement bicycle, pedestrian, or transit projects in the vicinity of TOD projects. For example, the projected 2035 population at the proposed transit village at MacArthur BART precludes implementing a funded SR2T bike lane project on the largely vacant 6-lane W MacArthur Boulevard. It is absurd to plan for TODs with LOS tools that assume future populations clustered around transit will drive.

10/21/2009

Comment Letter #: 10

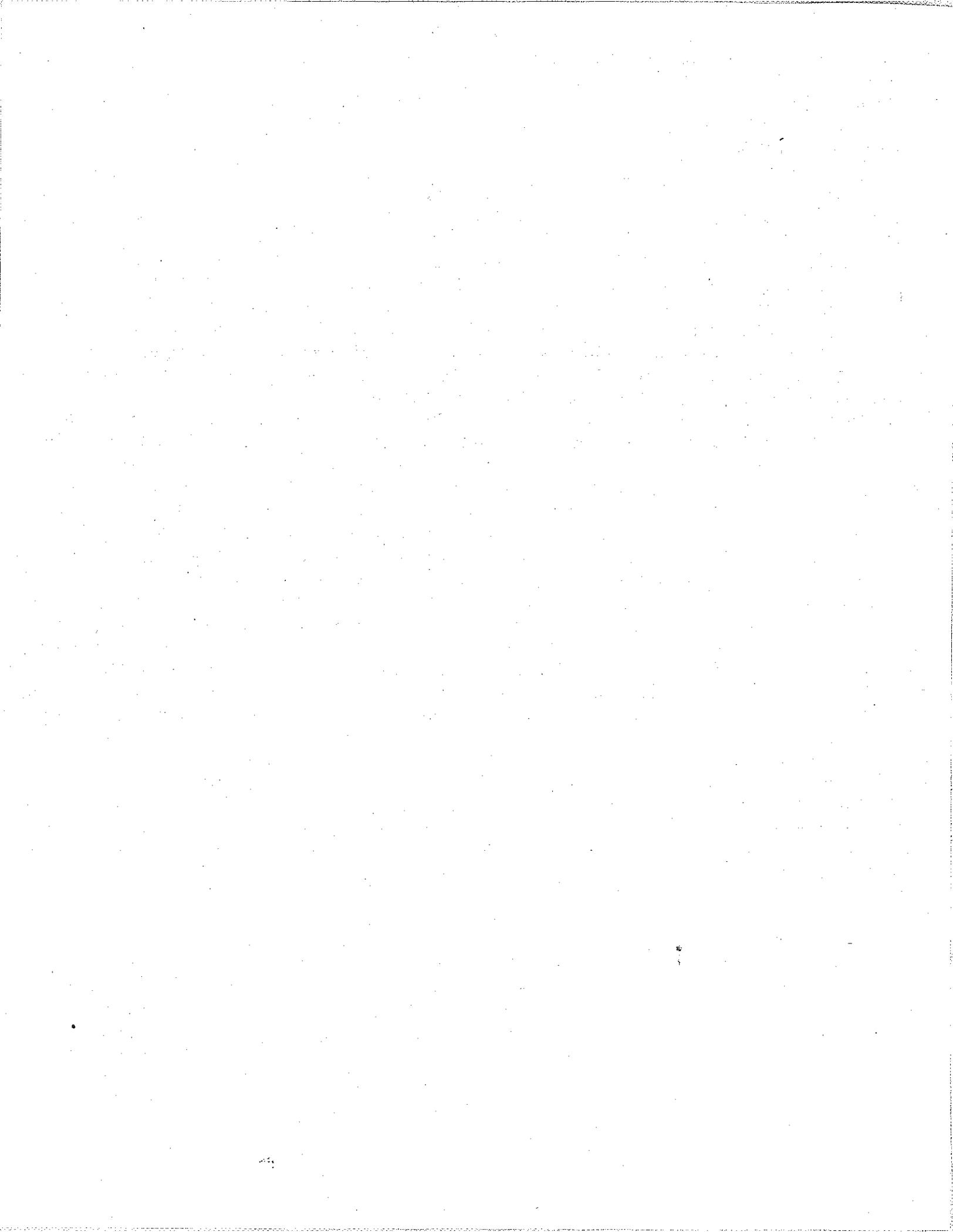
Date: April 28, 2009

From: Rachel Hiatt, SFCTA

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Response to Comments:

10-1 Air District staff agrees with the commenter that level-of-service (LOS) is not an appropriate indicator of air quality impacts. The draft Air District CEQA Guidelines update proposes to eliminate LOS as a screening criterion for carbon monoxide (CO) impacts. Since the proposed thresholds of significance are the California ambient air quality standards (CAAQS) for CO, staff proposes screening levels based on modeling. The CO modeling for the screening criterion, using conservative meteorological conditions and average vehicle fleet emissions, establishes the maximum level of emissions that would not exceed CO concentrations of the CAAQS.



#11

**From:** Tom Rivard  
**To:** Gregory Tholen;  
**CC:** Rajiv Bhatia; Phil Martien; Henry Hilken; Virginia Lau;  
**Subject:** comments CEQA thresholds  
**Date:** Monday, June 01, 2009 9:05:27 AM  
**Attachments:**

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Hi Greg,

Here are my comments as we discussed last week. In our opinion the Draft CEQA Thresholds of Significance does not give adequate attention or analysis to roadway related exposures. As you know CARB in its Land Use Handbook and the City of San Francisco in its recently passed Article 38 of the SF Health Code have identified roadway exposures as important sources of health impacts. BAAQMD through its CARE program has identified the Southeast of San Francisco as a community at risk primarily based upon cancer risk associated with diesel particulate from roadway sources. For these reasons I would encourage the District to include a section in the draft document that addresses the development of "thresholds of significance" for roadway exposures. Development of threshold criteria would be of tremendous assistance to local government which is tasked with protecting populations placed near high volume roadways. SMAQMD has a complete method for evaluating roadway related exposures and an associated health risk assessment criteria for cancer risks attributable to diesel, benzene and 1,3 butadiene. We would encourage you at a minimum incorporate their cancer risks assessment for diesel roadway exposure in your document.

11-1

Since health professionals view death by all causes as significant we would like to see the thresholds of significance for roadway exposure based upon health outcomes in addition to cancer. CARB (2002, 2008) has completed extensive analysis of non-cancer health and mortality outcomes and developed concentration response function for particulate exposure. The Land Use Handbook reviews the epidemiological evidence to support the relationship between roadway proximity and cancer mortality as well as children's non-cancer health outcomes. The San Francisco Department of Public Health has produced the Assessment and Mitigation of Air

11-2

Pollutant Health Effects from Intra-urban Roadways: Guidance for Land Use Planning and Environmental Review(2008) which provides a reasonable methodology for developing roadway threshold of significance based upon particulate matter. The tools exist to develop roadway thresholds of significance for the new CEQA guidance.

11-2

The foundation has been created and it would be beneficial to local government if the BAAQMD could provide further guidance for establishing roadway significance thresholds for particulates and organic gases. In this manner a more precise and scientific evaluation of the risk associated with locating new residential development proximal to high volume traffic could be used instead of applying a distance criteria without meteorological and emissions analysis. Perhaps more importantly failure to address roadway significance thresholds reduces the capacity of local government and community groups to engage exposures that are occurring at existing housing. Without guidance from the District the work of protecting residents impacted by freeway and arterial traffic and improving their health outcomes through such mitigations strategies as traffic and truck reduction, bicycling, walking, indoor air filtration and exterior window and door sealing is hampered by lack of a clear goal and objective criteria embodied in a quantitative threshold. Please keep us posted of your work and progress in this direction and let us know if we can be of any assistance.

11-3

Tom Rivard  
Senior Environmental Health Specialist  
Department of Public Health  
1390 Market St., Suite 210  
San Francisco, CA., 94102  
415-252-3933  
FAX: 415-252-3889

Comment Letter #: 11

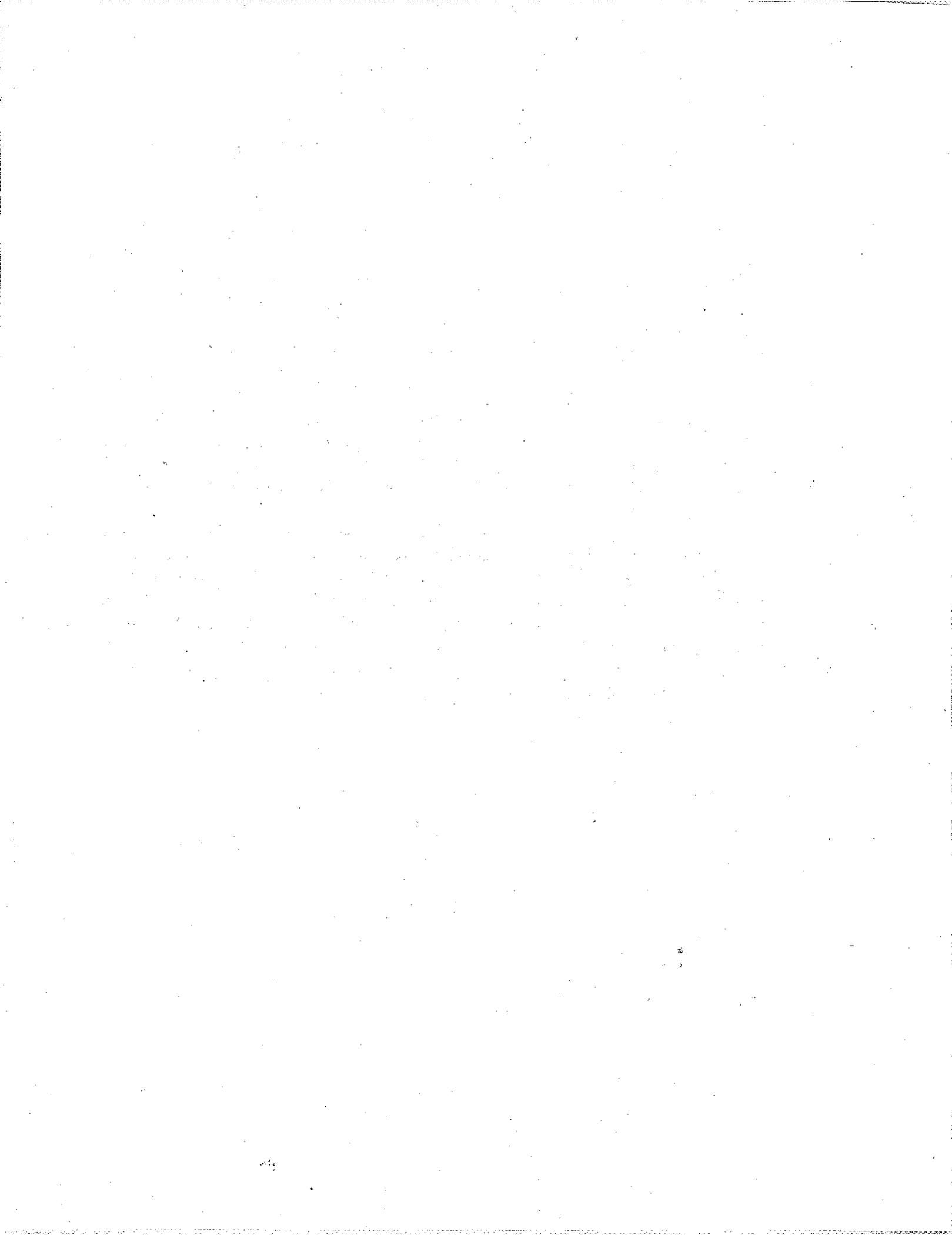
Date: June 1, 2009

From: Tom Rivard, Senior Environmental Health Specialist, Environmental Health Section, Department of Public Health, City and County of San Francisco

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Response to Comments:

- 11-1 In response to this and similar comments, Air District staff considered other options available for setting risk and hazard thresholds. The Air District's *Proposed Thresholds of Significance* (November 2, 2009) includes revised risks and hazards thresholds. Air District staff is proposing significance thresholds for fine particulate matter (PM<sub>2.5</sub>) and recommends assessing PM<sub>2.5</sub> impacts from roadway emissions.
- 11-2 Air District staff relied on work of U.S. EPA and the California Air Resource Board (CARB), including CARB's *Land Use Handbook* (CARB 2005), to develop the proposed risk and hazard thresholds and assessment methodology. The Air District is also using the California Office of Environmental Health Hazard Assessment (OEHHA) revised, more conservative risk assessment guidelines.
- 11-3 Air District staff is proposing stepped thresholds of significance for risks and hazards. First, cities and counties are encouraged to develop risk reduction plans for areas that experience high levels of toxic air contaminants and PM<sub>2.5</sub> concentrations. Projects in compliance with adopted, qualified risk reductions plans that address the overall problem may be considered less than significant. For areas not included in an adopted, qualified risk reduction plan, thresholds are proposed for maximum levels of excess cancer risk, non-cancer hazard index and ambient increase of PM<sub>2.5</sub> (for new sources) or exposure (new receptors). New projects that exceed the emissions or exposure limits would be considered to have a significant risk and hazard impact.





#12

June 2, 2009

Henry Hilken  
 Director of Planning and Research  
 Bay Area Air Quality Management District  
 939 Ellis Street  
 San Francisco, CA 94109

Dear Mr. Hilken:

**Re: Workshop Draft CEQA Thresholds of Significance**

I am writing to offer my comments on your recently released *Workshop Draft Options Report for California Environmental Quality Act Thresholds of Significance*. Overall, while I applaud BAAQMD efforts to update this thresholds guidance, I believe that several additional and complimentary health-based significance thresholds are necessary protect sensitive receptors from anticipated human exposure to hazardous air pollutants.

In the *Workshop Draft*, BAAQMD proposes health based thresholds *only* for the subgroup of air pollutants labeled "toxic air contaminants." On the other hand, BAAQMD proposes emissions (but not health) based thresholds for other "criteria air pollutants." This gap would exclude thresholds necessary to protect the public from air pollutant hotspots related to priority criteria air pollutants such as PM 2.5 and NOx. Criteria pollutant standards are not health protective for all sensitive receptors. Furthermore, the historic regulatory distinction between criteria pollutants and TACs is not scientifically meaningful either from a public health or toxicological standpoint. Thresholds for air quality impacts under CEQA should include protective public health based standards for all scientifically established air pollutant hazards where anticipated development decisions can affect those hazards. Below I am suggesting four related recommendations for BAAQMD to consider. These recommendations are justified in the subsequent narrative and case studies.

12-1

**Recommendation 1**

Overall, recognizing that development decisions may have substantial health impacts both related to exposure from both TACs, criteria pollutants, and other pollutants we would propose re-labeling section 2.3.4 as follows:

12-2

*Air pollutant health hazards from stationary and mobile sources.*

This section should discuss health hazards associated with both TACs and criteria air pollutants and could enumerate and reference any established dose response relationships between criteria air pollutants and health effects based on the work of the USEPA, CARB and OEHHA.

**Recommendation 2**

To address the gaps in health based air pollutant exposure thresholds, I would propose the following revisions in the thresholds currently related to "TACs."

*Proposed development projects that have the potential to expose sensitive receptors or the general public to any air pollutant, including both pollutants defined as criteria air pollutant and TACs, in excess of the following thresholds from any source, mobile or stationary would be considered to have a significant air quality impact if the:*

- *Probability of contracting cancer for the Maximally Exposed Individual (MEI) exceeds 10 in one million.*
- *Ground-level concentrations of non-carcinogenic toxic air contaminants would result in a Hazard Index greater than 1 for the MEI.*
- *Probability of pre-mature mortality for the Maximally Exposed Individual (MEI) exceeds 10 in 1,000,000*
- *Probability of contracting any chronic or life threatening disease for the Maximally Exposed Individual (MEI) exceeds 10 in one million*
- *Probability of avoidable hospitalization for the Maximally Exposed Individual (MEI) exceeds twice that of the area population*

12-3

In the revisions above, I recommend the more inclusive term "air pollutant" instead of the generic but limited sub-category of "TAC." Furthermore, I propose additional thresholds, essentially equivalent in health significance to the proposed thresholds for cancer and hazard index, to capture the full range of health effects associated with air pollutant exposure.

**Recommendation 3**

There are considerable differences in practice among local jurisdictions with regards to CEQA analysis of impacts related to changes in human exposure to existing environmental hazards. I would therefore recommend that you cite CEQA guidance in Section 15126.2(a) in full and provide more clear direction on the responsibility of jurisdictions to assess and mitigate harms from development decisions that bring sensitive receptors in proximity to existing air quality hazards, both due to stationary and mobile sources. The section could provide clear examples of situations in which an existing air quality hazard and development proposal would trigger CEQA requirements, e.g., proposing new housing adjacent to a busy freeway.

12-4

**Recommendation 4**

Either within this document or in a subsequent document, I would recommend BAAQMD provide further guidance on specific methods for assessment of exposure and risk for hot spots from mobile sources. This guidance could help implement the goals of the CARB land use handbook.

12-5

**Justification**

In the current draft of Workshop Draft Options Report California Environmental Quality Act Thresholds of Significance, BAAQD includes two health based thresholds for hazards associated with air pollutants. Both thresholds appear to apply only to so-called "TACs."

12-6

*Proposed development projects that have the potential to expose sensitive receptors or the general public to any TAC in excess of the following thresholds from any source, mobile or stationary would be considered to have a significant air quality impact if the:*

- *Probability of contracting cancer for the Maximally Exposed Individual (MEI) exceeds 10 in one million.*
- *Ground-level concentrations of non-carcinogenic toxic air contaminants would result in a Hazard Index greater than 1 for the MEI.*

It is important to acknowledge that the common distinction made between criteria air pollutants and TACs is regulatory convention and does not have a scientific or toxicological basis. Clean Air Act (CAA) listed criteria pollutants have associated ambient air quality standards while TACs generally do not. However, this distinction is scientifically less meaningful for the following reasons

1. Criteria air pollutants fundamentally act via toxicological mechanisms to harm human health
2. Health impacts from exposure to criteria air pollutants occur in predictable and dose dependent ways;
3. Both CARB and the USEPA have acknowledged that established ambient air quality standards for criteria air pollutants are not health protective for all populations;
4. Both CARB and the USEPA has quantified that adverse population-level health impacts due to criteria air pollutants exist occur below standards;
5. Criteria air pollutants from mobile source frequently result in unregulated and unmonitored local impacts or "hot spots;"
6. Cancer is not the only or necessarily the most sensitive health endpoint for the health effects of a particular air pollutant.

A comprehensive and adequate set of significance thresholds would recognize the range of human hazards and all air pollutants, whether or not the pollutant was labeled a criteria pollutant or TAC. The thresholds for TACs in the *Workshop Draft* currently leave an important gap with regards to the breadth of knowledge regarding health impacts, and specifically with regards to potential health impacts due to criteria air pollutants.

Using of these limited thresholds is likely to result in unmitigated health impacts. For example, mobile sources, particularly on road motor vehicles, are a major source of cumulative air pollution exposure and local air pollutant hot spots in urban areas. Vehicle hot spots can include multiple pollutants such as particulate matter, nitrogen oxides, diesel exhaust and benzene. DPM, PM 2.5 and nitrogen dioxide are all correlated with roadway proximity. Cancer is not the only or necessarily most significant health impact of exposure to roadway air pollution hot spots. Health research has consistently demonstrated that children living within 100-200 meters of freeways or busy roadways have poorer lung function and more asthma and respiratory symptoms than those living further away. These effects have been found independent of pollutant or vehicle type and it would be inappropriate to attribute roadway related health effects to a single type of pollutant, vehicle, or fuel.

Based on the breadth of health impacts, in 2005, the California Air Resources Board issued guidance on preventing roadway related air quality conflicts, suggesting localities avoid placing new sensitive uses within 500 ft of many freeways. The Handbook reviews the epidemiological evidence to support the relationship between roadway proximity and cancer mortality as well as children's non-cancer health outcomes. There has also been substantial and corroborating evidence on this issue since the publication of the Handbook.

12-6

12-7

Current ambient air pollution standards would not protect people from health effects from air pollutant hotspots from criteria pollutants. For example, in regulatory risk assessment, the California Air Resources Board (CARB (2002, 2008) has adopted concentration response functions for chronic exposure to particulate exposure and diverse health outcomes including premature mortality, asthma hospitalizations, respiratory illness, and short term disability. These regulatory assessments make clear that there is *no threshold* for the adverse health effects of PM 2.5 and avoidable health impacts are occurring at exposure levels below current state standards. Especially noteworthy is the consensus based concentration response function for chronic exposure to particulate exposure and mortality which estimated that every 10 ug/ m<sup>3</sup> increase in PM 2.5 exposure translates into a 10% increase in the overall mortality rate.

12-8

The following hypothetical example below illustrates the serious public health liability in ignoring the multiple hazards from chronic exposure to particulate matter. In this example, I hypothesize a sensitive receptor is proposed to be located near a freeway where roadway-attributable concentrations at the receptor is 0.25 ug/m<sup>3</sup> with 10% of emissions from diesel engines. Irrespective of the background level of PM 2.5 or DPM, for an individual with lifetime exposure, the additional hazard from nearby vehicles to residents for lung cancer would be 7.5 per million while the excess hazard for pre-mature mortality would be 893 deaths per million. In other words, the lifetime hazard due to PM 2.5 from a typical roadway hotspot at a given exposure level is 100 times greater for pre-mature mortality as it is for cancer. The example clearly illustrates that mortality hazards from the criteria pollutant PM 2.5 can greatly significantly exceed the cancer hazard from Diesel Exhaust, a potent TAC, for a typical and common exposure scenario.

12-9

#### Hazards of Premature Mortality and Cancer Associated With Exposure to PM 2.5

Parameter	Value	Reference
Additional PM <sub>2.5</sub> Concentration (ug/ m <sup>3</sup> )	0.25	Hypothetical
<b>Mortality Hazard from Chronic PM 2.5 Exposure</b>		
Relative Risk All-cause Mortality (excluding injuries)	1.01	CARB, 2008
Crude Mortality Incidence Rate Excluding Injuries (Deaths per 100,000 persons per year)	714	California County Health Status Profiles 2006
Excess Annual Pre-mature Mortality (Deaths Per Million Persons Per Year)	18	Calculated
Excess Annual Hazard of Pre-mature Mortality (Deaths Per Million Persons over 50 years)	893	Calculated
<b>Diesel Cancer Hazard From Chronic PM 2.5 Exposure</b>		
PM 2.5 Diesel Exhaust Fraction	10%	Typical Urban Freeway
Diesel Exhaust Concentration (ug/m <sup>3</sup> )	0.025	Calculated
Diesel Exhaust Cancer Unit Risk Factor ((ug/m <sup>3</sup> )-1)	3.00E-04	California Office of Environmental Health Hazard Assessment
Lifetime Excess Hazard of Cancer (Cancers per Million Exposed Persons)	7.5	

It is currently feasible to apply the recommended thresholds in the context of CEQA and development planning given using available methods to estimate exposure and to predict health impacts. Standard EPA approved modeling tools, such as the CAL3QHCR dispersion models exist to assess exposures to roadway hotspots associated with DPM, PM 2.5 and NOx. The City of San Francisco under Article 38 of the SF Health Code uses these tools to assess local air pollution mortality hazard associated with roadway air pollution exposures as important sources of health impacts. San Francisco Department of Public Health has produced the *Assessment and Mitigation of Air Pollutant Health Effects from Intra-urban Roadways: Guidance for Land Use Planning and Environmental Review*(2008) which outlines a methodology for developing roadway threshold of significance based upon particulate matter. SMAQMD has a similar method for evaluating roadway related exposures and an associated health risk assessment criteria for cancer risks attributable to diesel, benzene and 1,3 butadiene.

12-10

Below we provide an example of an air quality analysis at a proposed development in San Francisco that estimates both cancer hazards from the DPM fraction of PM 2.5 and the mortality hazard from concomitant exposure to total PM 2.5. Executive Park is a proposed mixed use residential community adjacent to and to the east of US 101 at the southern border of San Francisco. The parameters and assumptions for this analysis are provided as an attachment. Figures 1 and 2 illustrate the annual average PM 2.5 concentrations and modeled DPM concentrations attributable to roadway emissions at this site. As detailed in the table, the modeled roadway attributable concentrations of PM 2.5 range from <0.10 to 0.5 at the project site. The maximum concentration translates into a 0.5% maximum excess annual risk of mortality for those exposed or 1785 excess premature deaths per million people exposed over a 50 year period. The maximum modeled level of diesel particulate matter in the Executive Park Project was 0.2. The excess Cancer Risk attributable to a lifetime exposure to traffic diesel particulate matter (DPM) at this level would be 60 cancers in one million exposed people.

12-11

Figure 1 Spatial Extent of Roadway PM 2.5 Emissions from US 101 at Alana Street (Annual Average ugs/ m<sup>3</sup>).

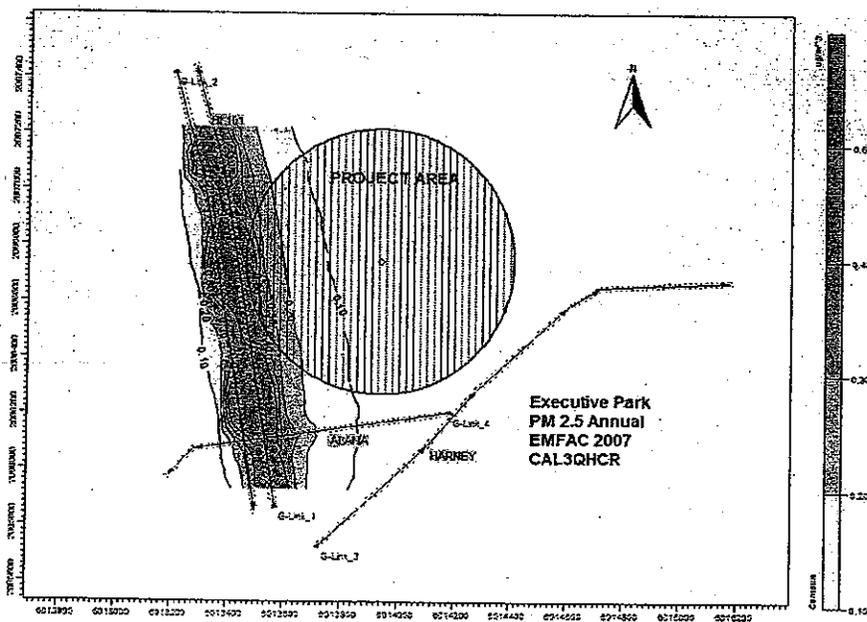
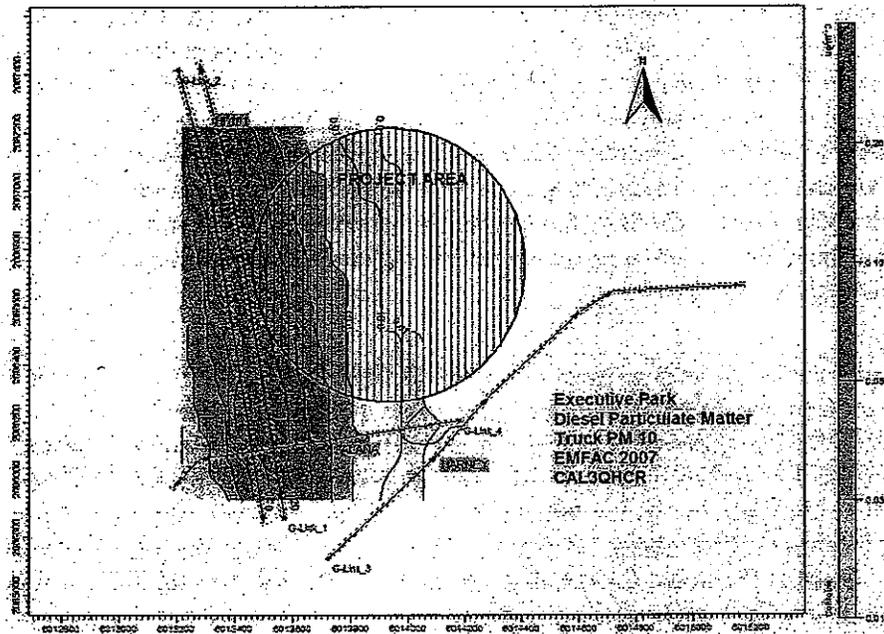


Figure 2. Spatial Extent of Diesel Particulate Matter (DPM) from US 101 at Alana Street (Annual Average  $\mu\text{g}/\text{m}^3$ ).



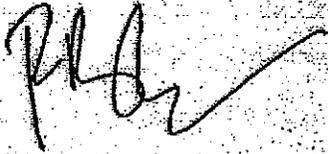
12-11

Maximum modeled  $\text{PM}_{2.5}$  and Diesel PM Concentrations from Roadway Sources and Associated Mortality Hazards for the Project Site for the Executive Park Sub Area Plan in San Francisco

Roadway Location & AADT	Maximum Roadway $\text{PM}_{2.5}$ Concentration ( $\mu\text{g}/\text{m}^3$ )	Mortality Hazard Attributable Chronic $\text{PM}_{2.5}$ Exposure	Maximum Roadway DPM Concentration ( $\mu\text{g}/\text{m}^3$ )	Cancer Hazard Attributable to Roadway Diesel PM
US 101 @ Alana 216,000 vehicles/day	0.5	1785 excess deaths per million with 50 year exposure	0.2	60 excess cancers per million population with lifetime exposure

Thank you in advance for your consideration of these comments. Clear and health-protective guidance from BAAQMD for local government will support the work of public health and community organizations. I would appreciate an opportunity to discuss any questions you may have about these recommendations or their rationale.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Bhatia', with a long horizontal flourish extending to the right.

Rajiv Bhatia, MD, MPH

Parameter for Dispersion Analysis	Assumptions and Source
Traffic data	Peak hour traffic volume. Annual average traffic volume. Percentage of Truck Traffic from the California Department of Transportation Traffic Data Website
Vehicle Emissions rates	California Air Resources Board EMFAC 2007
Traffic speed	25mph local, 30 mph arterial, 55mph freeway
Temperature and Humidity	Area Annual Average (e.g., 50% relative humidity, and 50 degrees F)
Surface meteorology	San Francisco International Airport (Available at the Meteorological Resource Center, <a href="http://www.webmet.com/State_pages/met_ca.htm">http://www.webmet.com/State_pages/met_ca.htm</a> )
Number of Receptors	Minimum six receptors per acre
Concentration Response Function for Chronic PM 2.5 exposure and long term mortality	1% Increase in Rate of Non-Injury Mortality per unit ug /m <sup>3</sup> increase in PM 2.5 (CARB 2008)
Cancer Unit Risk Factors for	3 X 10 <sup>-4</sup> (Office of Environmental Health Hazard Assessment 2002)
Annual Crude Non-Injury Mortality Rate for San Francisco	733 /100,000 (California DPH County Health Status Profiles 2006)

Comment Letter #: 12

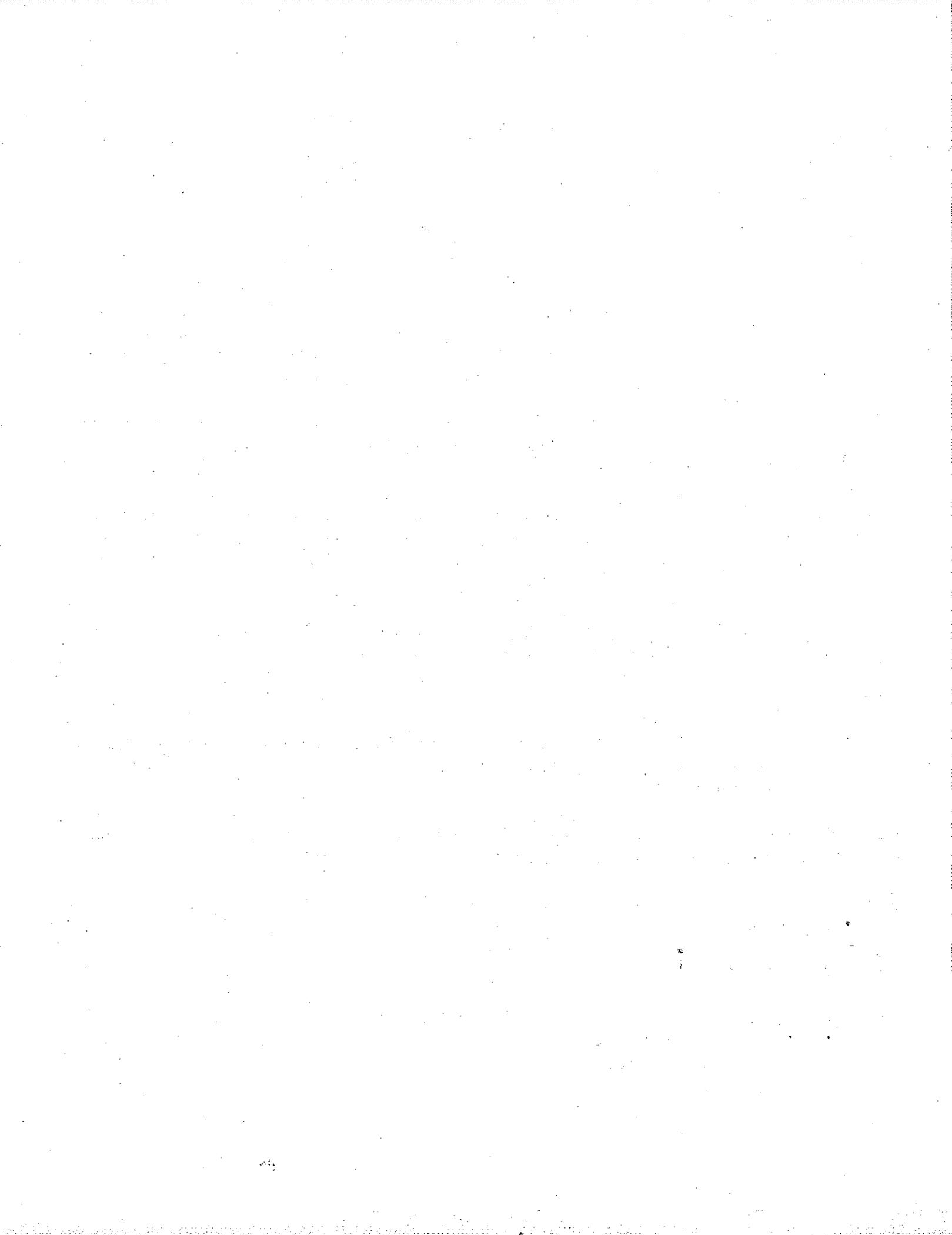
Date: June 2, 2009

From: Rajiv Bhatia, MD, MPH, Director of Environmental Health, Department of Public Health, City and County of San Francisco

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Response to Comments:

- 12-1 See comment response 11-1.
- 12-2 The *Proposed Thresholds of Significance* (November 2, 2009) and revised CEQA Guidelines combines thresholds of significance for cancer, non-cancer and PM<sub>2.5</sub> in the Air Districts' recommended assessment of *Community Risk and Hazards* impacts sections, which considers impacts from stationary and mobile sources of toxic air contaminant and PM<sub>2.5</sub>. Also see comment response 11-2.
- 12-3 See comment response 11-3 and 12-2. Air District staff did not at this time further explore options that included pre-mature mortality, probability of contracting any chronic or life-threatening disease or probability of avoidable hospitalization.
- 12-4 The proposed thresholds of significance and revised CEQA Guidelines make clear the Air District interpretation of State CEQA Guidelines Section 15126.2(a). The risk and hazard thresholds apply to projects that propose to bring sensitive receptors into any area that may expose them to air quality hazards.
- 12-5 The revised CEQA Guidelines include recommended methodology and mitigation measures to assess impacts from exposure to roadway risks and hazards.
- 12-6 See comment response 11-3 and 12-2.
- 12-7 In the revised CEQA Guidelines the Air District also recommends avoiding placing sensitive receptors within 500 feet of freeways and high-volume roadways, based on recommendations in CARB's *Land Use Handbook* (CARB 2005).
- 12-8 Air District staff concurs with the commenter's summary of regulatory assessments concluding that adverse health effects occur at concentrations below the CAAQS for PM<sub>2.5</sub>.
- 12-9 Air District staff acknowledges the hypothetical example comparing additional ambient PM<sub>2.5</sub> exposure to other risk and mortality levels. Also see comment response 11-3.
- 12-10 Comment noted.
- 12-11 Air District staff has reviewed the referenced example and discussed PM<sub>2.5</sub> modeling analyses prepared by SFDPH staff in development of the proposed thresholds of significance and revised CEQA Guidelines. Also see comment response 11-3.



# ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area



#13

## MEMO

June 23, 2009

**To:** Jean Roggenkamp, Air District  
**FR:** ABAG Staff  
**RE:** ABAG comments about Air District CEQA Guidelines update

We are writing to provide comments about the Air District's proposals to update its California Environmental Quality Act (CEQA) Guidelines. In particular, these comments are directed at the options for setting thresholds of significance for Toxic Air Contaminants.

In considering changes to these guidelines, the Air District has emphasized the importance of addressing the air quality concerns in the six priority communities identified through the Community Air Risk Evaluation (CARE) program. The purpose of the CARE program is to evaluate and reduce the health risks from exposure to outdoor toxic air contaminants. The Air District has committed to targeting its resources, policies, and regulatory actions to reduce toxic air contaminants in these areas.

13-1

To identify the priority communities, the Air District used an inventory of stationary, area, and mobile emissions sources to model the concentrations of toxic air contaminants throughout the region, weighted by their toxicity. These concentrations were then compared to demographic and health data that showed the geographic distribution of sensitive populations, such as children, seniors, and low-income residents. The Air District used these population-weighted emissions as the basis for identifying the six priority communities with both high emissions and significant sensitive populations.

We strongly support the Air District's commitment to protecting public health and reducing emissions in these highly impacted areas. In particular, we encourage the Air District's efforts to limit new sources of toxic air contaminants, particularly those related to mobile sources. According to Air District studies, diesel particulate matter from on-road and off-road mobile sources are the greatest single contributor (over 80 percent) of the toxic air contaminant cancer risk in the Bay Area. Policies and programs to reduce driving and lower truck and vehicle emissions provide the most direct benefits to residents and workers in these areas.

13-2

While we support limits on the addition of new emission sources in these priority communities, we are concerned about any steps the Air District might take that would limit the introduction of new residents and workers into these areas. Many areas within the Air District's priority communities have also been identified by local governments as Priority Development Areas (PDAs) through the FOCUS program. The PDAs are infill development opportunity areas where local governments are committed to developing housing, amenities, and services to meet the needs of residents in a pedestrian-friendly environment near transit.

13-3

Given the inherent challenges of infill development in these areas, it is likely that adding another layer of complexity with these new toxic air contaminant standards will lead developers to look to places where development is easier. Discouraging development in the PDAs would undermine efforts to encourage a more focused growth pattern that capitalizes on the region's existing transportation and infrastructure investments. As you are aware, through FOCUS, the four regional agencies and their local government partners are working to promote growth in these areas to reduce the amount of driving in the region—which would have a positive impact on air quality. It would be counterproductive if the Air District's proposed threshold changes act as a deterrent to growth in these areas and push development to greenfield sites in the outer suburbs, where the amount of driving required would be greater.

13-3

Impeding development in PDAs would also represent a lost opportunity to provide community members with needed investments in housing, jobs, services, parks and open spaces, and other amenities. In addition, since requirements on new developments would not address the sources of toxic air contaminants, it is likely they would have a very limited impact in addressing the community's air quality concerns. For example, mitigation measures such as air filters on buildings would only protect inhabitants in new buildings while they are indoors—and would not lead to benefits that could be shared by the community as a whole.

We believe it sends the wrong message to existing residents in these communities, who have had to deal with poor air quality for long periods of time, to require protections only for new buildings. If the fundamental premise of the Air District's proposed threshold changes is to protect public health, then it would be more appropriate to have these standards extend to all buildings (and the people in them) that are at risk.

13-4

Given the need to balance air quality concerns with the potential benefits of infill development, the Air District should evaluate the relative merits of proposed mitigation measures based on their effectiveness, costs, ease of implementation, and any potential for discouraging development in these areas. In addition, if the proposed guideline changes affect development patterns within the region, the impacts will be felt for a long period of time. Given this fact, we feel that decisions about the proposed regulations should be informed by models that show the effects of regulations on diesel emissions that will be implemented in the near future (such as the ban on pre-1994 trucks and those from 1994-2006 without soot filters that was recently passed by the Port of Oakland) on the air quality in the priority communities.

13-5

Finally, to ensure that any proposed regulations have a solid foundation, more work needs to be done to understand the specific impacts of toxic air contaminants on different areas. The Air District has already acknowledged that the population-weighted emissions are only a surrogate for estimating actual exposures. The modeling would also benefit from a better understanding about the link between poverty, access to health care, and the risk of exposure. We also believe the Air District could improve the public's understanding of these complicated issues by providing more detailed information about the modeling underlying the cancer risk assessments, the limitations of the results, and how to interpret the data presented.

13-6

Please send any comments to Gillian Adams ([GillianA@abag.ca.gov](mailto:GillianA@abag.ca.gov) or 510-464-7911).

Comment Letter #: 13

Date: June 23, 2009

From: Gillian Adams, Association of Bay Area Governments

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Response to Comments:

- 13-1 Ongoing work from the Air District's Community Air Risk Evaluation (CARE) Program was instrumental in the development of the proposed risk and hazards thresholds of significance. The CARE program is committed to reducing risk and hazard impacts, both existing and new, in communities of high concern. The proposed thresholds and assessment methodologies are based on CARE program-based modeling. CARE modeling was used to highlight the importance of addressing elevated levels of toxic air contaminant concentrations experienced in some Bay Area communities through appropriate CEQA thresholds of significance.
- 13-2 Comment noted. Diesel particulate matter from mobile sources is the single greatest source community risk in the Bay Area.
- 13-3 The Air District supports infill development that occurs in a balanced, health-protective manner. The proposed risk and hazard thresholds were designed first to identify significant adverse health impacts from new source emissions and exposure to new receptors. The purpose of the proposed threshold levels is to ensure that no source creates, and no receptor endures, a significant adverse impact from any individual project, and that the total of all nearby directly emitted risk and hazard emissions is also not significantly adverse. See also Master Responses MR-2 and MR-2.
- 13-4 See comment response 13-3. In order to reduce overall ambient levels of risk, programs need to be developed not only to address necessary reductions in new development through CEQA, but also to address reductions from existing sources that are not subject to CEQA. See also Master Response MR-1.
- 13-5 The primary purpose of thresholds of significance established for CEQA review is to identify adverse impacts to the environment, including where a new project proposes to attract people to an area that experiences adverse risk. See also Master Response MR-1.
- 13-6 The proposed thresholds of significance are not proposed as regulation. The thresholds are recommendations to Lead Agencies assessing the impacts of new development. It is the Lead Agency's discretion to use the recommended thresholds. Extensive information about the CARE program, definitions of impacted communities and supporting modeling and results can be found on the Air District's website (<http://www.baaqmd.gov/Divisions/Planning-and-Research/Planning-Programs-and-Initiatives/CARE-Program.aspx>) or by contacting CARE Program staff.



#14



Cox, Castle & Nicholson LLP  
555 California Street, 10<sup>th</sup> Floor  
San Francisco, California 94104-1513  
P 415.392.4200 F 415.392.4250  
  
Michael H. Zischke  
415.262.5109  
mzischke@coxcastle.com

File No. 54419

June 26, 2009

Greg Tholen  
Bay Area Air Quality Management District  
969 Ellis Street  
San Francisco CA 94109

Re: Comments of the California Building Industry Association and the Home Builders Association of Northern California on the April 2009 Workshop Draft Options Report for CEQA Thresholds of Significance

Dear Mr. Tholen:

On behalf of the California Building Industry Association (CBIA) and the Home Builders Association of Northern California (HBANC), we appreciate the opportunity to provide comments on the District's Workshop Draft Options Report for California Environmental Quality Act Thresholds of Significance (the "Workshop Report" or "Report").

CBIA is a statewide trade association representing over 6,500 member companies involved in residential and light commercial construction including homebuilders, trade contractors, architects, engineers, designers, suppliers and other industry professionals. CBIA member companies account for over 80% of all new homes sold in California each year. Statewide in normal years, homebuilding activity contributes more than \$60 billion to the state's economy and generates 525,000 jobs.

HBANC is an association comprised of hundreds of homebuilders, developers, property owners, contractors, subcontractors, building trades, suppliers, engineers and design professionals and others involved in the business of providing housing in the Bay Area. HBANC's mission includes advocacy in support of housing opportunities for prospective homebuyers and renters, and legal representation of the interests of its members and the community in supporting the provision of housing opportunities affordable for all segments of the community and enforcement of California laws governing housing and residential development.

Both CBIA and HBANC have been proactive in working to develop CEQA standards that reflect California's goals to reduce greenhouse (GHG) gas emissions, pursuant to and consistent with AB 32, the California Global Warming Solutions Act. CBIA and HBANC have also both been active in developing and implementing energy conservation standards that will help to achieve the GHG reductions sought by AB 32, and both organizations also worked at great length to develop the final version of Senate Bill 375, to coordinate transportation planning, land use planning, and GHG reduction goals.

We understand that the Workshop Report is intended only to evaluate options for CEQA thresholds of significance within the District's jurisdiction and is not meant to serve as a set of draft thresholds. Accordingly, this comment letter provides general comments regarding the options outlined in the Report and the supporting analysis. We look forward to the opportunity to provide more specific comments after we review the District's proposed draft CEQA thresholds, which we understand the District intends to publish this summer.

Finally, CBIA and HBANC understand the District's desire to update its existing CEQA thresholds of significance. The existing 1999 CEQA Thresholds have provided critical guidance to lead agencies and developers in evaluating the impacts of development projects within the District's territory. As time has passed, however, the 1999 Thresholds have become dated. The District's efforts to update these existing thresholds is important, and CBIA and HBANC hope to work with the District to be sure that the update to the 1999 thresholds helps to provide workable guidance and certainty to both lead agencies and the project applicants for projects under review.

#### A. Introductory Comments

##### 1. Appropriate Nature and Role of CEQA Thresholds

CBIA and HBANC are deeply concerned that the Workshop Report confuses the role of CEQA thresholds, and the role of air quality regulations. This is demonstrated both by language in the Workshop Report as well as the discussion in the accompanying Powerpoint prepared by District staff. It is critically important that the District refocus this effort on standards for determining CEQA significance, rather than policy driven regulatory objectives that appear to be a part of the Workshop Report and the work to date on developing the new thresholds.

The Workshop Report and the accompanying Powerpoint properly reflect the fact that the District's thresholds, when adopted, will be advisory guidelines for lead agencies to consider. It is critical, however, that these guidelines be drafted to serve as CEQA thresholds, not as regulatory mandates. The purpose of a CEQA threshold is to assist lead agencies in determining whether a project has a significant effect on the environment, which is defined as a "substantial or potentially substantial, adverse change in the environment." Public Resources Code § 21068. A threshold of significance is in turn defined in the CEQA Guidelines as "an identifiable quantitative, qualitative or performance level of a particular environmental effect." CEQA Guideline § 15064.7. Although air quality regulatory policy mandates may be relevant in determining significance, CEQA thresholds of significance are evaluative, and should not be viewed as a tool to achieve regulatory policy objectives. It is critical to keep regulations and policy objectives, and thresholds, separate and distinct.

14-1

This point is most dramatically illustrated by the Powerpoint prepared for the April public workshop. In setting forth the objectives of the Guidelines, nowhere is there a reference to determining significance in the CEQA process. Instead, the objectives of the Guidelines are presented as regulatory mandates to reduce emissions and support transit oriented smart growth and infill development. By beginning the Guidelines formulation process with such a regulatory and policy driven focus, particularly with respect to the proposals for GHG emissions, the District is embarking on an effort that is duplicative of, and likely inconsistent with, the substantial transportation and land use planning effort now being initiated as a result of the Legislature's passage of SB 375, as well as the work being carried out by the California Air Resources Board to implement AB 32. The objectives that are set forth by the District as the basis for these thresholds are in fact being carried out through the SB 375 and AB 32 processes. The District's process should be refocused on determining significance, and not in duplicating and possibly interfering with the AB 32 and SB 375 processes approved and directed by the Legislature.

The Workshop Report itself also confuses and conflates the role of CEQA Guidelines and the role of regulatory mandates. For instance, the Report discusses a significance threshold for GHG emissions (Plan-Based Approach Option 1C) that would establish a GHG emissions threshold, but still require projects whose GHG emissions are *under* that threshold to implement mitigation measures to reduce their GHG emissions by five percent. Requiring a reduction beyond a significance threshold is a regulatory policy function, and it is inappropriate to confuse the setting of regulatory policy with the development of CEQA significance threshold. CEQA imposes a duty on lead agencies to mitigate project impacts to a less-than-significant level, but does not provide any legal authority for requiring mitigating measures beyond that point. (Public Resources Code § 21004.). The fundamental question at issue in the development of air quality thresholds of significance should be: what level of emissions attributable to a given project would contribute, on either a project-level or a cumulative basis, to a significant impact to the environment?

## 2. Transparency of the Recommended Thresholds

CBIA and HBANC are concerned that the discussion in the Workshop Report poses serious transparency and workability issues that need to be resolved as the District works to translate these options into recommended thresholds that can be used by lead agencies and project applicants. Even though it does not purport to propose specific CEQA thresholds, the Report does attempt to explain the options for establishing such thresholds and the bases and analyses which underlie those options. Based on our review, several sections of the Report, particularly those concerning criteria air pollutants and precursors and GHG emissions, are not written in a manner which allows lead agencies subject to the District's jurisdiction, or homebuilders who will be submitting development applications with air quality analyses, to straightforwardly evaluate and comment on the practicality and workability of the proposed options. Lead agencies and homebuilders will be among the primary end-users of the new District CEQA thresholds, so it is essential that the development of these thresholds be undertaken in a manner that is clear and easily comprehensible, so that stakeholders can make meaningful and substantive comments upon the proposed thresholds.

To provide greater transparency, when the draft thresholds are released, the assumptions and the analyses that underlie the formulation of those thresholds should be clearly and plainly stated. If there is a reference to assumptions or analysis in an appendix, that information should be briefly summarized. Also, all of the underlying analysis and documents used or relied upon in formulating the thresholds should be listed and those materials should all be made available for public review, so that those materials can be evaluated in the process of commenting upon the proposed thresholds. The thresholds should also be set forth in a clear and understandable manner, so that both the regulated community and lead agencies can determine how the thresholds would be applied to the wide variety of development projects that are typically considered by lead agencies.

14-2

### 3. Workability of the Recommended Thresholds

The thresholds that are to be developed by the District must also be workable and clear, so that they may be interpreted and applied in practice by lead agency staff and project applicants. It is important for the District to recognize that these thresholds will be applied in a wide range of contexts. The thresholds will be applied generally in determining whether EIRs or negative declarations will be prepared for a wide variety of projects. Also, the thresholds will be applied in determining the significance of the impacts for a wide variety of projects, from large projects for which EIRs are prepared to medium size projects for which smaller EIRs or mitigated negative declarations are prepared, to much smaller projects for which short negative declarations or mitigated negative declarations are prepared. Ideally, a threshold should be capable of being applied by a project planner filling out an environmental information form on behalf of an applicant, or by lead agency staff filling out a CEQA initial study checklist on behalf of the lead agency, without the need for reference to extensive external sources. In sum, the thresholds must be user-friendly.

14-3

As one example of this, the discussion of Option 1A (the numeric-only threshold) for GHG emissions indicates that project applicants and lead agencies could use readily available computer models to estimate a project's GHG emissions. It would be a dramatic shift in CEQA practice for smaller projects, particularly the wide range of projects for which negative declarations and mitigated negative declarations are prepared, if lead agencies and applicants were routinely required to use a computer model, rather than some simpler methodology, to estimate emissions and determine air quality significance. A great number of negative declarations and mitigated negative declarations are now prepared for smaller residential housing projects (including many smaller projects in an infill context) without the use of a methodology that requires a computer program. We are concerned that this increases the cost and complexity of CEQA review for such smaller projects, and also requires the project planners and agency staff who typically prepare such reviews to engage independent consulting firms with access to computer models, when it is common practice for many negative declarations and mitigated negative declarations for smaller projects to be prepared without the need for a specialty consulting firm to estimate emissions.

#### 4. Significant Overstatement of Anticipated Development

There is a fundamental flaw underlying the overall analysis in the Workshop Report, because the Report is founded on estimates of future development based on prior levels of development that are no longer being achieved. In fact, the current level of development and anticipated development has dropped precipitously. These estimates thus are not a realistic or sound basis upon which to base future projections of development and related emissions levels, or the formulation of appropriate thresholds.

To provide some examples, the Construction Industry Research Board reports indicate that, on a statewide basis, building permits were obtained for 64,752 total units in 2008, and 44,400 total units are projected for 2009. This compares to substantially higher levels of housing starts both in 1990 and for the years 2001 to 2007. In 1990, there were 164,313 total units statewide, and for 2001 through 2005, the number of statewide housing starts ranges from 148,757 to 212,960. Thus, on a statewide basis, there has been roughly a 75% reduction in the level of development since 1990, and roughly a two-thirds reduction in development when compared to figures from 2001 to 2007.

Likewise in the Bay Area, data from the Construction Industry Research Board show the number of permitting units dramatically declining over recent years. For the Bay Area, CIRB's April 22, 2009 report indicates there were 26,901 permitted in 2005, 24,308 permitted in 2006, 19,288 units permitted in 2007, and 12,558 permitted in 2008. Based on the statewide data, it is anticipated that the 2009 figure for the Bay Area will be substantially reduced.

The data on housing starts demonstrates that the projections in the Workshop Report substantially overstate the anticipated amount of development, and thus substantially overstate the anticipated amount of all pollutant emissions. The projections thus also overstate the amount of projected reduction that may be achieved via the application of the proposed thresholds.

In our view, using projections some twelve years out into the future as the basis for determining thresholds of significance is inherently flawed, because such projections are based on a look backwards and do not reflect the dynamism of the economy and real estate industry. Consider, for example, the significant shift in recent years towards more in-fill development and more transit oriented development. Any approach which bases future projections on past activity is going to miss the mark to some extent, because projections simply cannot anticipate the reaction of the real estate marketplace to the changing landscape of development constraints. Rather than using such projections as the foundation for the formulation of thresholds, we recommend generally that the District focus on developing a threshold that is tied to the achievement of air quality standards, rather than an approach based so fundamentally on development projections. For example, as discussed below in our comments regarding GHG emissions, the District should focus on developing a threshold that is tied to achievement of AB 32 standards.

14-4

**B. Criteria Air Pollutants and Precursors**

**1. No Basis for CO and SO<sub>2</sub> Thresholds**

The Workshop Report states at page 15 that the San Francisco Bay Area is currently in attainment with respect to CO and SO<sub>2</sub> emissions, and thus that operational thresholds were not evaluated because "it is not foreseeable that there would be any impacts that could cause a violation" of the California air standard for these pollutants. Given this statement, there is no basis for recommending the proposed thresholds set forth in Table 6 for these two pollutants.

14-5

**2. Questionable Basis for Changing ROG and NOX Thresholds**

We question whether there is an appropriate basis for reducing the ROG and NOX threshold of significance from their current level of 15 tons per year and 80 pounds per day. In brief, prior to changing the current threshold or the methodology upon it is based, the District should demonstrate that there is a problem with the current threshold, and the case for adopting a change has not been made in the Workshop Report. Instead, the purported justification for these reductions is an extensive and complicated analysis based on overstated development projections, as discussed above. The purported need for new thresholds also appears to be contradicted by the findings in the January 29 draft air conformity analysis for the Transportation 2035 plan proposed to be adopted by the Metropolitan Transportation Commission. That finding of conformity with current ozone standards would appear to indicate that reduced thresholds are not required to be implemented to achieve compliance with the applicable air quality standards.

14-6

**C. GHG Emissions**

**1. Comments on the Regulatory Background**

The regulatory background set forth in the Workshop Report should be revised and refocused on AB 32. First, this section, alone among the sections in the Workshop Report, includes a discussion of "scientific and regulatory justification." The justification for evaluating GHG emissions, however, should be based on governing state law, as it is the case with the other pollutants discussed in the Workshop Report. That governing state law is AB 32.

14-7

Also, the discussion of Executive Order S-3-05 should be deleted. That Executive Order applies to actions of state agencies, not to the type of actions that are considered by lead agencies in the Bay Area who will be applying the District's thresholds to evaluate land use projects.

Finally, the draft CEQA Guidelines relating to the analysis of GHG emissions have been forwarded by the Office of Planning and Research to the Natural Resources Agency and that Agency has announced that it will begin the formal rulemaking process shortly. Those draft Guidelines have been prepared at the direction of the Legislature, and will be binding on lead agencies statewide when adopted, including lead agencies in the Bay Area. The revised version of the Workshop Report should evaluate those guidelines and insure that the proposed thresholds for GHG emissions can be implemented consistent with those draft Guidelines.

## 2. Development Assumptions

As noted above, the rate of development assumed by the Workshop Report in the analysis of GHG emissions is substantially flawed, as it assumes that data concerning the rate of development over the last 10 years is as sound and appropriate basis for projecting future growth over the next 10 years. As stated above, the rate of development in recent years has declined precipitously. In fact, there is no credible economic forecast suggesting development will return to 2001 to 2008 levels in the foreseeable future.

14-8

## 3. Consistency of GHG Thresholds with State Legislation and Guidelines

The District's proposed CEQA thresholds for GHG emissions should be consistent with state legislation and upcoming state guidelines on this topic. In this area, the District is not writing on blank slate. With the passage of AB 32 and SB 375, the Legislature has both established overall GHG reduction goals and established a process of linking land use and transportation planning to achieve those goals. The District's thresholds should focus on determining the significance of the GHG emissions attributable to a project, but should not seek to implement land use regulatory directives that would be duplicative of, and likely inconsistent with, the process now being carried out pursuant to SB 375. Similarly, the formulation of statewide CEQA Guidelines for the consideration, evaluation and mitigation of GHG emissions is well along, with the submission of proposed guidelines from the Office of Planning and Research to the Natural Resources Agency, as directed by SB 97. The District should insure that its proposed thresholds are consistent with the statewide Guidelines, so that lead agencies and applicants are not placed in the untenable situation of not being able to satisfy state CEQA Guidelines while utilizing District thresholds.

14-9

In particular, the thresholds should be based on, and consistent with, the substantial substantive work that has been done by CARB in determining what California must do to comply with AB 32's mandates. In developing the AB 32 Scoping Plan, CARB has set forth several metrics that can and should be used in developing the thresholds that will be applied by lead agencies considering proposed new developments. In the Scoping Plan, AB 32's mandate has been converted into the metric of "million metric tons of carbon dioxide equivalent" or MMTCO<sub>2</sub>E. CARB has determined that, without compliance with AB 32 and other emission reduction mandates, California's projected greenhouse gas emissions in 2020 would be 596 MMTCO<sub>2</sub>E, and AB 32's goal of reducing emissions to 1990 levels can be measured against this "business as usual" 2020 scenario. CARB has also determined that California's 1990 emissions were 427 MMTCO<sub>2</sub>E, so that California must reduce its emissions by 169 MMTCO<sub>2</sub>E, or 28.3 per cent, below the 2020 business as usual scenario. As noted in the Draft Workshop Report, this reduction is comparable to approximately a 10 per cent reduction from average 2002-2004 emissions. To the extent lead agencies use numeric metrics to determine the significance of a project's contribution to global climate change or whether that contribution can be reduced to a level that is less than cumulatively considerable, these are the metrics that should be used, and they should thus provide the foundation for any numeric threshold that is developed by the District.

Based on this substantial work by CARB, the District could adopt a threshold which would require that projects demonstrate either a reduction of 28.3% below the 2020 business as usual scenario, or a reduction of 10% from average 2002-2004 emissions. This relatively simple threshold would have the benefit of being clearly based on an understandable set of calculations that have already been conducted and vetted by CARB, and such a threshold would also be flexible enough to be applied to the wide variety of projects that come before Bay Area lead agencies. Consistent with CEQA's provisions delegating to lead agencies the responsibility for determining the significance of impacts, such a threshold would provide guidance to lead agencies but also allow lead agencies the flexibility to tailor compliance with the thresholds to meet the particular situations that are presented by different projects in different areas.

This type of flexibility is critical to providing workable and achievable means of meeting AB 32's goals, because the effectiveness of various methods of reducing emissions varies from jurisdiction to jurisdiction. For example, in parts of the Bay Area, providing water is energy intensive, and reducing water usage may be a more effective means of reducing GHG emissions than other measures. Similarly, in some jurisdictions, facilitating public transit is an effective emissions reduction measure. In other jurisdictions or areas such measures will do little to conserve energy and reduce emissions. Lead agencies in different parts of the Bay Area are best suited to determine which mix of emissions reduction measures would be most effective, and a simple and clear threshold based upon the emissions reductions required to meet AB 32 goals would be a workable and flexible approach for Bay Area lead agencies and for homebuilders and other project applicants. In brief, providing this type of clear direction based on CARB's work to date, and allowing for a flexibility in applying the thresholds, helps to achieve the most bang for the emissions reduction buck.

#### 4. Option 1: Plan Based Approach

The Workshop Report describes two main options for developing a threshold of significance for GHG emissions. The first option, referred to as the Plan-Based Approach, would set a significance threshold based on AB 32 GHG emission reduction goals, while taking into consideration emission reduction strategies outlined in CARB's Scoping Plan. Further, the Workshop Report concludes that, after taking into account the reductions in GHG emissions that would be obtained through implementation of CARB's Scoping Plan measures, the AB 32-mandate of achieving 1990-equivalent levels of GHG emissions could be achieved through a 2.8 percent reduction in "land-use-driven" emission sectors (i.e. those that are quantified for a project pursuant to a CEQA analysis [on-road passenger vehicles, commercial and residential natural gas, commercial and residential electricity consumption, and domestic wastewater treatment]."

a. CBIA and HBANC support the aspect of the Plan Based Approach that calculates the reductions that would be achieved through overall standards such as the tailpipe emission reduction standards in the Pavley bill (AB 1493), and then calculating the remaining amount of reductions required of development projects. However, it is unclear how the District calculated that applying a 2.8 percent reduction to those emissions sectors would "result in an equivalent fair share of 2.0 MMT/per year reductions in GHG emissions from new land use development." This should be clarified. In addition, the District should consider formulating the thresholds in a manner which allows a particular project to make an individualized determination of

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consistency with AB 32 and the required reductions, including the estimate of reductions due to measures such as the Pavley bill. For example, if the District's thresholds were to set forth an overall percentage reduction that could be applied against business as usual for all projects due to statewide regulations such as the Pavley bill, that would meet CEQA requirements, support achievement of AB 32 goals and create a workable threshold that would greatly assist in the preparation of negative declarations and mitigated negative declarations for smaller housing projects.

14-10

b. Option 1A, the Numeric-Only Threshold (Bright Line) option, would ask if project-generated GHG emissions were greater than the "mass emission level." If so, the impact would be considered significant and unavoidable. The Workshop Report states that the "mass emissions level" could be "chosen based on the mitigation effectiveness anticipated to be achieved per project to meet the aggregate emission reductions of 2.0 MMT needed in the District by 2020." This approach epitomizes what appears to be the District's conflation of its role as a regulatory agency and as an air quality regulatory agency attempting to establish a CEQA threshold of significance. This is also substantially more complicated than a simple threshold based on the calculations already performed by CARB of the emissions reductions needed to meet AB 32 goals.

c. At the same time that Option 1A is unnecessarily complicated, it is also of more limited utility because it is suggested as only a screening threshold. As the discussion on page 25 of the Option Report indicates, under the application of this threshold, a certain percentage of projects would be above the significance threshold and would thus have to implement feasible mitigation measures to meet their CEQA obligations. This type of screening threshold can only be used at the initial stage of determining whether an impact is potentially significant. In contrast, the District's existing thresholds have broader utility and have been used both in determining potential significance and also in determining the significance of projects following mitigation. Basing a threshold on the percentage reductions needed to meet AB 32 goals, as already calculated by CARB, would provide a threshold of broader utility, that could be used both at the beginning of the CEQA process, as well as when lead agencies are making determinations at the conclusion of the process about whether impacts have been mitigated to a less than significant level.

14-11

d. The draft staff report prepared by the San Joaquin Valley Air Pollution Control District dated June 30 ("Climate Change Action Plan: Addressing Greenhouse Gas Emissions Under the California Environmental Quality Act") evaluates an approach similar to Option 1A and identifies some of the substantial problems with the approach. As that report notes at page 49, without supporting scientific information, establishing a mass emission level as a trigger for CEQA review and mitigation requirements may be arbitrary, and it is not clear that CEQA authorizes the imposition of mitigation on larger projects to compensate for emissions that are not reduced by smaller projects. This report also proposes a threshold based on performance standards tied to AB 32 goals and the work CARB has already performed in calculating the type of emissions reduction needed to meet those goals.

e. Option 1B, the Performance Standards-Only Threshold, would require that all CEQA projects not categorically or statutorily exempt from CEQA achieve a

14-12

minimum 24 percent reduction in GHG emissions. This approach, unlike Option 1A, would not give any credit to a project for emissions reductions achieved through implementation of the Scoping Plan, as it would assume those measures are part of business as usual, or baseline calculations, for the project. Given that implementation of the Scoping Plan is part of the reductions that will be implemented to achieve AB 32's goals, it is inappropriate to exclude those reductions from the calculations applicable to any particular project. This would also create a significance threshold that is, essentially, a constantly moving target, without any evidence to demonstrate that the target would remain valid under CEQA.

14-12

f. Finally, Option 1C, a combination of Performance Standards and Numeric Threshold, would require that projects which generate GHG emissions over a certain numeric threshold be required to mitigate their emissions, while those falling below that threshold would still have to implement a prescribed set of performance standards to achieve a 5 percent emissions reduction. Again, this approach conflates regulatory goals concerning the reduction of GHG emissions with CEQA's requirement that potentially significant impacts be evaluated, and mitigated when it is feasible to do so. CEQA provides no authority for lead agencies to impose mitigation measures on projects that *will not* result in significant impacts.

14-13

g. In sum, there are workability and flexibility problems for each of the potential options evaluated in the Options Report. As indicated above, we believe it makes more sense for the District to develop GHG significance thresholds based on statewide GHG reduction goals and the scientific analysis on which these goals are based. The thresholds should also reflect the work that has already been performed by CARB and employ the workable metrics that CARB has developed as part of its analysis. An approach based on performance standards keyed to AB 32, such as the proposed threshold now being considered by the San Joaquin Valley APCD, would be both more workable and more effective.

14-10

Cont'd  
(see pg. 8-9)

h. Given that the development of thresholds of significance for GHG emissions is still evolving, and that the development of California policy for reducing GHG emissions is still evolving through the implementation of AB 32 and SB 375, we believe that a CEQA GHG emissions threshold must be based on the work that been done and the underlying science on which that work is based. We expect that such a threshold will be an interim threshold, as the draft Workshop Report recognizes, and will be further developed as the science and policy evolves.

#### D. Toxic Air Contaminants

##### 1. New Receptor Siting

We appreciate the District's careful admonition in Section 2.3.5.2 that CEQA is concerned only with physical changes caused by a project which implicate existing sources of TACs. We also appreciate the Workshop Report's acknowledgement that there needs to be a thoughtful balance between prioritizing high density transit oriented development to achieve reductions in criteria air pollutants and GHGs and siting sensitive receptors near high concentrations of TACs.

14-14

## 2. Comments on Option 1

The Report's discussion of creating a significance threshold for project-generated area and mobile source TACs is a source of substantial concern. The Report suggests that the District could impose a requirement of the installation of Toxic Best Available Control Technology (TBACT) on project-generated area and mobile source TAC emissions, rather than only on stationary-source TAC emissions as it does now. The Report further states that "the District would identify a list of TBP [Toxic Best Practices] for non-stationary sources to implement if they are above the one in a million [the current stationary-source threshold] threshold."

First, this discussion appears to be a proposal for a new District regulation that would vastly expand the District's regulatory jurisdiction with regard to non-stationary source emissions of TACs, rather than simply a discussion of a CEQA significance threshold for TACs. Consistent with our general comments at the beginning of this letter, this approach inappropriately crosses the line between the District's regulatory rulemaking role and its voluntary decision to adopt CEQA thresholds of significance.

Second, the Report contains no discussion as to how a project's area and mobile TAC emissions would be measured, or how the project's TACs could be addressed through the installation of TBACT – an approach that was developed for *stationary* sources. We would oppose any effort to use the District's CEQA thresholds of significance to regulate area and mobile-source emissions related to development projects as though they were petroleum refineries, or any other classic stationary TAC source.

## 3. Comments on Option 2

Option 2 proposes to establish a different threshold for TAC emissions in areas subject to the District's Community Air Risk Evaluation program. Setting different thresholds for different areas is a dramatic departure from existing CEQA practice both with respect to air quality impacts and environmental impacts in general. CEQA's existing provisions regarding the analysis and mitigation of cumulative impacts provide the appropriate mechanism for dealing with situations where an area is disproportionately adversely affected by a particular pollutant. Under the cumulative impact regime, a new TAC source in such an area would be required to mitigate its contribution to the cumulative impact, or if the impact cannot be mitigated, the project would be determined to have a significant and unavoidable impact. This existing and well established mechanism should be applied in areas where communities are cumulatively impacted from TAC emissions, rather than creating a separate and different threshold.

Evaluating whether a different air quality standard should be applied in certain areas is a policy and regulatory choice that should be expressly evaluated as such. Absent a legislative or regulatory determination that different air standards are appropriate in different areas, it is inappropriate, and inconsistent with existing CEQA practice, to recommend a different threshold be applied in certain areas or communities.

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14-16

Greg Tholen  
June 26, 2009  
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CBIA and HBANC very much appreciate the opportunity to provide these comments, and look forward to working with District staff in the further development and formulation of effective and workable CEQA thresholds of significance.

Sincerely,



Michael H. Zischke

MHZ/ct  
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cc: Richard Lyon, California Building Industry Association  
Paul Campos, Home Builders Association of Northern California

Comment Letter #: 14

Date: June 26, 2009

From: Michael H. Zischke, Cox Castle & Nicholson LLP, on behalf of the California Building Industry Association and the Home Builders Association of Northern California

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Response to Comments:

- 14-1 Staff is not intending the proposed thresholds as regulations nor as an exercise of the District's regulatory authority to impose air pollution control requirements, and the proposed thresholds would not impose any regulatory requirements that would require specific sources to implement specific emissions controls. To the contrary, the proposed thresholds are intended to support the important policies underlying CEQA as established by the Legislature and the Resources agency. These policies include ensuring that lead agencies evaluate projects' environmental impacts and avoid approving projects with significant adverse impacts; and encouraging expert agencies to develop thresholds of significance to help lead agencies in making significance determinations. It is these policy objectives of CEQA that the District furthers in adopting thresholds of significance. Staff therefore disagree that adopting the proposed thresholds would be an unauthorized exercise of regulatory authority, and believe instead that doing so would be an appropriate means to further CEQA's environmental goals. In keeping with these principles, staff do agree with the commenters that CEQA thresholds need to be consistent with the concept of significance under CEQA, which provides that mitigation can be imposed only where impacts are above a level of significance. Staff are therefore not proposing any thresholds that would require mitigation for impacts that are found to be less-than-significant.
- 14-2 Staff has provided a great deal of additional explanation and analysis since this comment letter was submitted to help affected entities and the public understand the basis for the proposed thresholds. Staff believes that this additional work has provided the further explanation that these commenters requested.
- 14-3 In the revised CEQA Guidelines staff has included many screening tables and guidance on estimating a project's emissions and mitigating significant impacts. The screening criteria will allow small projects to easily that they are below the threshold and require no further analysis. Where further analysis may be necessary, staff is providing much of the upfront modeling and analysis to relieve Lead Agency staff and project proponents of this burden. The recommended analytical tools are readily available, most often at no cost for the user, and have been in use for many years. For GHG analyses, staff recommends using the URBEMIS model, which has been used by practitioners for decades, and staff is developing easily understood guidance to include GHG emission estimates not yet included in the URBEMIS model. For risk and hazard analyses, the Air District intends to provide tables with screening analysis and risk modeling from toxic air emission sources in the Bay Area to assist lead agencies in evaluating community risk and hazard as part of the CEQA Guidelines.
- 14-4 The development projections used in BAAQMD's TOS sensitivity analysis were based on future population and employment growth projections from the California Department of Finance and Economic Development Department, and were not based on past development trends, as the commenter asserts. The dataset obtained from the CEQA projects database is based on past development projects, but was only used to derive the types and size distribution of projects that were subject to CEQA in BAAQMD's jurisdiction (e.g., thousand square feet of retail proposed under a single

development project, number of residential dwelling units proposed under a single development project). BAAQMD acknowledges that historical data does not necessarily represent future development project attributes, but absent any other type of dataset, BAAQMD felt past project size distributions were appropriate to use for this exercise. The project size and type frequency distributions were used to allocate projected development (which was treated independently of past development) into representative project categories or "bins" (e.g., 1-50,000 square feet of retail, 50,001-100,000 square feet of retail, etc.) that were used in the TOS sensitivity analysis. BAAQMD's approach to development projections was based on DOF and EDD data, which has a good track record of projecting demographic growth in California. Because DOF and EDD are reliable sources for growth projection data, BAAQMD does not anticipate that development, air pollutant emissions, or emissions reduction potential was substantially overestimated. The commenter's assertion that projections were based on looking backwards is inaccurate. Please refer to Appendix D of the November 2009 version of the *Draft Air Quality Guidelines*.

- 14-5 Staff agrees with this comment that, as an overall regional matter, CO and SO<sub>2</sub> emissions are not a significant cumulative-impact concern because the Bay Area has been in compliance with the NAAQS for these pollutants for some time. Staff is therefore not proposing any thresholds based on the NAAQS for these pollutants.

Staff would note that CO can be a localized concern because certain projects can contribute to localized CO "hotspots", however, even where CO is not a problem on a broader, regional scale. This situation is reflected in the proposed thresholds for local CO.

- 14-6 The proposed ROG and NO<sub>x</sub> thresholds are based on the threshold level above which offsets are required for stationary sources under District regulation 2-2-302. The offsets trigger level used to be 15 tons per year at the time the District's current thresholds were adopted, but it has been reduced to 10 tons per year. Staff is proposing to reduce the CEQA significance thresholds for ROG and NO<sub>x</sub> consistent with the change in the offset trigger level.

- 14-7 Staff agrees with the commenters that the greenhouse gas thresholds should be based on AB32. The proposed thresholds are based on the AB32 greenhouse gas reductions target, and would ensure that emissions from new projects will be consistent with achieving the AB32 goals. Staff disagree that EO S-3-05 should not be included in the discussion of the regulatory background, as it is an important element on the regulatory landscape that lead agencies should be aware of. Furthermore, the EO S-3-05 emissions reduction trajectory is consistent with the AB32 2020 reduction goal of reaching 1990 emissions levels by that date, and so thresholds based on achieving the AB32 goal will also be consistent with EO S-3-05. Finally, staff agrees that the thresholds should be consistent with the proposed OPR/Resource Agency amendments to the state CEQA guidelines. The proposed thresholds are consistent with those proposed amendments, and would provide lead agencies with a tool for determining significance when evaluating greenhouse gas impacts under the amendments when they are adopted.

- 14-8 See response 14-4 above regarding the basis for the District's development estimates.

- 14-9 Staff agree that the thresholds should be consistent and not conflict with AB32, SB375, and the proposed OPR/Resources Agency amendments to the state CEQA guidelines. The proposed thresholds are consistent with and do not conflict with any of those statewide efforts to address greenhouse gas

concerns under CEQA. With respect to achieving the AB32 goal by establishing a threshold that requires individual projects to demonstrate a certain percentage reduction based on calculations by CARB, staff believes that there is not necessarily one and only one appropriate and supportable approach to determining significance under CEQA. Staff believes that there may well be merits to such an approach, and in fact considered a percentage-reduction threshold earlier in the threshold development process. Staff has ultimately concluded that the approach it has proposed – using alternatively a bright-line threshold of 1,100 MT/yr or a greenhouse-gas efficiency metric of 4.6 MT/yr per service population – is more appropriate than a percentage-reduction approach.

- 14-10 The District's analysis of the percentage additional reduction and mass of reductions (MMT/yr) that would be needed from new land-use projects to achieve the AB32 goals has changed slightly from when this comment was submitted. The District's refined analysis shows that an additional 2.3% reduction, or 1.6 MMT/yr, is necessary. This revised analysis was summarized in the District's November 2, 2009 thresholds report and supporting documentation. With respect to allowing projects to make an individualized determination of consistency with AB32, staff agrees that consistency with AB32 should be the touchstone of determining significance under CEQA, but has concluded that its proposed approach would be preferable to requiring a certain percentage emissions reduction as described in response to the previous comment.
- 14-11 Staff disagrees that the use of a "bright-line" numeric emissions threshold would establish a substantive regulation instead of a measure of CEQA significance. The threshold will not require any source to implement any particular control technology as a result of District regulatory authority. To the contrary, the threshold will provide a means for lead agencies to evaluate the significance of a project's emissions, based on the substantial evidence the District has developed that a significance threshold at this level will help provide for, and be consistent with, achieving the AB32 goal. Developing such thresholds is encouraged by Section 15064.7 of the state CEQA Guidelines. Staff also disagrees that the threshold would be used only as a screening measure to determine whether mitigation would be required. The threshold would also apply to determine significance after mitigation is imposed, and projects that cannot reduce their emissions below 1,100 MT/yr would be considered significant (unless the alternative 4.6 MT/yr per service population is used and the project's emissions are below that level). Staff also disagrees that the establishment of this bright-line emissions level would be arbitrary. To the contrary, the level is based on substantial evidence and detailed evaluation and calculations showing that the threshold is based on achieving the AB32 goal. Finally, staff disagrees with the commenters' assertion that establishing a bright-line threshold in a cumulative-impact context such as global climate change is impermissible under CEQA because it would allow smaller projects to avoid implementing mitigation at the expense of larger projects which may require additional mitigation to ensure that the cumulative problem is adequately addressed. If this were the case under CEQA, there could be no level below which an incremental contribution to the cumulative problem would be less than "cumulatively considerable", because any time such a threshold is used it necessarily exempts smaller projects from mitigation requirements leaving more work to be done by the larger projects to address the cumulative problem. And that is clearly not the law under CEQA, as the CEQA guidelines expressly provide for establishing levels below which a small project's contribution is less than "cumulatively considerable" and therefore less than significant. (See CEQA Guidelines §§ 15064(h), 15064.7.) Staff therefore disagree that providing a bright-line level below which projects will be less-than-significant and will not require mitigation is prohibited by CEQA, as long as it is supported by substantial evidence as the proposed thresholds are here.

- 14-12 Staff is no longer considering such an option, and it is not part of the proposed thresholds.
- 14-13 Staff is no longer considering such an option, and it is not part of the proposed thresholds.
- 14-14 The District acknowledges the comments and appreciates the feedback.
- 14-15 The proposed thresholds of significance are not regulations and do not require any projects to implement any particular pollution control measures. To the contrary, the thresholds are tools for lead agencies to use in complying with their CEQA responsibility to analyze the significance of projects before them for approval. CEQA clearly applies to all types of environmental impacts, including emissions from area and mobile sources as well as stationary sources, and so it is appropriate for the District to provide guidance through its thresholds of significance for lead agencies evaluating area and mobile source emissions for projects that will involve such emissions. Furthermore, staff's current proposal does not include any requirement that sources implement TBACT. The Air District intends to provide tables with screening analysis and risk modeling from toxic air emission sources in the Bay Area to assist lead agencies in evaluating community risk and hazard as part of the CEQA Guidelines. In addition, the revised CEQA Guidelines reference the CAPCOA *Health Risk Assessments for Proposed Land Use Projects*.
- 14-16 Staff agrees that the problem of certain areas being disproportionately adversely impacted should be addressed as a cumulative impacts problem. Staff has revised the proposed thresholds to do so. Under staff's current proposal, areas that are disproportionately burdened with TAC emissions sources in the local vicinity will benefit from a cumulative analysis threshold that will require projects to evaluate the cumulative impact of all such sources within a 1,000 foot radius of the proposed project. This revised approach will provide a tool for lead agencies to carefully consider whether to site new sources or receptors in disproportionately burdened areas, without establishing different health risk standards for different segments of the population.

**From:** David Vintze  
**To:** Jennifer Schulte;  
**CC:** Shari Libicki; Gregory Tholen;  
**Subject:** RE: GHG CEQA Thresholds Comments on Analysis  
**Date:** Wednesday, July 01, 2009 11:54:01 AM  
**Attachments:**

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Thanks Jennifer – hope your recovery from the accident is progressing well. We will review your comments and may call you with questions or comments of our own. Dave

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**From:** Jennifer Schulte [mailto:JSchulte@Environcorp.com]  
**Sent:** Wednesday, July 01, 2009 11:43 AM  
**To:** David Vintze  
**Cc:** Shari Libicki  
**Subject:** GHG CEQA Thresholds Comments on Analysis

David,

As we discussed in our meeting, we reviewed Bay Area Air Quality Management District's (BAAQMD) April 2009 Workshop Draft Options Report California Environmental Quality Act Thresholds of Significance. In particular, ENVIRON reviewed the GHG Emissions Analyses and Options for CEQA Thresholds. In this email, we briefly highlight areas where the GHG emissions analyses might be reconsidered or further elaborated on to explain the rationale behind the calculations. Attached is a sample list of some project design features that you may want to consider. This list is a bit old and we will send you an updated list of suggested project design features later this month. Please feel free to contact Shari or myself if you have any questions.

**Construction Emissions**

It is unclear what emissions are all included in this threshold (section 2.2.2 of the report). Based on the emissions inventory a total of 1.5 million metric tonnes (MMT) of carbon dioxide equivalent emissions in 1990 and 2.9 MMT

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in 2020 are attributed to construction emissions. This is made up of off-road construction equipment and 5% of the on-road heavy-duty trucks to account for construction debris and material hauling trips. It doesn't appear that the haul trips are removed from operational Heavy Duty transportation emissions in the operational GHG emissions. This possible double counting should be clarified. It does not appear to also account for worker commuting trips associated with construction projects.

15-1

### **Operational GHG Emissions**

The draft report attempts to account for the San Francisco Bay Area Air Basin (SFBAAB) contribution of GHG emissions attributable to land use according to ARB's 2020 Business as Usual emissions used in the AB32 Scoping Plan. In the text on page 21, emission sectors related to land use are described. This description includes water consumption, but the water sector is not seen in the rest of the document including supporting tables.

15-2

It appears that all emissions for on-road vehicles are included in the emissions attributed to the land use sector. Is it appropriate to attribute all heavy duty vehicle emissions to land use rather than attribute a portion to the goods movement sector? Also, as noted above the trips associated with construction does not appear to be removed.

It appears that all electricity generated is attributed to the land use sector. It is known that specific industries and water supply and conveyance use a large portion of the electricity. Should the electricity attributable to these sectors be excluded from the electricity attributed to the land use sector?

15-3

The SFBAAB accounts for ~20% of the total state population. However, the ratio of emissions in the various sectors between the state and SFBAAB does not always match this as expected. Specifically the natural gas fuel use for residential and commercial buildings is substantially higher than 20%, coming in at approximately 33%.

15-4

The selection of anticipated early action regulations is unclear. We are unclear as to why certain scoping plan measures were excluded from consideration. Some of these measures are:

- Heavy Duty vehicle aerodynamic efficiency
- Heavy Duty and Medium Heavy Duty vehicle hybridization
- Regional Transportation (SB375)
- Various passenger vehicle efficiency measures such as tire inflation
- Million Solar Roofs program

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Several scoping plan measures were incorporated into an analysis to determine the additional reductions in GHG emissions for the land use sector that could be addressed through CEQA thresholds. The reduction was first determined for the statewide inventory and the same overall percentage reduction was applied to the local inventory. The distribution of sector emissions is not the same between the state and local inventories, thus the same percentages may not be applicable to use. The reduction needed for the SFB AAB to reach 1990 levels for the land use-related sectors is 15.2% instead of the 23.9% needed statewide. If the 21.1% reduction from scoping plan measures is applied to the SFBAAB inventory there is no gap remaining. Based on the differences in reduction needed to reach 1990 levels, it suggests that the scoping plan measures considered may apply differently to the SFBAAB inventory. This appears to be due to differences in percent breakdown of emissions for the different categories. Since reductions due to scoping plan measures are not the same across the sectors, the different distribution of emissions across the sectors will impact the overall percentage reduction due to scoping plan measures. Thus the gap in measures may be different than the gap in the statewide inventory. It is suggested that the percentages and gap should be determined specifically for the SFBAAB inventory using the scoping plan measures selected. For instance, as it is currently in the report, the local inventory uses a larger percentage of fuel for commercial and residential than the statewide inventory. Since the reduction is small for this category the reduction may be estimated incorrectly. Also the local inventory has less heavy duty truck emissions which will also lower the gap.

In applying the reduction for renewable portfolio standard, should the reduction be adjusted to account for the portion of renewable power the SFBAAB already uses, which is a higher percentage than most of the state?

The analysis included reductions attributable to the Green Building Code (GBC) which is not a specific measure of the scoping plan, but overlaps with other measures such as energy efficiency improvements (CR-1 and CR-2). It is unclear how the values attributable to the GBC was determined and applied to the emissions inventories. Table 11 shows percentage reductions in GHG emissions for residential and non-residential building energy use of electricity and natural gas. It is unclear how these percentages were determined based on information in the scoping plan or GBC.

A portion of the electricity was determined to be part of generation while another portion was attributable to residential and non-residential buildings. How was the assignment of residential and commercial electricity use determined? Does this account for energy use by industrial sources or water supply and conveyance?

The specific assumptions of the GBC should be outlined so that it is clear what project design features are still available that would go beyond the GBC as suggested in option 1B of GHG significance thresholds. Are some of the other measures listed in the scoping plan but not considered in this analysis appropriate to include in GHG emission inventories prepared for CEQA if they can be proven enforceable?

There are a few number selections that we are not sure that we understand. For example, Table 11 and Table 12 list different electricity percentages. In addition, the emission factor used in Appendix E for electricity is based on the statewide value rather than the local emission factor which is ~25% lower. It is unclear why the statewide emission factor was selected instead of the SFBAAB specific electricity emission factor.

**Jennifer Schulte, Ph.D. | Senior Associate**

ENVIRON | [www.vironcorp.com](http://www.vironcorp.com)

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V: 510.420.2511 | F: 510.655.9517 | [jschulte@vironcorp.com](mailto:jschulte@vironcorp.com)

154

Comment Letter #: 15

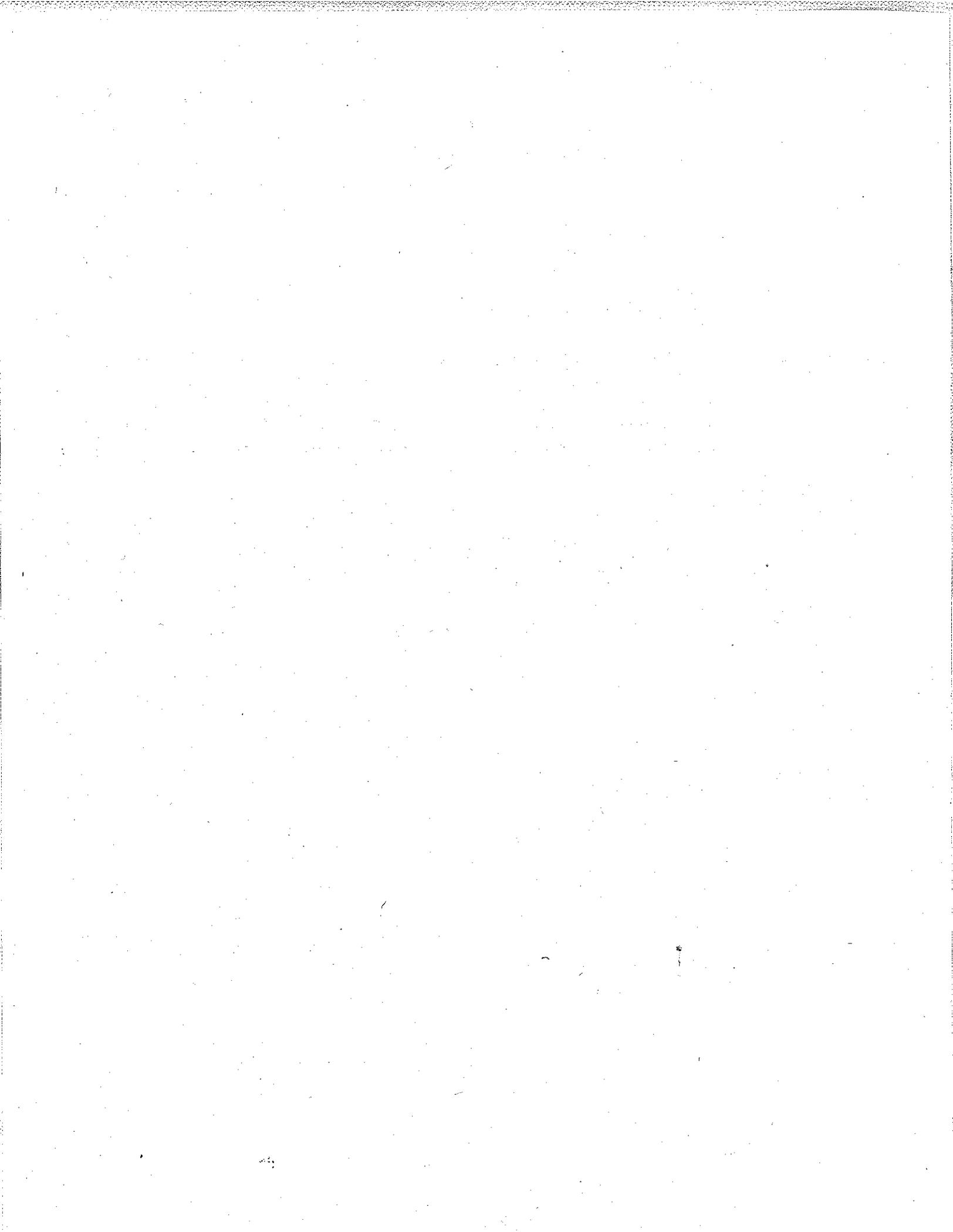
Date: July 1, 2009

From: Jennifer Schulte, Senior Associate, Principal, Environ

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Response to Comments:

- 15-1 The GHG threshold for construction referred to in this comment has been omitted from the *Proposed Thresholds of Significance* report (November 2, 2009). See Master Response MR-3 for a full response on the assumptions used in the GHG thresholds.
- 15-2 See Master Response MR-3 for a full response on the emission assumptions used in the GHG thresholds.
- 15-3 The updated CEQA Guidelines will provide direction on how lead agencies should calculate GHG emissions from indirect sources, including electricity use and water conveyance.
- 15-4 See Master Response MR-3.



### CEQA Standards for Clean Construction

All CEQA projects should meet the following standards for construction to minimize air quality, public health and climate impacts.

#### Construction Equipment

Equipment<sup>1</sup> greater than 25 horsepower must:

- (1) Meet current emission standards<sup>2</sup> *and*.
- (2) Be equipped with Best Available Control Technology (BACT)<sup>3</sup> for emissions reductions of PM and NOx, *or*
- (3) Use an alternative fuel.<sup>4</sup>

#### Diesel Trucks

On-road trucks used at construction sites, such as dump trucks, must:

- (1) Meet current emission standards, *or*
- (2) Be equipped with BACT<sup>5</sup> for emissions reductions of PM and NOx, *and*
- (3) Any trucks hauling materials such as debris or fill, must be fully covered while operating off-site (i.e. in transit to or from the site).

#### Generators

Where access to the power grid is limited, on-site generators must:

- (1) Meet the equivalent current off-road standards for NOx, *and*
- (2) Meet a 0.01 gram per brake-horsepower-hour standard for PM, *or*
- (3) Be equipped with Best Available Control Technology (BACT) for emissions reductions of PM.

#### Special Precautions Near Sensitive Sites

All equipment operating on construction sites within 1,000 feet of a sensitive receptor site (such as schools, daycares, playgrounds and hospitals)<sup>6</sup> would either:

- (1) Meet US EPA Tier IV emission standards *or*
- (2) Install ARB Verified "Level 3" controls (85% or better PM reductions), *and*
- (3) Notify each of those sites of the project, in writing, at least 30 days before construction activities begin.<sup>7</sup>

<sup>1</sup> Equipment refers to vehicles such as excavators, backhoes, bulldozers propelled by an off-road diesel internal combustion engine.

<sup>2</sup> These standards are described in Division 3 Chapter 9, Article 4, Section 2423(b)(1)(A) of Title 13 of the California Code of Regulations, as amended. An explanation of current and past engine standards can also be accessed at <http://www.dieselnet.com/standards/>. Currently all new equipment are meeting the US EPA Tier II standards and most equipment also meets Tier III standards (all 100HP to 750HP equipment). Note that Tier IV standards would automatically meet the BACT requirement.

<sup>3</sup> Here BACT refers to the "Most effective verified diesel emission control strategy" (VDECS) which is a device, system or strategy that is verified pursuant to Division 3 Chapter 14 of Title 13 of the California Code of Regulations to achieve the highest level of pollution control from an off-road vehicle.

<sup>4</sup> This could include natural gas or biodiesel, which is a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, meeting the requirements of ASTM D 6751. However, biodiesel must be proven to be sourced from sustainable feedstocks including waste grease, fats or oil and under certain circumstances, farmed oils that can be proven to be sustainable.

<sup>5</sup> Here BACT also refers to most effective VDECS as defined by the California Air Resources Board (CARB).

<sup>6</sup> Sensitive sites are defined and described in the CARB Air Quality and Land Use Planning Guidelines, 2005; <http://www.arb.ca.gov/ch/landuse.htm>.

16-1

***Recommendations to Limit Global Warming Pollution from Construction:***

- (1) Prohibit all non-essential idling of equipment and vehicles onsite.
- (2) Use the lowest carbon fuels possible (such as biodiesel or other alternative fuels).
- (3) Electrify operations to the extent possible. Where access to the power grid is possible, this should be established instead of using stationary or mobile power generators. All cranes, forklifts and equipment that can be electrified, should be.
- (4) All constructed buildings should meet the Leadership in Energy and Environmental Design (LEED) Green Building Rating System™ including the use of locally sourced materials, where possible.<sup>8</sup>

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<sup>7</sup> Notification shall include the name of the project, location, extent (acreage, number of pieces of equipment operating and duration), any special considerations (such as contaminated waste removal or other hazards), and contact information for a community liaison who can answer any questions.

<sup>8</sup> For information on LEED standards, see the U.S. Green Building Council:  
<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>

Comment Letter #: 16

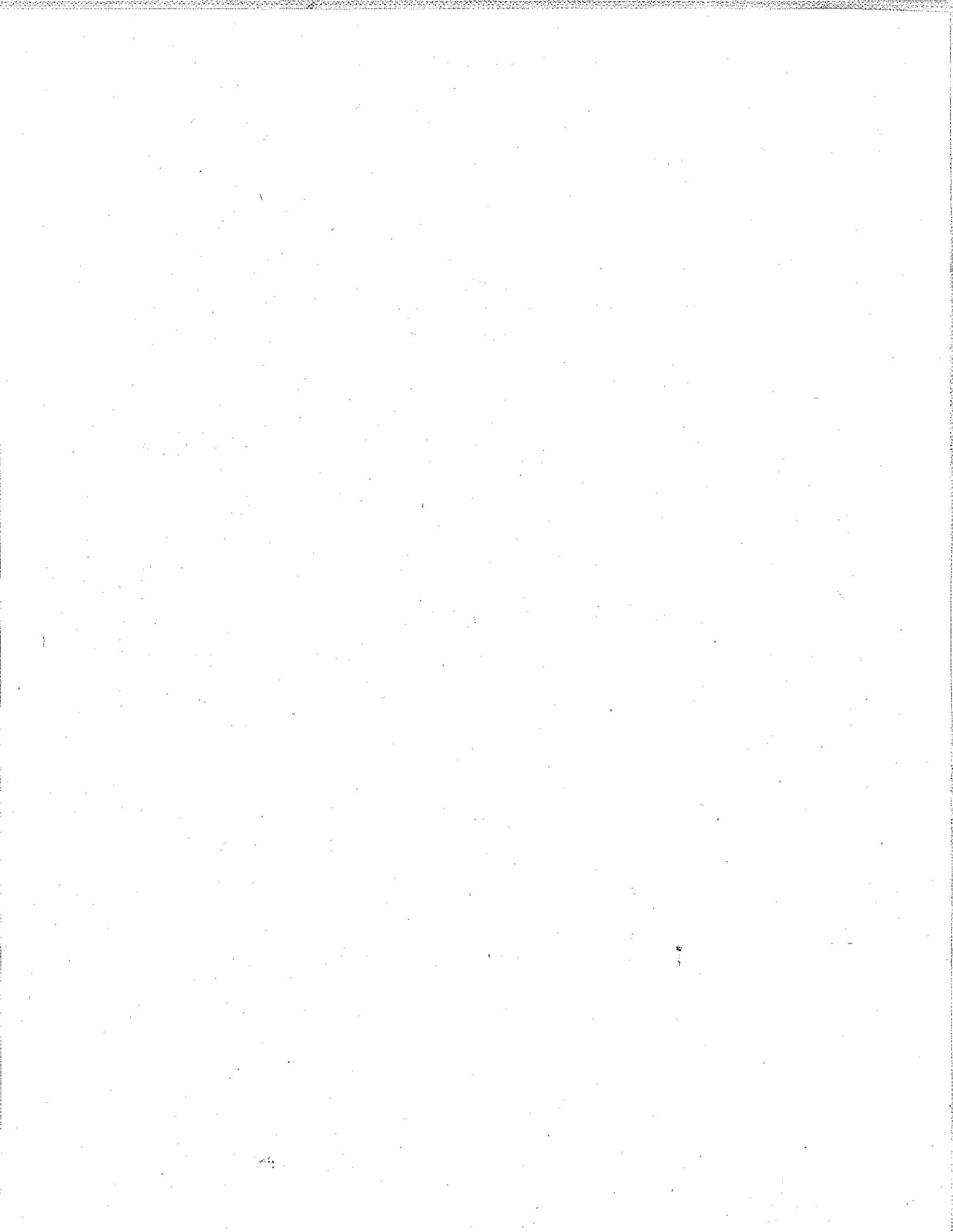
Date: September 8, 2009

From: Natural Resources Defense Council

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Response to Comments:

16-1 The Air District will consider NRDC's CEQA Standards for Clean Construction in the CEQA Guidelines best management practices for construction activities. Most, if not all, suggested reduction measures have been included as recommended mitigation measures in the revised CEQA Guidelines.





# CEQA Guidelines Update Comment Card

9/09

## We need your input!

The Bay Area Air Quality Management District is updating its CEQA Guidelines and is seeking your input. The CEQA Guidelines Update will review, revise, and develop significance thresholds, assessment methodologies, and mitigation strategies for criteria pollutants, air toxics, odors, and greenhouse gas emissions.

### CONTACT INFORMATION (Optional):

Name: F. Cohn  
Affiliation: SFATF/BAEHC  
Email: karen.cohn@sfsfph.org

① What is justification for 500 ft. overlay (rather than 1000 ft.) overlay on each side of freeway + high volume roadways

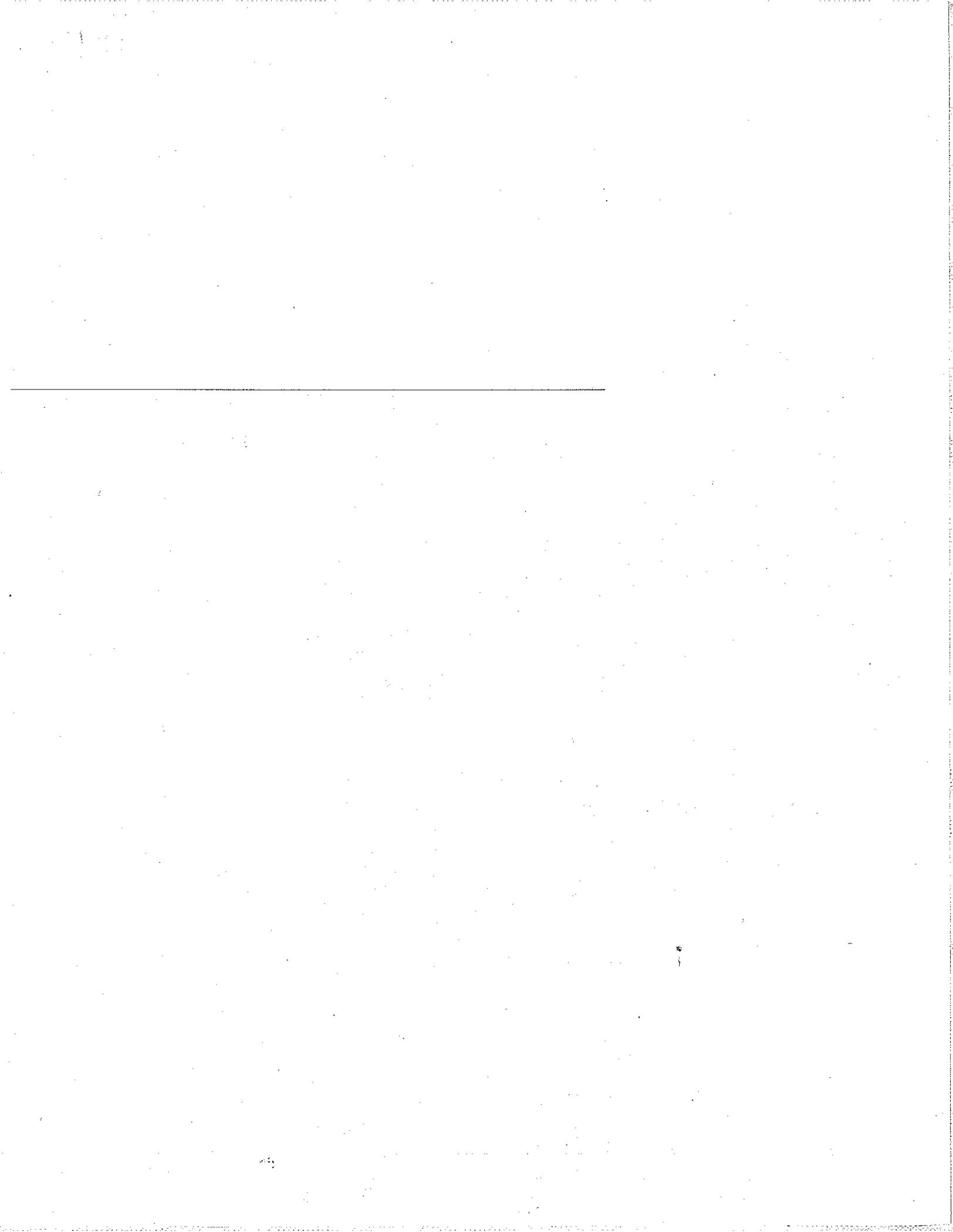
when you cite the studies supporting 1000 ft. radius in other parts of proposal?

② What types of odors are in complaint database and what data shows 500 ft. drop in odor perception for those specific odors (eg. sulfurous odors, combustion odors)

③ Keep pursuing cumulative impact guidance / Signif. Criteria,

④ Add screening table to slideshow + presentation →

#17



Place  
Stamp  
Here

Attn: Greg Tholen, Principal Planner  
Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109

- ⑤ What about occupancy ratio with parking spaces as a CEQA guideline → to reduce overall PM from vehicles
- ⑥ Reinforce reduced risks from construction equipment, partic. in high impact country

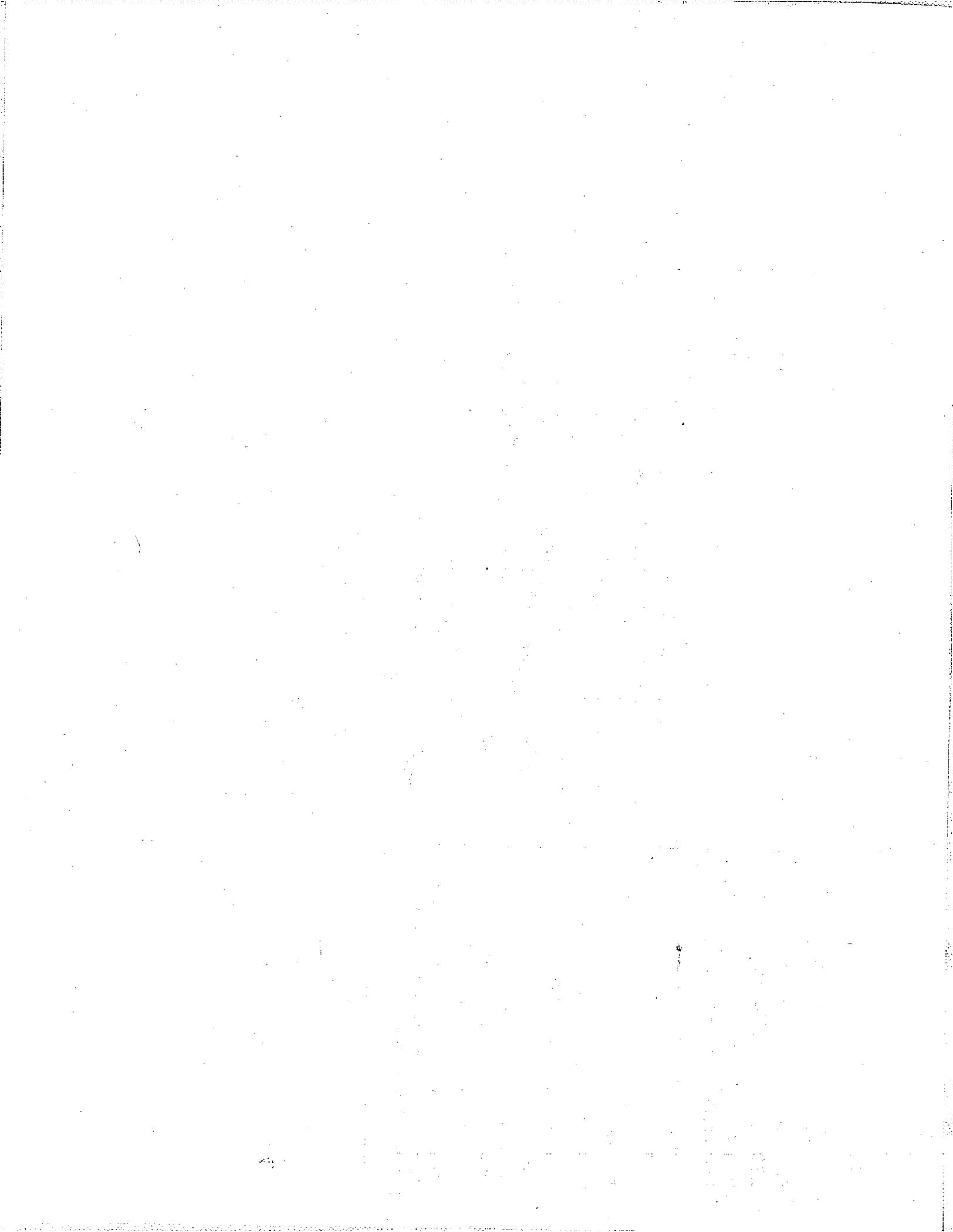


**Comments on the CEQA Guidelines Update may be submitted in the following ways:**

- Hand in comment card at a workshop
- Mail comment card
- Email comments to Greg Tholen at [gtholen@baaqmd.gov](mailto:gtholen@baaqmd.gov)

For more information visit:  
<http://www.baaqmd.gov/pln/ceqa/index.htm>  
or contact Greg Tholen at [gtholen@baaqmd.gov](mailto:gtholen@baaqmd.gov)

If you wish to be added to the CEQA Guidelines Update email list please contact Lilia Martinez at [lmartinez@baaqmd.gov](mailto:lmartinez@baaqmd.gov).



Comment Letter #: 17

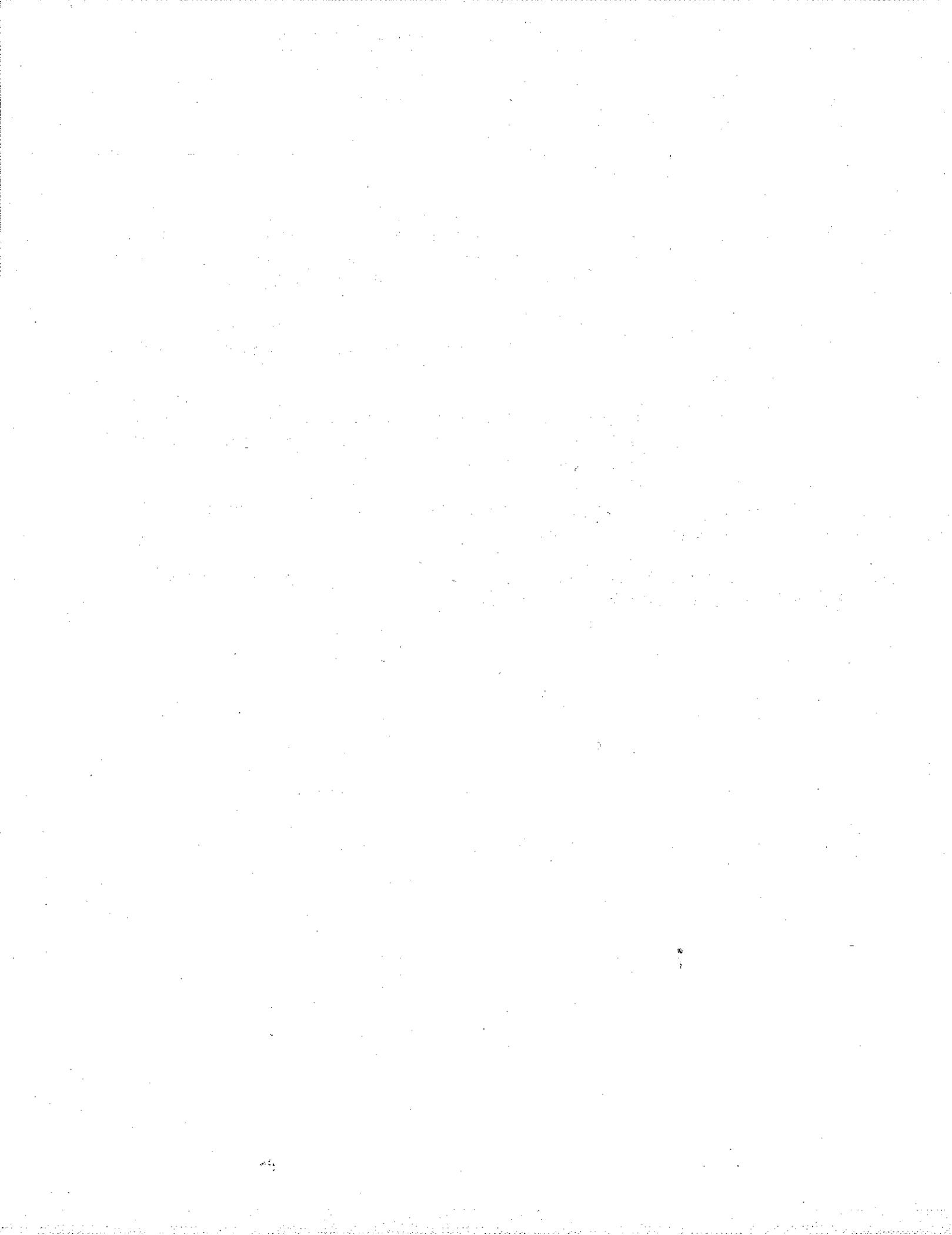
Date: September 9, 2009

From: Karen Cohn, Bay Area Environmental Health Coalition

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Response to Comments:

- 17-1 The proposed risk and hazard thresholds have been modified to allow overlay zone distances other than 500 feet along freeways and high- volume roadways. The modified distance must be based on district-approved modeling for the locations being considered for distances other than 500 feet.
- 17-2 The screening distances for odors are not intended to act as thresholds. The odor threshold is complaint-based. The screening distances are based on Air District rules and experience with enforcing odor complaints.
- 17-3 The *Proposed Thresholds of Significance* report contains individual project and cumulative thresholds for community risk and hazard. The cumulative approach considers all existing emission sources within a 1,000 foot radius from the fence-line of a source or receptor.
- 17-4 The CEQA Guidelines includes reduced parking policies as part of the recommended mitigation measures for proposed projects and plans.
- 17-5 The proposed risk and hazard construction threshold in the *Proposed Thresholds of Significance* report has been modified to be the same as the threshold for operations.





# CEQA Guidelines Update Comment Card

9/09

#18

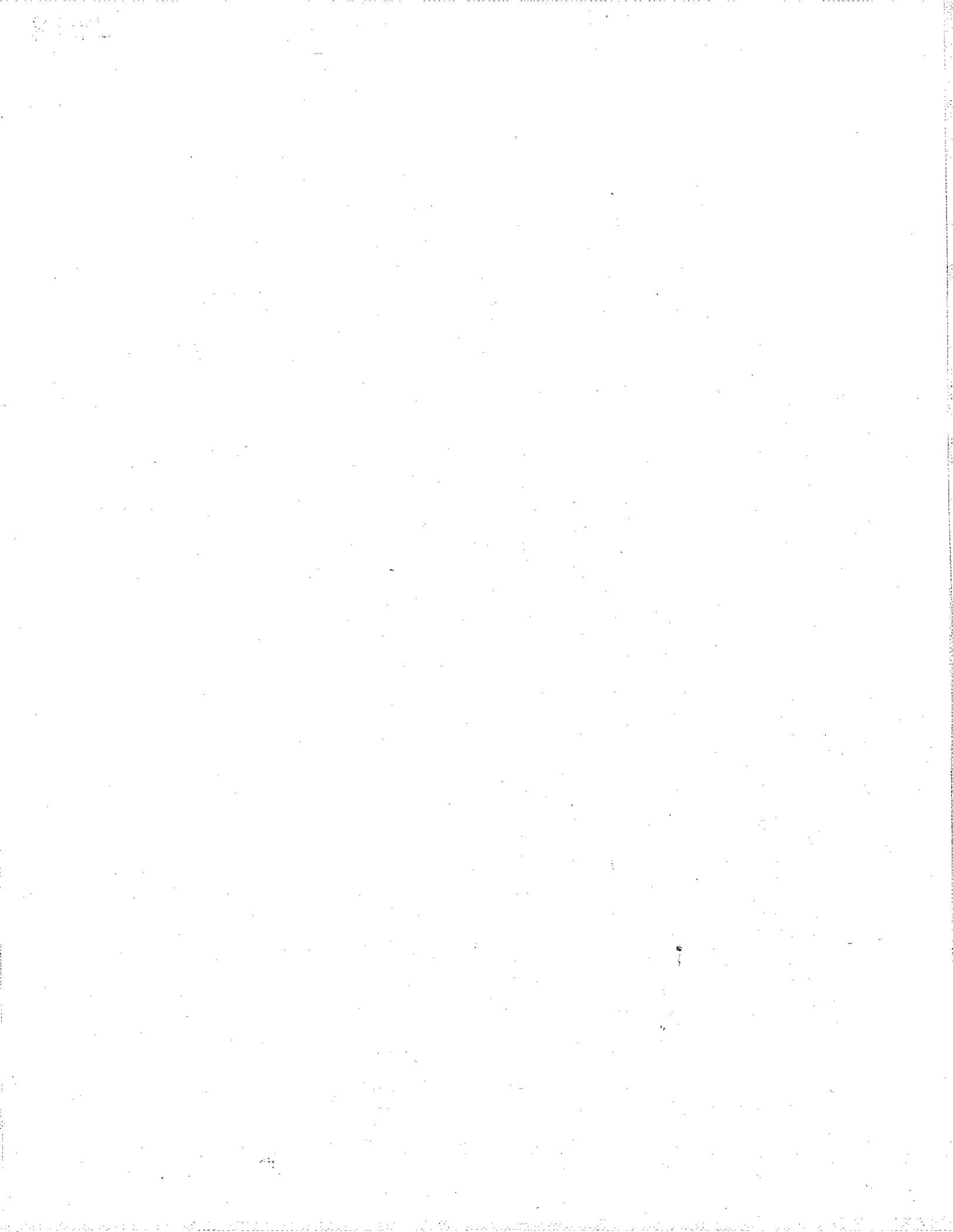
## We need your input!

The Bay Area Air Quality Management District is updating its CEQA Guidelines and seeking your input. The CEQA Guidelines Update will review, revise, and develop significance thresholds, assessment methodologies, and mitigation strategies for criteria pollutants, air toxics, odors, and greenhouse gas emissions.

### CONTACT INFORMATION (Optional):

Name: Michael Koinath  
Affiliation: ENVIRON  
Email: mkoinath@environment.org

pg 3-9 for indirect sources of GHGs, current phrasing seems to indicate that using state-wide electricity emission factors rather than utility-specific emission factors (for example Alameda Municipal Power has a much cleaner profile than the state-wide average) or project design features such as onsite renewable is mandatory. Perhaps a clarification that this <sup>state</sup> <sup>wide</sup> could be used in lieu of <sup>reliable</sup> site-specific information when necessary would be helpful.



Comment Letter #: 18

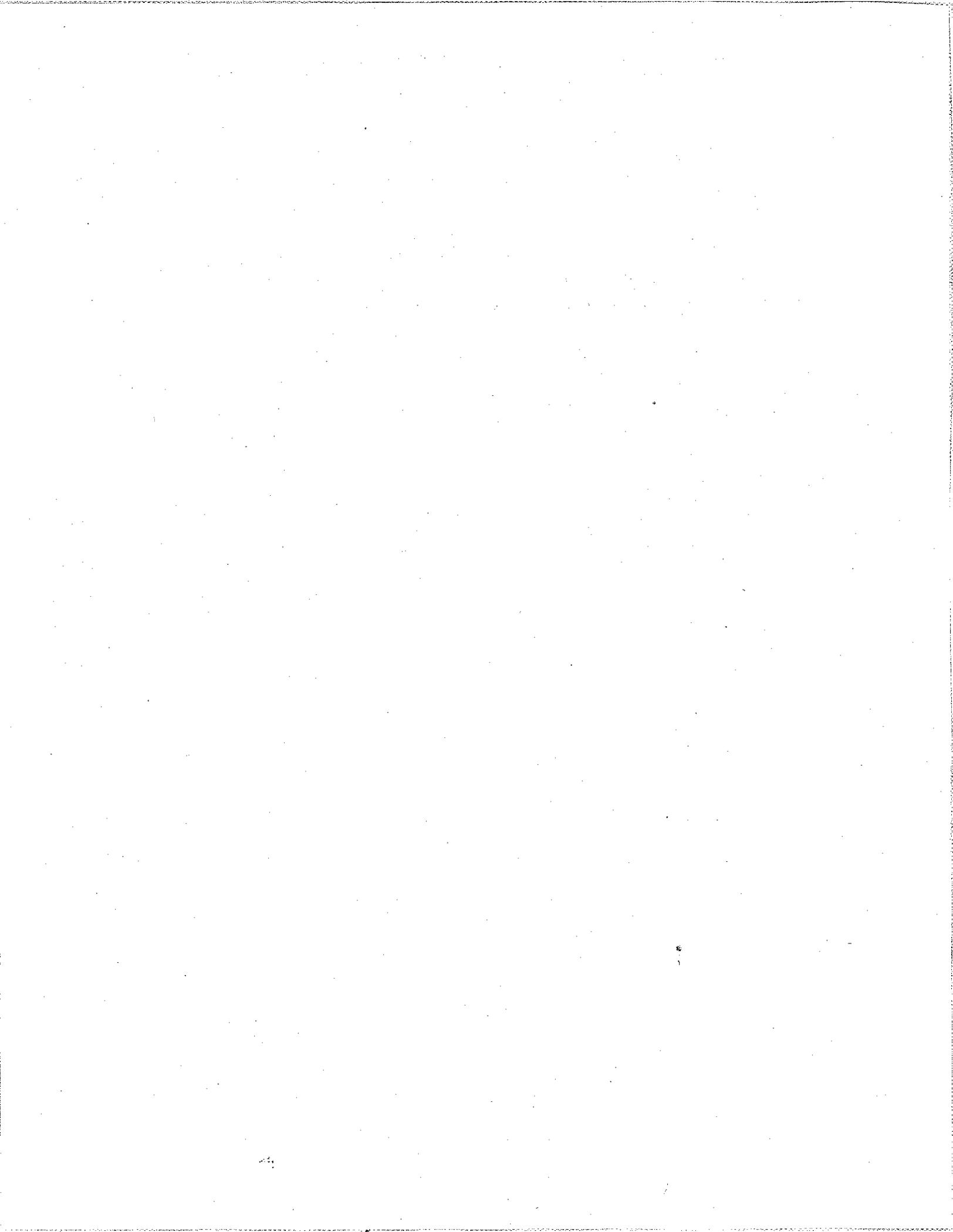
Date: September 9, 2009

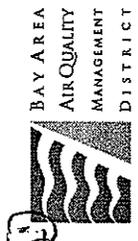
From: Michael Koinath, Environ

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Response to Comments:

- 18-1 The CEQA Guidelines will provide direction on the protocols to use for applying electricity generation emission factors in quantifying greenhouse gas emissions, including clarification for when to use site-specific versus statewide data. See also Master Response MR-3.





# CEQA Guidelines Update Comment Card

9/09

#19

## We need your input!

The Bay Area Air Quality Management District is updating its CEQA Guidelines and seeking your input. The CEQA Guidelines Update will review, revise, and develop significance thresholds, assessment methodologies, and mitigation strategies for criteria pollutants, air toxics, odors, and greenhouse gas emissions.

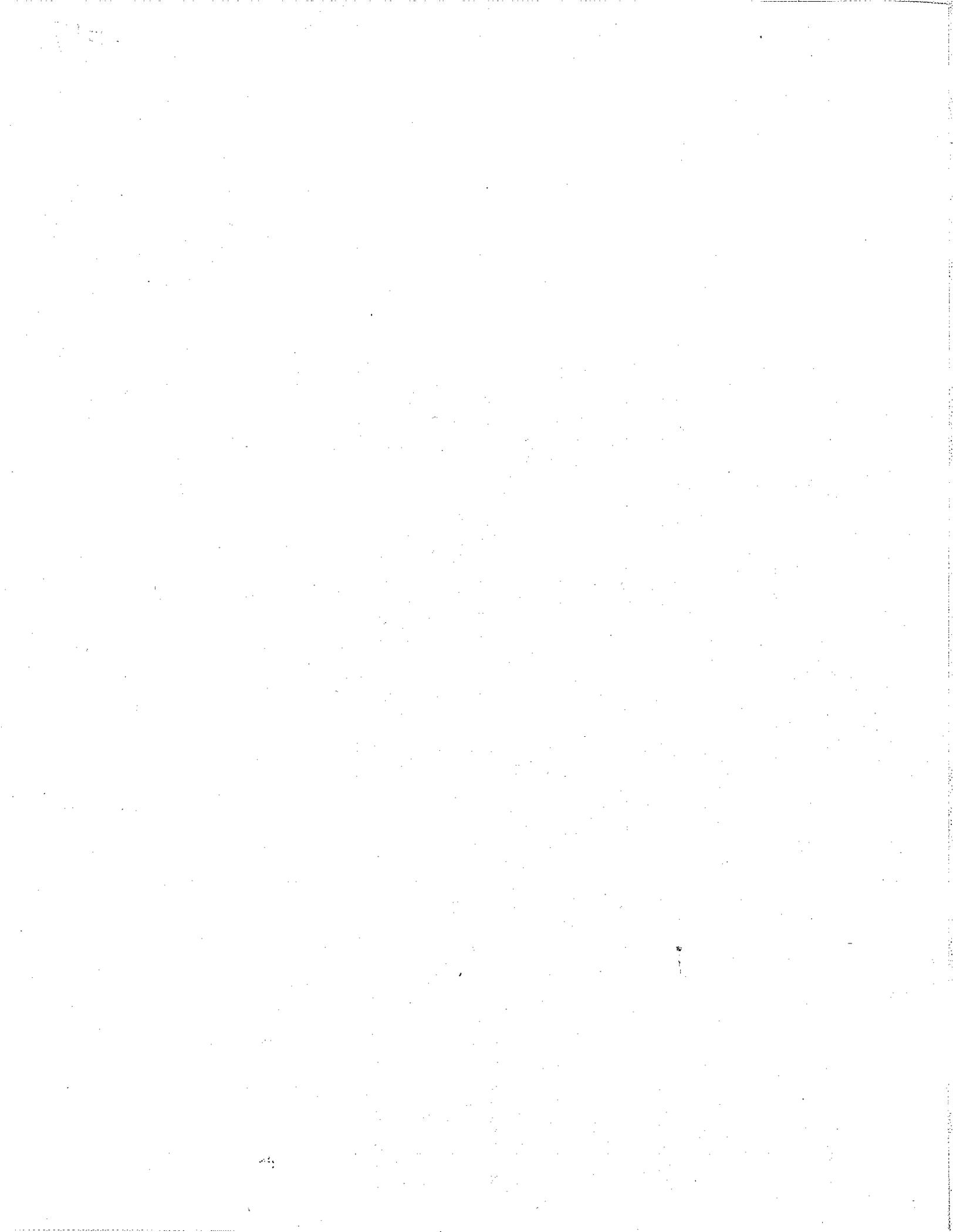
### CONTACT INFORMATION (Optional):

Name: Jennifer McDougall  
Affiliation: UC Berkeley  
Email: jmcDougall@ep.berkeley.edu

You described gbg construction BMPs as pragmatic. But campus experience is that requiring a percentage alternative fuels for construction vehicles is not yet feasible. state and local agency projects can become infeasible if only some contractors qualify - reduces competition in public bidding process. Same can be true for materials sourcing within 100 miles.

Could BMPs quantify reductions sought in construction so lead agency can determine equivalent mitigation? Or include broader menu of best practices, and lead agency can choose three?

A Question too - The BAAQMD Guidelines are not so different from a ~~climate~~ climate action plan - in fact the gbg thresholds seem to be the Districts Climate Action Plan. Will you conduct CEQA review on the guidelines? Alternatively the state idea that Climate Action Plans require CEQA review should be reconsidered.



Comment Letter #: 19

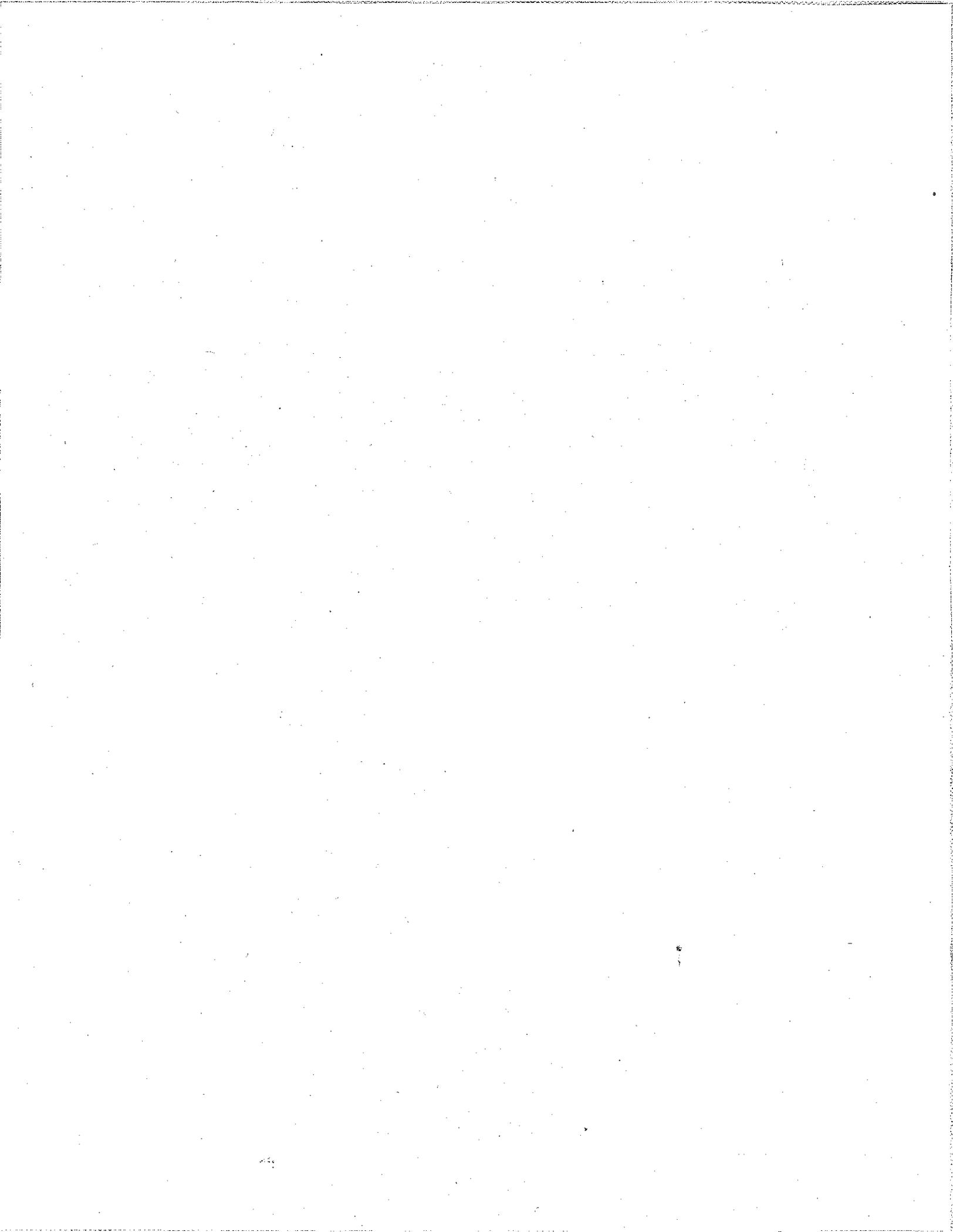
Date: September 9, 2009

From: Jennifer McDougall, UC Berkeley

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Response to Comments:

- 19-1 The GHG threshold for construction that recommended implementation of construction best management practices referred to in this comment has been omitted from the *Proposed Thresholds of Significance* report (November 2, 2009).
- 19-2 The Air District's CEQA Guidelines provide recommended thresholds of significance, analysis methodologies, and mitigation measures for assessing air quality impacts in proposed projects and plans. The CEQA Guidelines provide guidance to assist lead agencies in evaluating air quality impacts, and do not serve the same purpose or establish similar policies or mitigation measures as climate action plans do, as suggested by the commenter. Since the CEQA Guidelines do not act as Air District rules or regulations, and it is the Lead Agency's discretion to use BAAQMD's recommended Guidelines, they do not need to complete a CEQA review. See also Response 37-6.



**From:** Jennifer Schulte [mailto:JSchulte@Environcorp.com]  
**Sent:** Wednesday, September 23, 2009 11:34 AM  
**To:** David Vintze  
**Cc:** Shari Libicki  
**Subject:** CEQA Guidelines update

David,

I have a few questions regarding the recent BAAQMD Draft CEQA Guidelines Report released in September.

1. From the website, it indicates an extension to the comment period to October 9, 2009. Do you know what the anticipated timing is for adoption of these Guidelines after the comment period? When do you expect to present to the Board?
2. Can you give more feedback on what is meant by "local building materials"? Is this referring to local raw materials or local processing or local manufacturing? This information will assist in planning for a project to be able to follow the Best Management Practices for Construction.


20-1  
20-2

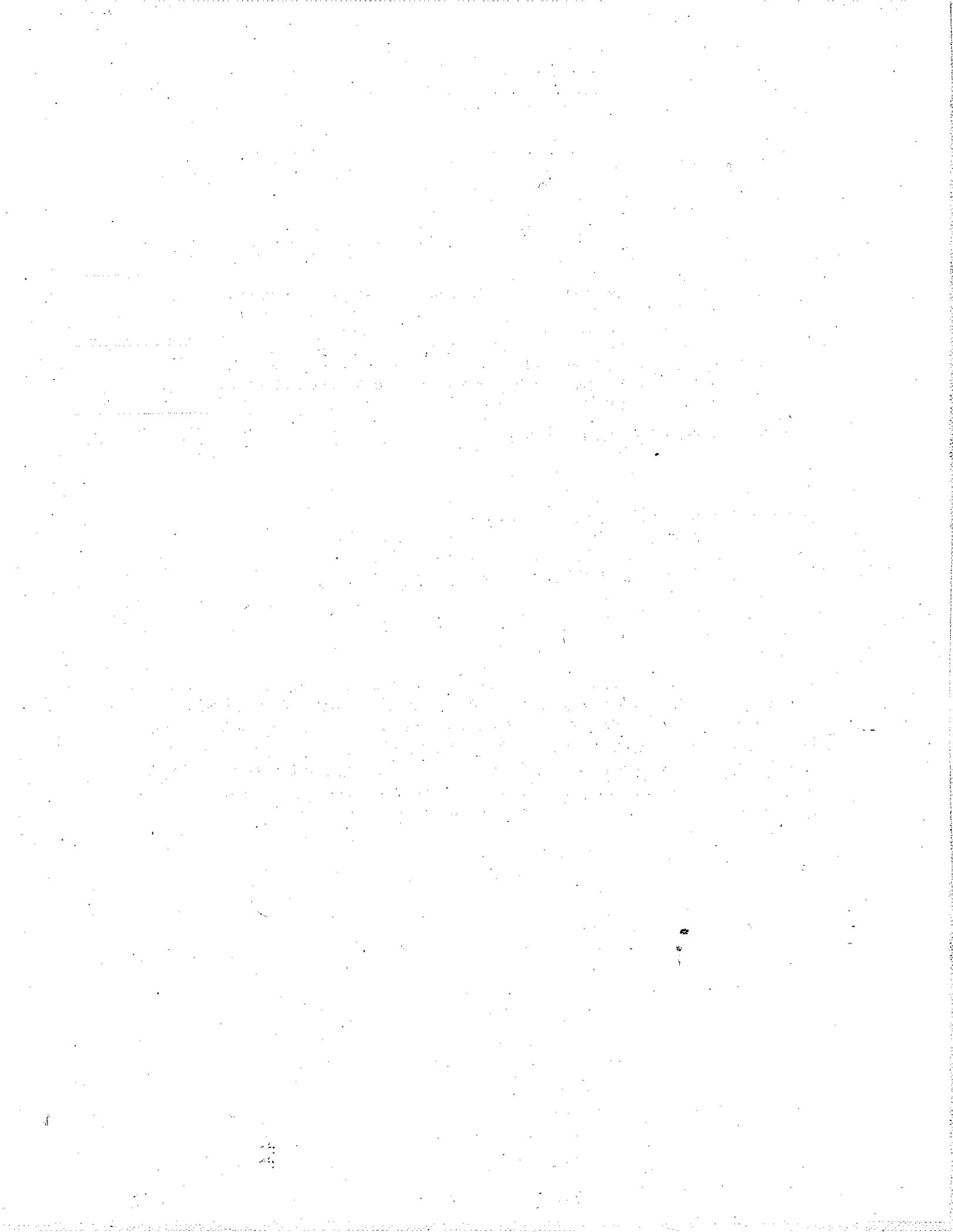
Thank you for taking the time to respond to these questions promptly.

Jen

**Jennifer Schulte, Ph.D. | Senior Associate**  
ENVIRON | [www.environcorp.com](http://www.environcorp.com)  
6001 Shellmound St, Suite 700 | Emeryville, CA 94608  
V: 510.420.2511 | F: 510.655.9517 | [jschulte@environcorp.com](mailto:jschulte@environcorp.com)

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Comment Letter #: 20

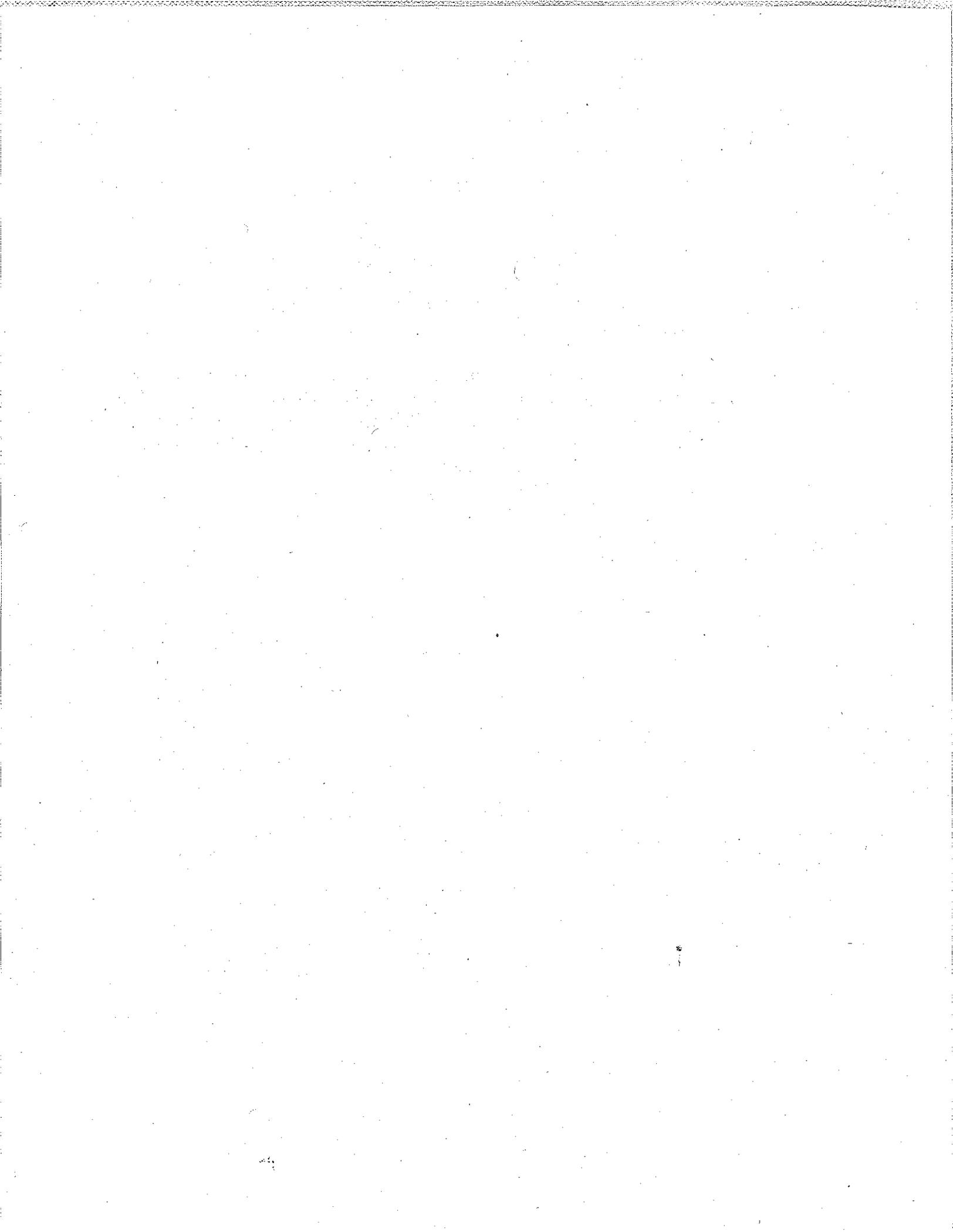
Date: September 23, 2009

From: From: Jennifer Schulte, Senior Associate, Principal, Environ

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Response to Comments:

- 20-1 The Air District will initiate a public hearing to consider testimony for the staff-recommended thresholds detailed in the report. The public hearing will start on Wednesday, November 18, 2009 and will be continued on Wednesday, December 2, 2009, at which time the Board of Directors will consider adoption of the proposed thresholds.
- 20-2 The GHG threshold for construction that recommended implementation of construction best management practices referred to in this comment has been omitted from the *Proposed Thresholds of Significance* report (November 2, 2009). However, the Air District encourages Lead Agencies to require best management practices for GHG construction emissions. The best management practice recommendation to use local building materials means to use materials that are produced or manufactured within approximately 100 miles, to the extent feasible.



September 24, 2009

Mr. Greg Tholen  
Principal Environmental Planner  
Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109

Subject: Draft CEQA Air Quality Guidelines

Dear Mr. Tholen:

LSA Associates, Inc. (LSA) has received a copy of the Bay Area Air Quality Management District's (District's) CEQA Draft Air Quality Guidelines (September 2009). LSA is responsible for preparing numerous Air Quality Analyses throughout the Bay Area every year and relies on District guidance for the preparation of our reports. Our Air Quality experts have reviewed the Draft document and have several comments, two that are general and many others are more detailed in nature.

### General Suggestions

Regarding the structure of Chapter 2, Thresholds of Significance and Screening Criteria, we'd like to suggest that the two topics be separated into two chapters. As it is currently presented, the process for an initial evaluation of a project is confused when a threshold is described first and then a screening process is described second. We believe that the presentation of these two steps should be organized to first include the screening criteria and then the thresholds of significance.

Throughout the report in its digital form, web links to referenced reports are indicated by blue/underlined typeface. Please include the full bibliographic citation of each referenced report, including the web address, as a footnote in the text. It would also be helpful if the District would dedicate one page on its website to include all of the documents referenced in this guidance for downloading, particularly any documentation related to the CARE program and the CAPCOA HRA Guidance document.

### Detailed Comments

- Please include one table in the document that summarizes all of the BAAQMD CEQA thresholds.
- Tables 2-2, 2-3, 2-6. For ease of reference, these screening level tables could be condensed into one table with columns (in addition to Land Use Type and Unit Type) as follows: Operational-Related Criteria Pollutant Screening Level Size, Operational-Related Greenhouse Gas Screening Level Size, and Construction-Related Screening Level Size. The column of Pollutant to Trigger Threshold could be eliminated.
- Page 2-2. The proposed threshold of significance for GHG emissions of 1,100 metric tons is extremely low. Many projects would have a significant, if not significant and unavoidable, impact if the threshold is established at this level. Establishing a numeric threshold simplifies the process of determining significant impacts related to global climate change. However, such a low threshold may require detailed analysis of projects that would otherwise not have a significant

environmental impact in any other topical area. Please provide additional justification as to why this is the appropriate numeric threshold.

- Page 2-6. The term "Impacted Communities" seems to be used interchangeably with "Communities of High Concern" (See Figure 4-1). Please reconcile the terminology or clarify the difference. 21-5
- Page 2-6. Please provide any relevant data on the CARE program in the guidelines that would be required for making a significance determination. 21-6
- Page 2-6. Are the impacted communities identified in the CARE Program the same as the Communities of High Concern shown in Figure 4-1? 21-7
- Page 2-6. Also, under Siting a New Receptor for Impacted Communities, the second bullet reads "After installation of the TBACT/TBP, an excess cancer risk level of 10 in one million..." Is this meant to indicate that the TBACT/TBP measures should be modeled? If so, please provide the calculation/modeling methods to be used under the methodology section. 21-8
- Page 2-10. Regarding plan level analysis, we observe a decided lack of clarity and presence of generality related to the determination of local community risk and hazards. Does the District have a standard in mind, or would an agency really only have to map overlay zones to make a less than significant determination? This criterion seems to revert to a more general approach from the previous guidance on the establishment of buffer zones. 21-9
- Page 2-10, Thresholds of Significance for Construction Impacts. We notice this paragraph concludes "...the proposed project *would likely* result in a significant cumulative impact." Does the District mean to imply a lesser level of certainty in regard to this particular conclusion (as compared to others throughout the guidance) by saying "would likely" instead of "would"? 21-10
- Page 2-14, Screening Criteria for Carbon Monoxide. In addition to the first criterion (consistency with applicable CMP), the second criterion (cause an intersection to tip over 44,000 vph or 24,000 vph where vertical and/or horizontal mixing is limited) seems unusually high and likely to seldom ever be exceeded. In general one arterial travel lane can hold approximately 1,700 vehicles per hour. To reach 44,000 vehicles per hour the intersection would need to have 25 approach lanes and maximum capacity. 21-11
- Page 3-11, Mitigating Operational-Related Impacts. Please provide additional direction on the use of "unscaled" reductions. The corresponding table is titled "URBEMIS Measures" (and is missing a table number) but it is unclear if the suggested scaling calculation method is achieved by selecting the mitigation measures in URBEMIS, or if this is a suggested off-model calculation. 21-12
- Page 4-3, Figure 4-1 Communities of High Concern. Due to the low resolution of this graphic, it will be difficult to use this map to locate a specific project. Please provide a link to this map on the District's website that would allow a user to zoom-in to a particular location. Another option would be to provide one page maps for each of the six impacted areas within the guidance document. 21-13
- Pages 4-6 and 4-7, Mitigating Local Community Risk and Hazard Impacts. The District lists 11 recommended mitigation measures for reducing the exposure of sensitive receptors to TACs and hazards. The guidance does not indicate whether implementing these measures would reduce the risk to a less than significant level. Please provide clarification as to whether a less than significant determination could be made if these measures are implemented.

Thank you for the opportunity to comment on the Draft Air Quality Guidelines. We look forward to your response on these important issues.

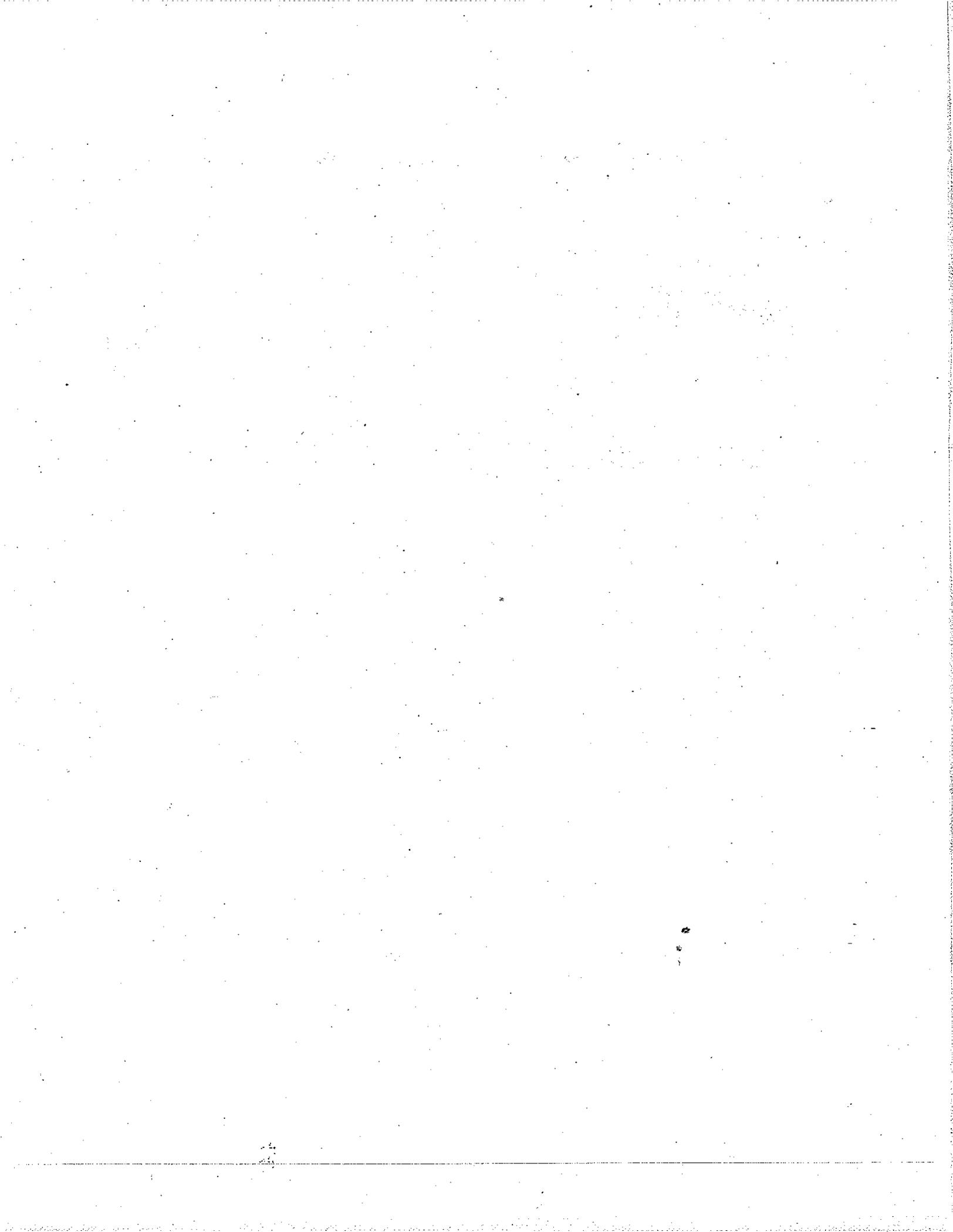
Sincerely,

LSA ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read "David Clore". The signature is written in a cursive, somewhat stylized font.

David Clore  
Principal

cc: Amy Fischer, Senior Planner  
Jason Pankovits, Senior Air/Global Climate Change Specialist



Comment Letter #: 21

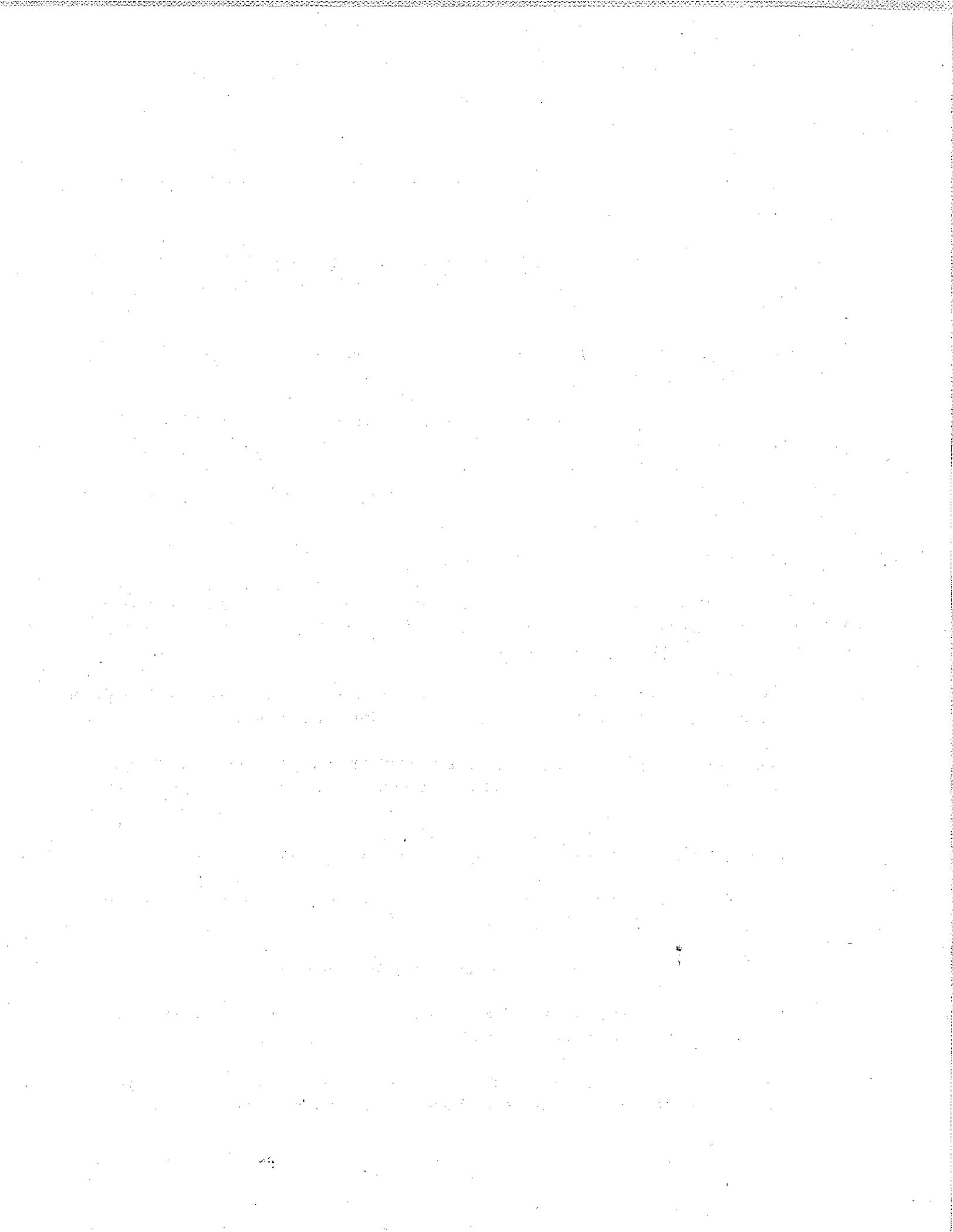
Date: September 24, 2009

From: From: David Clore, Principal, LSA Associates

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Response to Comments:

- 21-1 The Air District agrees with the commenter's suggestion to separate Chapter 2 of the CEQA Guidelines into two chapters, one chapter for the thresholds of significance and one for the screening criteria. This recommendation is reflected in the revised CEQA Guidelines.
- 21-2 Comment noted and will be considered. The Air District will include all related CEQA Guidelines materials on the CEQA Guidelines web page.
- 21-3 The *Proposed Thresholds of Significance* report (November 2, 2009) and the updated CEQA Guidelines will include a summary table of all the proposed thresholds.
- 21-4 The Air District is considering options for streamlining the screening level tables for the updated CEQA Guidelines. Comment noted.
- 21-5 See Master Response MR-3.
- 21-6 The updated CEQA Guidelines will define the term impacted communities and will use it solely in place of other interchangeable terms. The updated CEQA Guidelines will also provide more information defining and explaining the District's CARE program.
- 21-7 The community risk and hazard threshold has been modified in the *Proposed Thresholds of Significance* report and no longer recommends the use of toxic best practices as a threshold.
- 21-8 The proposed thresholds of significance for plans recommends including plan goals, objective, policies and implementation programs that provides guidance for development within the recommended overlay zones.
- 21-9 Comment noted. The revised CEQA Guidelines clarifies the Air District's intent.
- 21-10 Staff agrees with the commenter's note and will adjust the screening criteria for carbon monoxide to be less stringent in the updated CEQA Guidelines.
- 21-11 The updated CEQA Guidelines will better define and clarify unscaled reductions.
- 21-12 The CARE maps may be found on the Air District's website, however, Staff will consider providing more detailed CARE maps in the CEQA Guidelines appendix.
- 21-13 The community risk and hazard threshold has been modified in the *Proposed Thresholds of Significance* report and no longer recommends the use of toxic best practices as a threshold.



#22



**IMPACT SCIENCES**

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Oakland, California 94612  
(510) 267-0494 FAX (510) 267-0490  
www.impactsciences.com

September 24, 2009

Greg Tholen  
Senior Planner  
Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109

Re: September 2009 Draft Air Quality Guidelines for CEQA

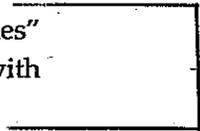
Dear Mr. Tholen:

Impact Sciences is a California CEQA and NEPA firm with offices in Oakland, southern California, and the Central Valley. Air quality impact analyses are an integral part of the services we provide our clients. We have been relying on the BAAQMD CEQA Guidelines for the analysis of air quality impacts of projects in the Bay Area and are therefore intimately familiar with the existing adopted guidelines.

We have reviewed the September 2009 Draft Air Quality Guidelines and appreciate the fact that the District has included proposed approaches and guidance for evaluating human health risk impacts and impacts related to climate change. We do have some concerns regarding some of the proposed thresholds of significance and approach to analyses. We are summarizing below our comments and suggestions for potential refinements to the document. Our comments are listed by chapter and page number.

**Chapter 1. Introduction**

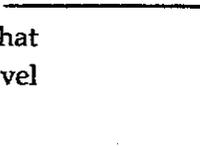
1. The text in this section uses the term "Guide" as opposed to "Guidelines" which is inconsistent with the cover. Suggest making the text consistent with the cover (incidentally the phone number on the cover for you is incorrect).



22-1

**Chapter 2. Thresholds of Significance and Screening Criteria**

1. On page 2-1, please consider adding a subheading that tells the reader that you are first presenting the thresholds of significance for "Project Level



22-2

Impacts" because later on page 2-7, you have a subheading titled "Plan Level Impacts. "

2. Page 2-2. A bright-line threshold of significance for land use projects is listed as 1,100 MT/yr of GHGs but for stationary sources, the same bright-line threshold is 10,000 MT/yr. No justification is provided in the document (including the appendix) as to why two widely differing numbers can be used to argue a less than significant impact on the same resource (global climate).

3. Page 2-2. Under the heading Stationary Source Projects, the second to last sentence reads that if a land use project includes a stationary source, then the emissions should be analyzed separately from the direct and indirect emissions of the land use project. That is contrary to CEQA which discourages piecemealing.

4. Page 2-2. Also under the heading Stationary Source Projects, the very last sentence states that the emissions from stationary sources are not included in direct and indirect land use project screening emissions and must be added in. Please note that the screening criteria (in Table 2-2) are based on project size and the table does not report emissions, so it is unclear what this sentence is directing a person to do.

5. Please check the footnotes in Tables 2-2 and 2-3 because they appear to also get into this issue of emissions from stationary sources and the relationship to the screening criteria (same point as our comment 4 above).

6. Some of the projects we prepare CEQA documents for involve classroom buildings, laboratories, and auditoriums. Is it possible to add these land use types to Tables 2-2 and 2-3?

7. Page 2-6. Under the heading Impacted Communities, the text mentions the BAAQMD's CARE program. It would be useful to add a sentence here that the map showing the areas in the program is provided in Chapter 4.

8. Page 2-6. According to the Cumulative Local Community Risk and Hazard Impacts, the threshold is 100 in one million or more than 2 ug/m<sup>3</sup> PM<sub>2.5</sub>. Under federal law, the BAAQMD is required to demonstrate attainment of PM<sub>2.5</sub>. The EPA revised the PM<sub>2.5</sub> standard in 2006 and made designations in 2008. Most of the BAAQMD is nonattainment (some Counties are partial nonattainment). Given that the BAAQMD will have to reduce PM<sub>2.5</sub> concentrations, this would

22-2

22-3

22-4

22-5

22-6

22-7

22-8

seem that if a project is consistent with the 2009 Clean Air Plan, once it has been adopted, that the project would have a less than cumulative impact with respect to the PM<sub>2.5</sub> cumulative threshold and site-specific modeling would not be required. Would it make sense to add such a provision to the guidelines?

22-8

9. Page 2-6. Under the heading Impacted Communities (second heading), second solid bullet, the text should read "an excess cancer risk level greater than 10 in one million" and not "an excess cancer risk level of 10 in one million."

22-9

10. Page 2-6. Under the heading Cumulative Local Community Risk and Hazard Impacts, a new threshold of significance (an excess cancer risk level of more than 100 in one million) for cumulative impacts is introduced. Our understanding is that the risk already exceeds that level near major freeways in the Bay Area. As you know, potential TAC sources include stationary sources, delivery trucks, construction equipment, and construction trucks. Would this standard apply to both operational and construction impacts or just the former? Secondly, if the project includes a new TAC source, as stated in the guidelines, any contribution no matter how small from the project will result in a significant cumulative impact. Some clarification of this issue is required. Also do confirm that a threshold of a 100 in a million is indeed proposed (later in Chapter 4, 10 in a million is cited for cumulative impacts).

22-10

11. Page 2-13. Thresholds of Significance for Construction GHGs. The draft guidelines list three measures explaining that if these are present (presumably as parts of the proposed project), that the impact would be less than significant. If not present, it would be significant. The feasibility of these measures for every construction project is questionable. If this is left in the guidelines as proposed, it could force lead agencies to prepare EIRs where previously they would have perhaps prepared a negative declaration for a project. We note that the guidelines use the phrase "as applicable." But it is unclear what that means – does it mean that these would apply only if the project can implement them, which does not work for a threshold of significance.

22-11

12. Page 2-13. Under the heading Screening Criteria (for CO), bullet 1 states that the "Project is consistent with an applicable CMP." Some guidance is needed as to how to determine a project's consistency with the CMP. Is the intent that if the traffic analysis does not show a significant impact at a CMP facility, then the project is consistent with the CMP?

22-12

13. Page 2-14. Under bullet 2, the text reads that CO analysis is not needed if "the project would not result in an affected intersection experiencing more than 44,000 vehicles per hour or 24,000 vehicles per hour where vertical and horizontal mixing is substantially limited." How will this screening criterion work? If the intersection is already at 44,000 vehicles per hour and the project adds one trip, does that mean that now a detailed CO analysis is required?

22-12

### Chapter 3. Assessing and Mitigating Operational-Related Impacts

1. Page 3-9. Under the heading Indirect Emissions (for GHGs), the text states that indirect emissions from energy production and water consumption should be estimated. OPR has included other indirect sources in its draft guidance on climate change – these include wastewater generation and solid waste. To be consistent, the District may want to include those sources as well in its guidelines.

22-13

2. It would be useful to also mention that there might be some projects (although rare in the Bay Area) where it will be necessary to estimate and include loss of carbon sequestration from the clearing of forested lands.

22-14

3. Page 3-11. Under the heading Mitigating Operational Related Impacts, in the case of several measures, the table presents a range of unscaled reductions. It is not clear how to decide which end of the range should be picked. Any guidance on this would be helpful.

22-15

### Chapter 4. Assessing and Mitigating Local Community Risk and Hazard

1. Page 4-2. Under the heading Siting a New Source, the last paragraph on this page reads that if the project obtains a permit from the BAAQMD, it would be considered compliant with CEQA. Is the District suggesting that no HRA be prepared or no analysis be done as part of the CEQA process for such a facility? The intent of the sentence is unclear.

22-16

2. Page 4-5. Second main bullet under Impacted Communities. Please reword to say an excess cancer risk level more than 10 in a million.

22-17

3. Pages 4-6 and 4-7. These pages list mitigation measures to reduce community risk. Does the District have any guidance on how to estimate the reduction in risk with the implementation of these measures?

22-18

### Chapter 6. Assessing and Mitigating Construction-Related Impacts

1. Page 6-17. Please consider revising the last sentence on this page. The fact that the project is located in an area moderately likely to contain NOA should not be the only criterion to determine that the impact would be significant. Project attributes and features should also be considered.

22-19

2. Please consider adding text to help screen small construction projects. The reasoning could be that if a project is screened out based on its operational characteristics (based on Tables 2-2 and 2-3), then the project is too small also as a construction project and no additional analysis of construction impacts is required unless the project has some unique features (e.g., hill side location requiring substantial cut and fill).

22-20

### Chapter 7. Assessing and Mitigating Odor Impacts

1. Page 8-2 and 8-3. Under the heading Odor Complaint History, the top of page 8-3 states that the distance at which the receptors were affected should be disclosed. We note that data on the distance where the complaints came from are not publically available as part of the BAAQMD odor complaint data.

2. Page 8-3. Second full paragraph states that 1 confirmed and 3 unconfirmed complaints averaged over the last 3 years are an indication of an odor impact. Please clarify here that this is for each odor source individually and that the numbers from multiple sources do not need to be added together when evaluating the impact of multiple odor sources on a given receptor.

22-21

Also the same paragraph states that the lead agency should compare the odor parameters (distance and wind direction) associated with the odor complaints filed with those of the proposed project. BAAQMD complaint data do not provide distances or the specifics of the locations (i.e., direction) from which the complaints were received so this cannot be done.

3. Pages 8-3 and 8-4. These pages list mitigation measures to control potential odors at the sources. Please include measures that can be implemented near potential future receptors to reduce exposure to potential odors from existing sources in the area. Planting of wind breaks, proper location of intakes (AC units), and minimization of openings (doors and windows) in the direction of potential odor sources are some potential measures.

### General Comments

1. The document organization could be improved by deleting the chapter on thresholds of significance and included the thresholds in each topical chapter. As currently presented, the reader has to go back and forth in the document a lot to find all the information related to one topical issue.

2. Please consider reorganizing the guidelines into the following chapters which coincide with the main topics that need to be addressed under CEQA and involve different analytical methods for impact evaluation.

- Project Level Operational Criteria Pollutant Impacts
- Project Level Operational GHG Impacts
- Project Level Operational Odor Impacts
- Project Level Operational Local Community Risk and Hazard Impacts
- Project Level Operational Local CO Impacts
- Project Level Construction Impacts
- Plan Level Impacts

We appreciate the opportunity to provide these comments to the District. Please contact me at 510-267-0494 should you need to discuss any of our comments and suggestions. Thanks for putting these guidelines together.

Sincerely,



Shabnam Barati, Ph.D  
Managing Principal  
Impact Sciences, Inc.

Comment Letter #: 22

Date: September 24, 2009

From: Shabnam Barati, Managing Principal, Impact Sciences

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Response to Comments:

- 22-1 Staff agrees with the commenter's suggestion and will ensure that the term "Guidelines" is used consistently in the updated CEQA Guidelines.
- 22-2 Comment noted and will be applied in the updated CEQA Guidelines.
- 22-3 See master response MR-3.
- 22-4 See master response MR-4.
- 22-5 Comment noted and language will be clarified as suggested.
- 22-6 See master response MR-7.
- 22-7 Staff agrees with the commenter's suggestion and will add a map of impacted communities in the updated CEQA Guidelines.
- 22-8 Demonstrating consistency with the Air District's Air Quality Plan is appropriate for the plan-level criteria pollutant threshold. However, for community risks and hazards, the Air District believes it is more health protective for a proposed project to estimate its emissions and risks and adhere to the recommended thresholds.
- 22-9 Comment noted.
- 22-10 The *Proposed Thresholds of Significance* report (November 2, 2009) recommends the same project-level cumulative threshold for construction and operations related community risk and hazard impacts. The Air District recommends a threshold of greater than 100 in a million cancer risk for all sources.
- 22-11 The GHG threshold for construction that recommended implementation of construction best management practices referred to in this comment has been omitted from the *Proposed Thresholds of Significance* report (November 2, 2009).
- 22-12 The updated CEQA Guidelines will clarify the screening criteria for the carbon monoxide threshold. The screening criteria will be made less stringent to reflect the fact that a CO analysis is rarely necessary in the Bay Area.
- 22-13 The updated CEQA Guidelines will provide direction on estimating indirect GHG emissions and will refer to existing protocols and OPR guidance as references.
- 22-14 The Air District will research methodologies for calculating loss of carbon sequestration from clearing of forests and will consider providing appropriate guidance in the updated CEQA Guidelines.

- 22-15 The updated CEQA Guidelines will better define and clarify the intention of unscaled mitigation measures.
- 22-16 District-permitted facilities that may emit TAC emissions will have a health risk assessment prepared. If the facility has obtained its land use entitlement prior to receiving an Air District permit, the Air District is likely the Lead Agency and will prepare the HRA. If the facility is involved in the land use entitlement process, and the Lead Agency is aware of the need for an Air District permit for the facility, the Lead Agency should consult with the Air District to ensure the environmental document prepared by the Lead Agency is adequate for use by the Air District in its Responsible Agency role under CEQA.
- 22-17 Comment noted.
- 22-18 Some mitigation measure reductions for risk and hazard impacts have not been quantified. Air District staff will assist Lead Agencies to quantify reductions when needed.
- 22-19 The intent of the revised CEQA Guidelines regarding naturally occurring asbestos is that projects that propose disturbing the NOA should mitigate potential impacts of causing asbestos to become airborne. The updated CEQA Guidelines will clarify recommendations made on naturally occurring asbestos and will consider the commenter's suggestions.
- 22-20 Comment noted and will be considered for the updated CEQA Guidelines.
- 22-21 Air District staff will clarify odor impact methodology. We are also working with our enforcement and information staff to make available complaint histories by complainant address block number to allow estimates of distance and direction from and odor source.
- 22-22 Staff intends to reorganize the chapters in the updated CEQA Guidelines with consideration to the commenter's suggestion.



# SAN FRANCISCO PLANNING DEPARTMENT

#23

October 05, 2009

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Mr. Greg Tholen  
Principal Environmental Planner  
Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

Re: Urgent request to postpone adoption of proposed greenhouse gas thresholds of significance.

Dear Mr. Greg Tholen,

The City and County of San Francisco's Planning Department supports the development of California Environmental Quality Act (CEQA) thresholds of significance pertaining to global climate change and commends the Bay Area Air Quality Management District (BAAQMD) for undertaking this difficult and complex task. We do, however, believe that the proposed CEQA thresholds developed in the Draft Air Quality Guidelines Update should not be adopted in their current form. If adopted, we believe that the proposed thresholds will have many unintended negative environmental consequences that will severely limit the ability of the Bay Area to meet its share of greenhouse gas (GHG) reduction targets, especially in regard to redirecting projected growth from less impactful transit-rich urban infill locations as encouraged under SB375 to GHG-intensive locations.

23-1

Further, our investigations indicate that the proposed GHG emissions thresholds conflict with and undermine the guiding principles of Senate Bill 375. SB 375 was enacted to reduce GHG emissions from the land use sector; specifically, SB 375 aligns local planning for transportation, jobs and housing on a regional scale to reduce GHG emissions. The proposed thresholds would severely hinder the region's ability to take advantage of the Sustainable Communities Strategy provisions in SB 375 that seek to redirect growth toward less GHG-intensive locations. Specifically, the proposed absolute Threshold of Significance for operational-related GHG emissions for land use projects and the draft Screening Criteria fail to distinguish the comparative GHG benefits of transit-intensive urban infill versus auto-intensive Greenfield development.

23-2

As you know, the City and County of San Francisco is currently undergoing a process to update our 2004 Climate Action Plan to further develop the City's climate policy within the framework of the City's General Plan. It is our belief that the criteria in the Draft Guidelines Update would inhibit these efforts.

23-3

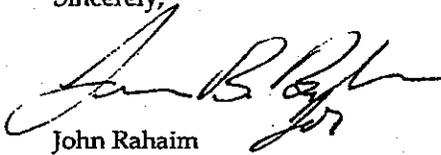
The San Francisco Planning Department strongly urges BAAQMD to postpone development of GHG thresholds of significance until convening with stakeholder groups and local planning

23-4

agencies versed in the CEQA process. We believe that through these stakeholder sessions, the District will be able to develop appropriate CEQA thresholds of significance that advance the State and the Region's efforts to reduce GHG emissions from the land use sector in a more context-sensitive way.

We look forward to working with you further.

Sincerely,



John Rahaim  
Planning Director  
San Francisco Planning Department

cc: Walter Cohen, Director, Oakland Planning Department  
Joseph Horwedel, Director, San Jose Planning Department

Comment Letter #: 23

Date: October 5, 2009

From: John Rahaim, Planning Director, San Francisco Planning Department

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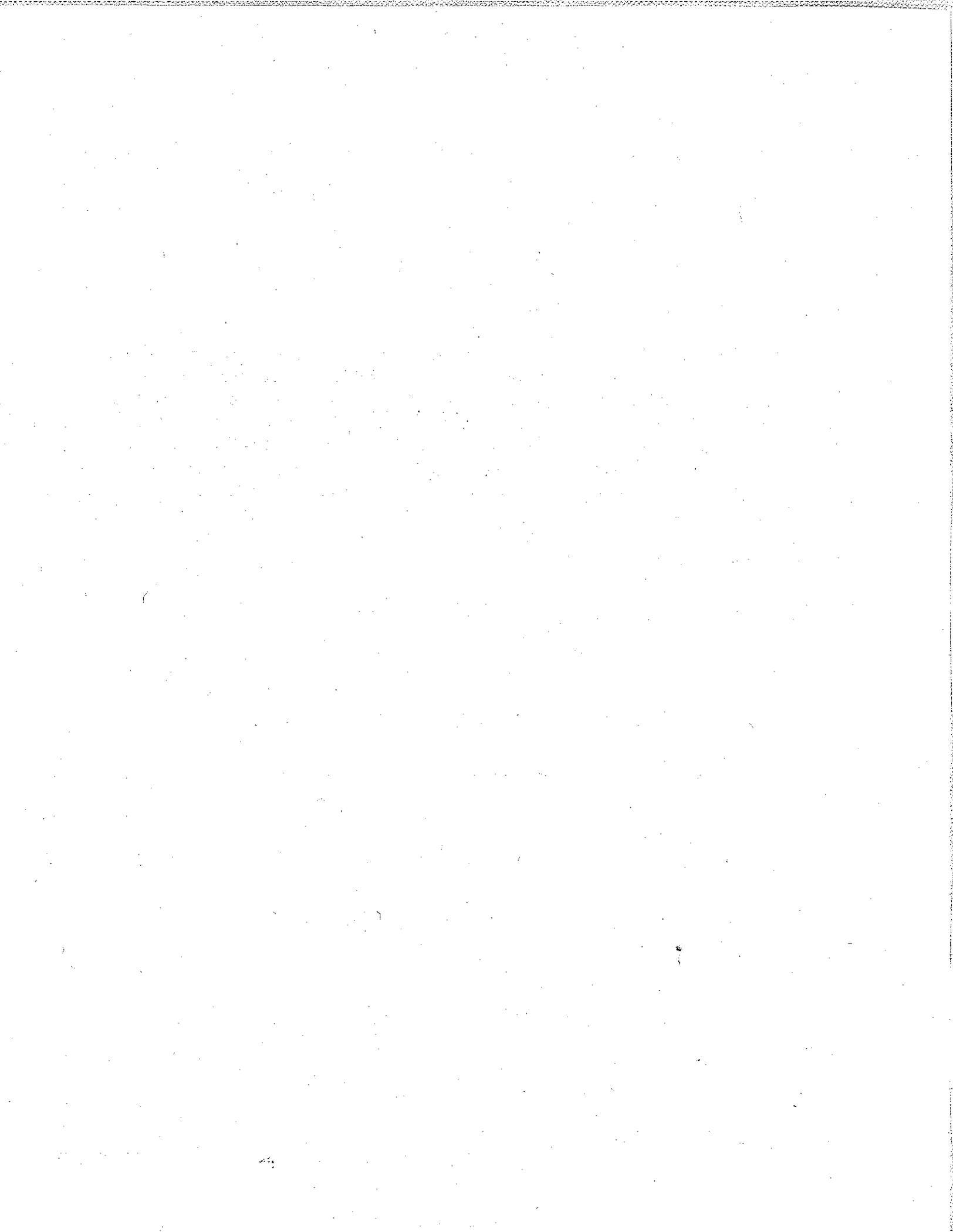
Response to Comments:

23-1 Please see master responses MR-1 and MR-5.

23-2 Please see master responses MR-1 and MR-5.

23-3 The plan-level GHG threshold in the *Proposed Thresholds of Significance* report recommends for local governments that have not yet adopted a stand alone qualified climate action plan as defined by the CEQA Guidelines, they have the option to demonstrate that their collective set of climate action policies, ordinances, and other programs are consistent with AB 32. Demonstration of AB 32 consistency should be considered equivalent to a qualified climate action plan. In the case of demonstrating that a collective set of climate action policies, ordinances, and programs are consistent with AB 32, this would not qualify as a project under CEQA and would not need to go through CEQA review.

23-4 Please see master response MR-8.



#24

James Reyff Comments\_10\_5\_09

From: Gregory Tholen  
Sent: Monday, October 05, 2009 12:57 PM  
To: Sigalle Michael  
Subject: FW: Comments on Draft CEQA Guidelines Update

Greg Tholen  
(415) 749-4954

-----Original Message-----

From: James Reyff [mailto:jareyff@gmail.com]  
Sent: Monday, October 05, 2009 12:53 PM  
To: Gregory Tholen  
Subject: Comments on Draft CEQA Guidelines Update

Hi Greg,  
Below are my comments on the draft guidelines. I hope they are not confusing and apologize for the format, because I transferred from an email. Please let me know if you have any questions on these comments. Thanks for keeping me in the loop and Good luck with the update!

James Reyff  
Illingworth & Rodkin, Inc.  
707-766-7700 x24  
jreyff@illingworthrodkin.com

1.) The presentation at the Santa Rosa workshop indicated different thresholds and study methodologies than included in the published draft guidelines. The staff recommended significance thresholds handout at the workshop includes thresholds that are not contained in the guidelines. These include:

-a) GHG thresholds for projects in published guidance are only emission based (1,100 MTPY), while the handout indicates they could be from a qualified CAP or meet performance thresholds,

-b) There are construction concentration- or HRA-based thresholds for construction in the handout but not in the published guidelines Note that a 24-hour threshold would be more appropriate for construction - similar to what is used by SCAQMD

-c) There is a PM2.5 annual threshold of 0.3 ug/m\*\*3 for siting a new receptor in the workshop handout and presentation, but not the published guidance

24-1

2.) The GHG project thresholds are quite low and will trigger EIRs in many cases that did not previously require an EIR. I had made a comment in the past workshops that these thresholds should include a sliding scale, so more projects can be captured and the emphasis is on mitigation to lower overall emissions. For instance, a project with X but less than Y emissions is expected to include best management practices, a project with greater than Y emissions but less than Z emissions is expected to apply best management practices and reduce overall emissions by XX percent, a project with over Z emissions would have significant emissions - or something like that. A large project, whether it be mixed use near transit or single family homes in green fields is going to be so far above the threshold that any study of the emissions may be a somewhat worthless exercise. I understand that SJVAPCD is preparing to adopt a performance based threshold requiring that projects achieve a certain percentage reduction over unmitigated levels.

24-2

3.) The same approach to GHG should be considered for criteria air pollutant emissions. A project with 325 new homes is quite large (see Table 2-2) and would not require mitigation to reduce air pollutant emissions. However, I do recognize that GHG thresholds would now drive the mitigation.

24-3

James Reyff Comments\_10\_5\_09

4.) The GHG thresholds really need to be reevaluated with respect to Table 2-3. In this table, a local hardware store/paint store of 16 ksf would trigger a significant impact, while a home improvement store (which sells the same stuff but attracts more regional trips) would have the same emissions at 26 ksf. I realize that a 26 ksf super store is not a superstore, so that really questions the usefulness of the table. The limit for a drive through fast food restaurant is 1 ksf, but just about all fast food restaurants are all at least 2 ksf and no matter how small the In-N-Out building size is - they will attract lots of trips. So many of these uses would be significant regardless of their size.

24-4

5.) Local community risks and hazard impact thresholds have included a new threshold for PM2.5. This is a new threshold that needs to include an explanation for the basis. On EIR challenges, we are often found trying to describe the health effects that may occur as a result of the predicted air pollutant/contaminant exposure. I noticed that SF's public health dept attempted this with their guidance for setting an annual PM2.5 standard of 0.2 ug/m<sup>3</sup> as a City threshold. However, that explanation was not clear and loosely related to SF's PM2.5 monitoring levels.

24-5

6.) BAAQMD would have to provide clear guidance for identifying and characterizing sources of TACs and PM2.5 when evaluating project and cumulative impacts from new sources or looking at cumulative impacts of TAC/PM2.5 exposure.

24-6

7.) Use of AERMOD to model stationary air pollutants. In the recent past, we have used the ICST3 dispersion model to model concentrations for CEQA projects, because of the meteorological requirements for AERMOD. BAAQMD has an extensive sets of meteorological data for ICST3, but not for AERMOD and the efforts to prepare AERMOD meteorological data is considerable. Would there be exceptions for use of ICST3 - at least for the short term? ICST3 is convenient for analyzing emission from generators that are identified in preliminary plans, where local meteorological data are needed.

24-7

8.) Siting new sensitive receptors in impacted communities will require T-BACT/TBP measures. BAAQMD should recognize that most modern dwelling units do not have air intakes. The centralized heating/air conditioning recirculates air that "seeps" into the unit. Adding HVAC units may be costly and should be proven to have some desired benefit. What reduction could the air quality assessments consider for planting and maintaining tree zones between the source and receptors. I have only seen one study that evaluated the reductions from trees - is that a study that we would rely upon?

24-8

9.) Construction Emissions - is there a minimum size that basic control measures would apply (e.g., 1 acre)? When using default values in URBEMIS for construction of 114 new homes in 2010, I get 54 pounds of NOx and over 250 lbs of ROG. So 114 new homes is right at the threshold for NOx, but way over the threshold for ROG unless the coatings are applied over a much longer period than the default model assumptions. I did not check the other land uses, but this may be indicative of problems using URBEMIS and quantified thresholds for construction - at least for ROG.

24-9

10.) I see ROG from construction triggering significant findings for construction of new homes, just like ROG from operation of new homes would make up a majority of future operational emissions (consumer product emissions). URBEMIS does not provide much documentation supporting the use of the consumer product emissions. Does BAAQMD feel confident in the ROG construction and area source emissions to use these thresholds?

24-10

11.) I have some concerns about using URBEMIS2007 to predict PM10 and PM2.5 emissions. I cannot find any basis for the silt loading factors that URBEMIS uses as a default. Most Bay Area travel falls under the category of arterials or freeways. CARB and SJVAPCD use silt loading factors of 0.02 to 0.03 grams per m<sup>2</sup> rather than the 0.100 that URBEMIS2007 defaults. A majority of PM10 vehicular emissions from URBEMIS are from

24-11

dust, so this issue should be addressed.

12.) Odors. The screening distances for odors (Table 2-8) have changed (or increased) greatly since the previous set of guidelines. What is the justification for this? Outside of Milpitas, have there been confirmed complaints from 2 miles regarding waste water treatment plants, landfills, asphalt batch plants? Painting/coating operations are regulated by BAAQMD regs. I would think that if you could smell these painting operations at 1 mile, then the regs are not working and the VOC emissions must be substantial. Painting operations could include small auto body shops - how do we screen these out?

24-12

13.) Some of the factors recommended for GHG analysis seem generic. For instance, CEC has many documents that report electricity consumption for various land uses types and different residential uses. Using one number for residences does not seem appropriate. Also, PG&E has a certified rate, so why would we use a West Coast value when PG&E is the provider for most of our electricity. I believe their rate is well below the state average, which is well below the national average.

24-13

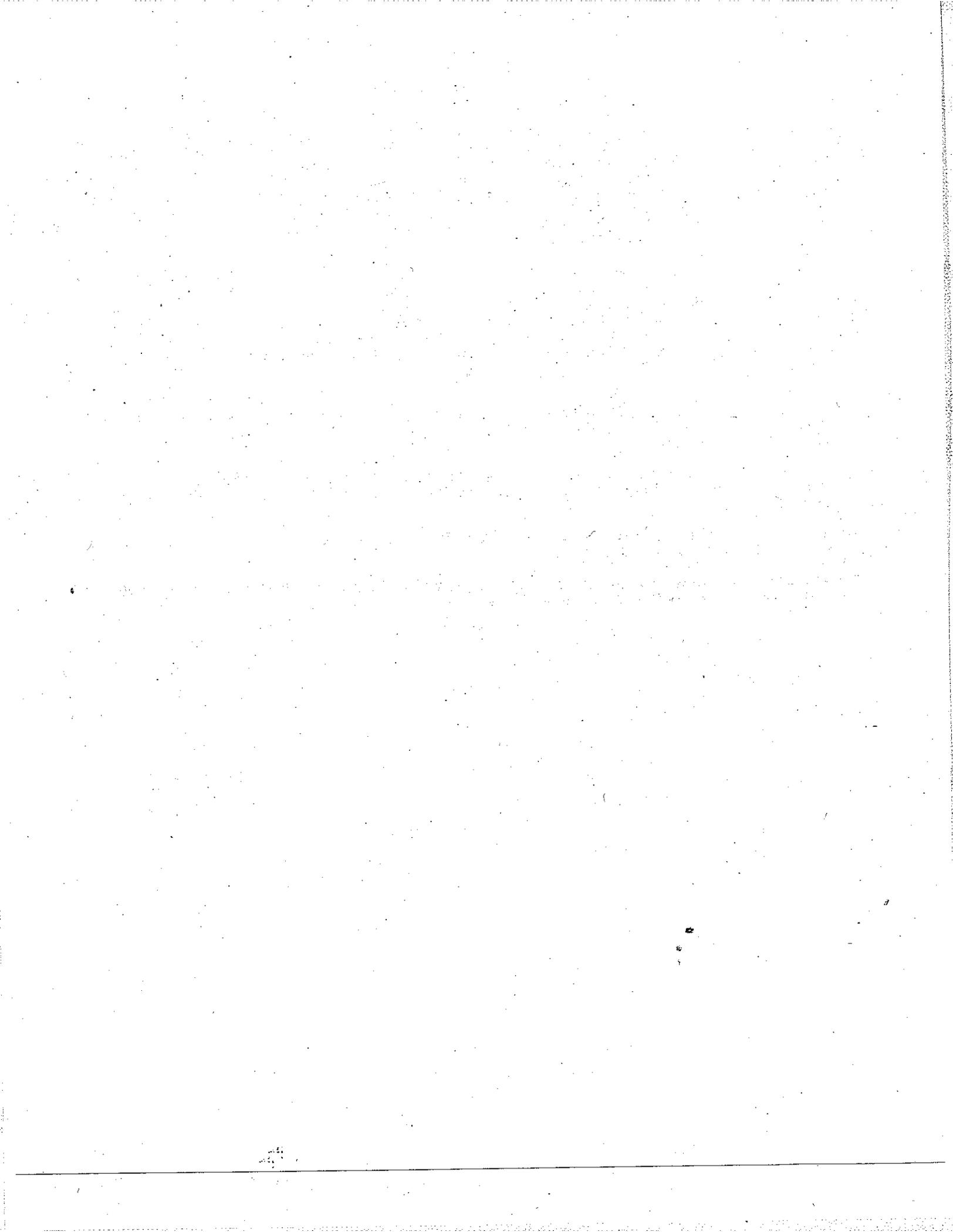
CEC documents:

---1) Itron Inc. 2006. California Commercial End-Use Survey. Reported prepared for the California Energy Commission - Report No. CEC-400-2006-005. March

---2.) KEMA-XENERGY, Itron RoperASW. 2004. California Statewide Residential Appliance Saturation Study - Volume 2, Study Results Final Report. CEC Consultant Report. June.

PG&E GHG rate on their website is 0.524 lbs CO2 per kwh and 13.446 lbs CO2 per therm natural gas

13.) Appendix C seems like a critical part of this document. It could answer many of the questions above. Will it be available soon?



Comment Letter #: 24

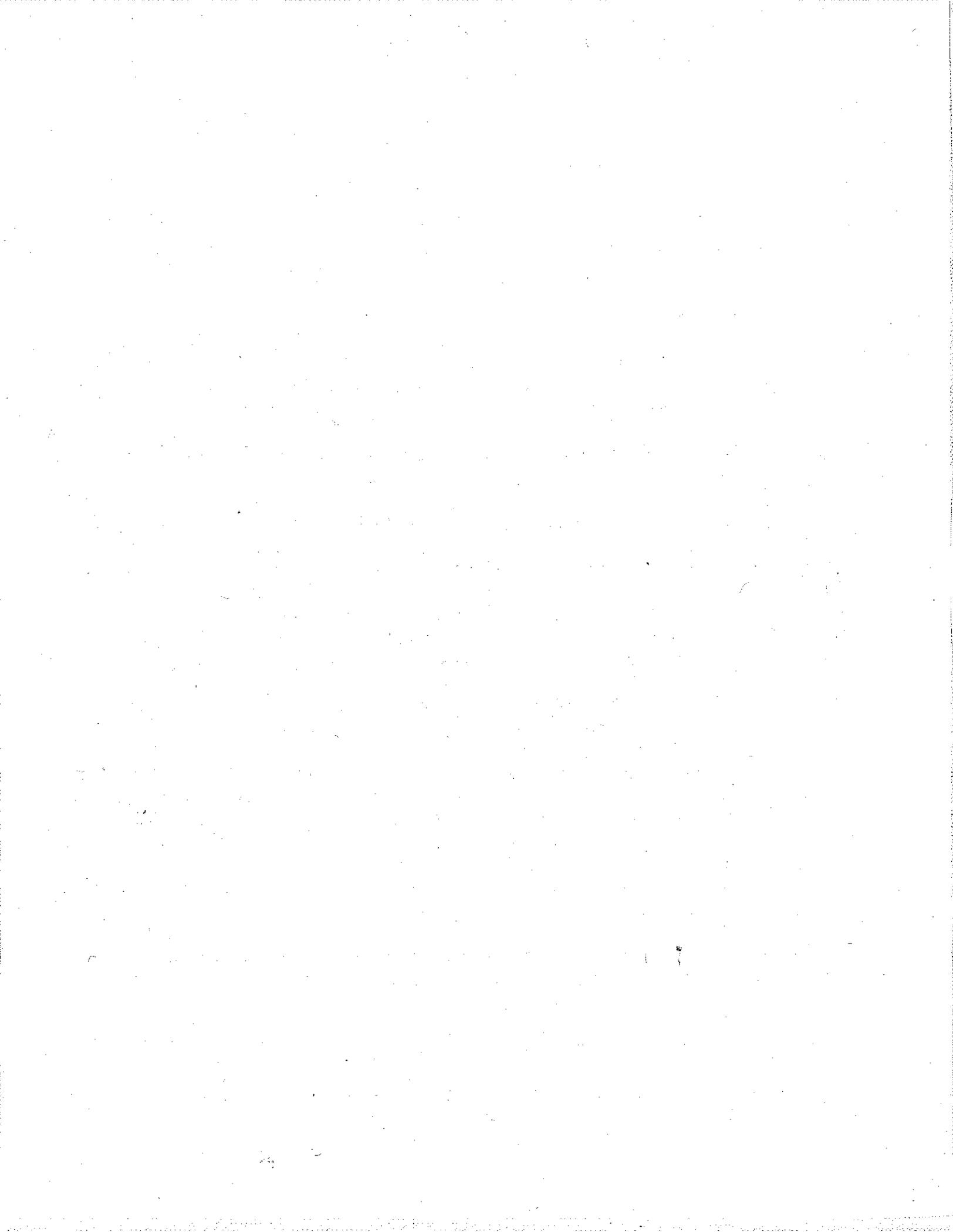
Date: October 5, 2009

From: James Reyff, Illingworth & Rodkin

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Response to Comments:

- 24-1 The updated CEQA Guidelines will be revised to include thresholds from the *Proposed Thresholds of Significance* report.
- 24-2 See Master Responses MR-1 and MR-3.
- 24-3 The *Proposed Thresholds of Significance* report (November 2, 2009) contains justification for the recommended criteria pollutant thresholds. The report provided substantial evidence and justification for all the District-recommended thresholds.
- 24-4 The screening tables in the CEQA Guidelines will be updated to reflect the GHG thresholds in the *Proposed Thresholds of Significance* report (November 2, 2009).
- 24-5 See comment response 24-3, which also applies to the updated community risk and hazard thresholds.
- 24-6 The Air District will be providing tables with estimated calculations of community risk and hazards from all permitted sources and major roadways in the Bay Area.
- 24-7 The use of Air District-recommended modeling is not a requirement. Consultation with Air District staff is recommended when deviating from recommended methodologies.
- 24-8 The community risk and hazard threshold recommending toxic best practices have been omitted from the *Proposed Thresholds of Significance* report (November 2, 2009).
- 24-9 There is no minimum project size for the recommended application of construction fugitive dust best management practices. The Air District notes that the most recent version of the URBEMIS model does not reflect BAAQMD's current VOC limits for architectural coatings. Air District staff is available to determine appropriate adjustments that should be made to URBEMIS results.
- 24-10 Air District staff will review the URBEMIS model emission factors for consumer products and request changes as appropriate. Also see comment response 24-9.
- 24-11 Air District staff will review the URBEMIS model emission factors for fugitive dust and roadway dust, and request changes as appropriate. URBEMIS users may also override default values, where permitted, if better data is available.
- 24-12 See comment response 24-3, which also applies to the odor thresholds.
- 24-13 The updated CEQA Guidelines provide direction on how lead agencies should calculate GHG emissions from indirect sources, including emission factors for electricity use.





October 6, 2009

Mayor Pamela Torliatt, Chair, and  
Members of the Board of Directors  
Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco CA 94109

Re: The Need to Substantially Extend the Comment Period on the District's Proposed CEQA Guidelines, and to Rethink Fundamentally Flawed Provisions That Directly Conflict with State Legislation and Policy on Reducing Greenhouse Gas Emissions

Dear Mayor Torliatt and Members of the Board of Directors:

The California Building Industry Association and the Home Builders Association of Northern California respectfully submit that the District should substantially extend the time for comment on the District's proposed CEQA thresholds of significance, and substantially rethink those proposed thresholds to avoid discouraging the very type of development that can help to fulfill California's greenhouse gas emission reduction goals. The process to date has consisted of informal comment periods and incomplete and inconsistent documents. The current proposed document is inconsistent with the District's summary of its proposals, and does not even include the proposed factual justification for the thresholds that it recommends. We ask that the District Board direct its staff to provide a full public comment period based on a consistent and complete thresholds proposal, and we ask that the thresholds be revised consistent with our comments.

25-1

CBIA and HBANC commented extensively on the Draft Options Report circulated last spring. As reflected in those comments, we have serious concerns about a number of the District's proposals, including those governing GHG emissions. With respect to GHG emissions, no other air district in California is taking the approach proposed by the District and its consultant, and there needs to be a full and robust discussion of the possible alternative approaches.

25-2

October 6, 2009

1. The Comment Period Should Be Substantially Extended. As noted below, the District proposes to close the comment period on the new proposed CEQA Guidelines this Friday, October 9. The comment period should be substantially extended, and the District should provide a complete and consistent set of revised proposals so that the public and the regulated community have sufficient time to comment on those proposals. Proceeding any further at this time, based on incomplete and inconsistent proposals, calls into question the efficacy and legitimacy of the public comment process. The District should revise its proposals, provide the required backup justification for public review, and then renote the complete proposals and provide a full period for public review. We ask that the District Board provide direction to this effect.

2. The Public Presentations for the Proposed Guidelines for Non-Stationary Source GHG Emissions Are Inconsistent with the Guidelines as Actually Proposed. There is a fundamental inconsistency in what the District states it is proposing for project-level GHG thresholds, and what the proposal actually says. The District's powerpoint summary of the Guidelines Update, as presented to the September public workshops and posted on the District's website, sets forth on page 8 the District's proposal for non-stationary sources of GHG emissions. The summary states that there will be three possible thresholds (compliance with a qualified climate action plan, achievement of annual emissions of 1,100 metric tons of CO<sub>2</sub> equivalent per year, or a third threshold which is achievement of .6.7 metric tons of CO<sub>2</sub> equivalent emissions per person per year for residential projects, or 4.6 metric tons of CO<sub>2</sub> equivalent per person per year for mixed use projects). The text of the proposed Guidelines, however, only includes the 1,100 metric ton threshold (see p. 2-2). The public and the regulated community need to have a full comment period to review the actual text of what the District is proposing, not an inconsistent powerpoint summary.

3. There Has Been No Opportunity for Public Comment on the Justification for the Thresholds. One of the most critical steps in formulating the proposed thresholds is the District's justification for those thresholds. This is the all-important factual basis for these requirements, which the District suggests are to be minimum requirements that lead agencies must follow. Yet, as of Monday morning, October 5, less than five business days before the comment deadline, the entire sum total of justifying analysis on the District website is the statement "TBD." The public and the regulated community must be given an opportunity to review and comment on this justification, before the District uses it to adopt what it characterizes as binding CEQA Guidelines. The District must provide this justification, and allow a full period for public review.

4. The Proposed Thresholds Penalize the Very Types of Projects that Help to Achieve California's GHG Emission Reduction Goals. In addition to providing adequate time for public comment on a consistent and fully justified proposal, the District needs to rethink and revise the proposals to eliminate fundamental flaws. One of those flaws is self-evident. The State of California, in both Senate Bill 375 and in the AB 32 Scoping Plan, has chosen to emphasize mixed-use development as one means to achieve lower greenhouse gas emissions. Yet the District's proposed threshold penalizes mixed use projects with a threshold that is 31 per cent lower than the threshold for residential projects (4.6 metric tons per person per year, compared to the residential-only threshold of 6.7 metric tons per person per year).

5. The Hazard Thresholds Are Inconsistent with Senate Bill 375. In enacting Senate Bill 375, the Legislature adopted a number of policies and requirements governing land use development and greenhouse gas reductions. One of those policies and requirements is to locate new development close to existing major transportation corridors. In fact, the "transit priority projects" as defined in SB 375 must site most residential units within one half mile of a high quality transportation corridor. The

25-3

25-4

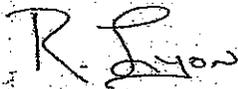
25-5

October 6, 2009

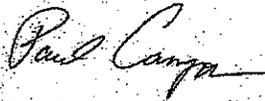
District's proposed hazard thresholds frustrate this directive by seeking to impose overlay zones and other restrictions on the very type of development that would fulfill SB 375 requirements.

CBIA and HBANC anticipate providing additional comments on the District's proposed thresholds, but as a first step, the District needs to provide additional time, and the District needs to release a proposal that is consistent with, and includes, the all-important justification for the proposed thresholds. We cannot comment on something that does not yet exist. Further, the District needs to substantially rethink proposals which fundamentally conflict with State directives on achieving greenhouse gas reductions.

25-6



Richard Lyon  
Senior Legislative Advocate  
California Building Industry Association



Paul Campos  
Senior V.P. & General Counsel  
Home Builders Association of Northern California

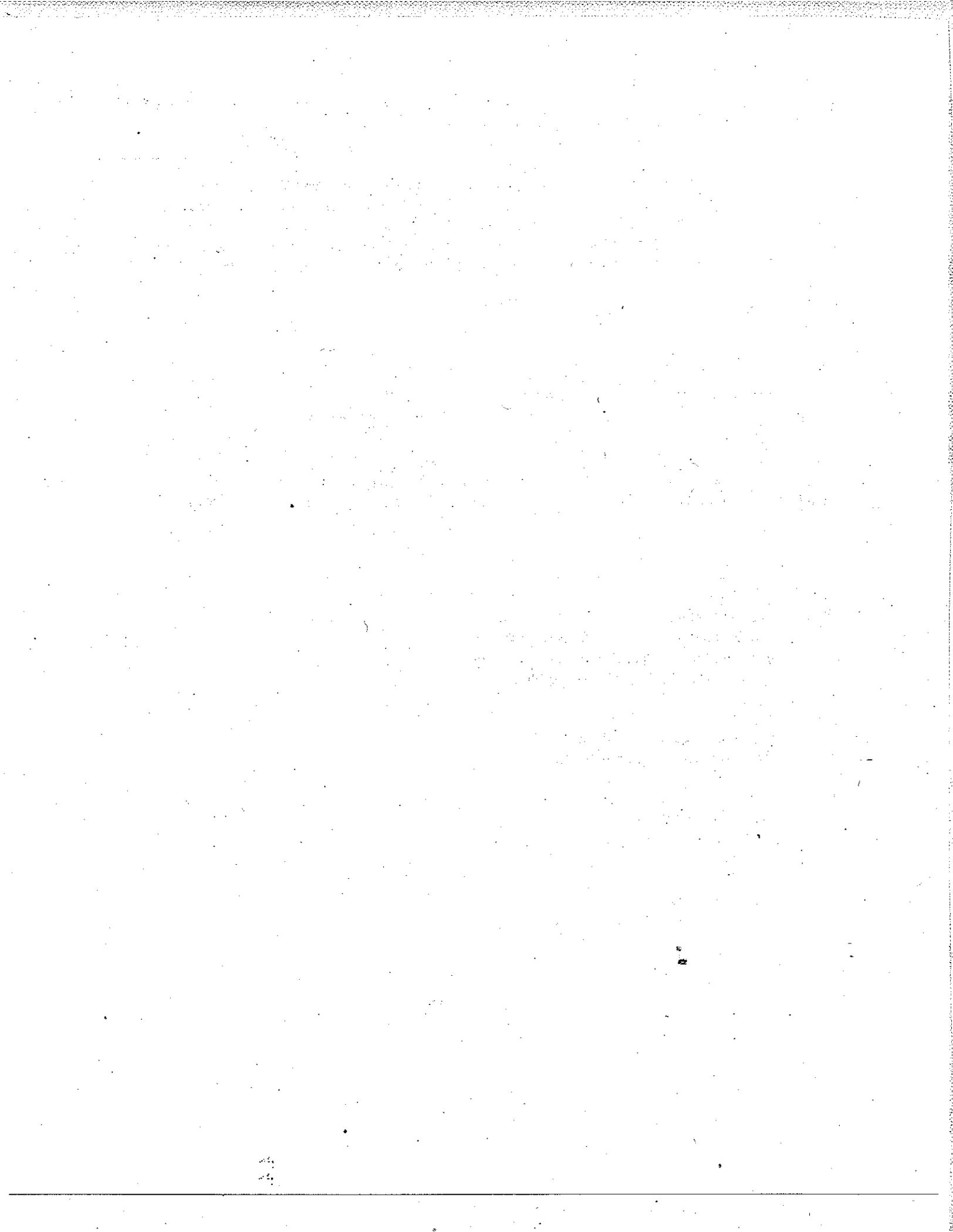
Cc: BAAQMD  
Board Members  
Jack Broadbent, Executive Officer/APCO  
Greg Tholen, Principal Environmental Planner  
David Vintze, Air Quality Planning Manager

ABAG  
Rose Jacobs Gibson, President  
Henry Gardner, Executive Director

BCDC  
R. Sean Randolph, Chair  
Will Travis, Executive Director

MTC  
Scott Haggerty, Chair  
Steve Heminger, Executive Director

Joint Policy Committee  
Bill Dodd, Chair  
Ted Droettboom, Regional Planning Program Director



Comment Letter #: 25

Date: October 6, 2009

From: Richard Lyon, Senior Legislative Advocate, California Building Industry Association and Paul Campos, Senior Vice President, Home Builders Association of Northern California

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Response to Comments:

25-1 See Master Responses MR-1, MR-2 and MR-8.

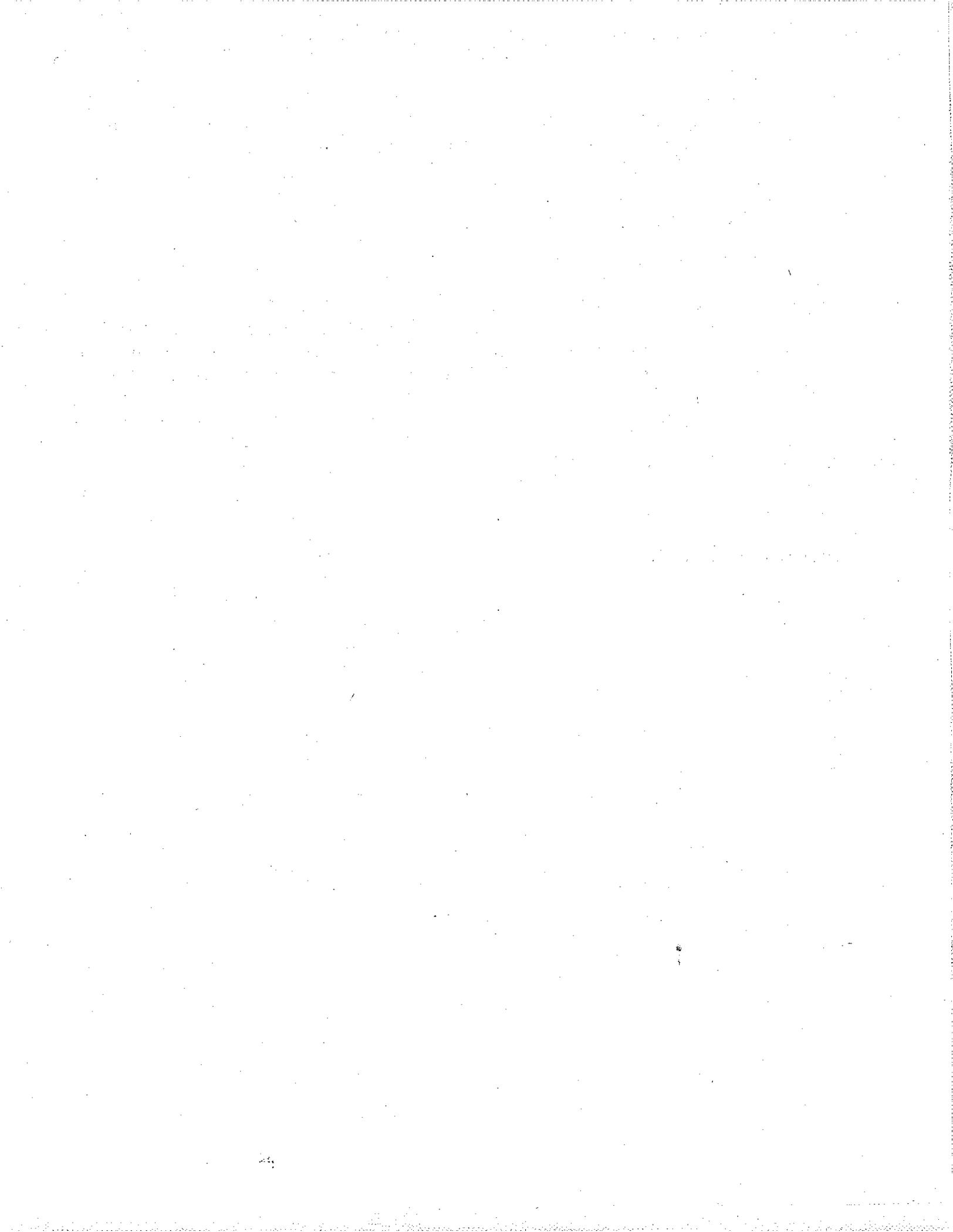
25-2 The Air District released a *Revised Draft CEQA Thresholds Options and Justification Report* for public comment on October 8, 2009. The report contained revised thresholds based on stakeholder input received at the September/October workshops. The report provided substantial evidence and justification for the District-recommended thresholds. Also see Master Response MR-3.

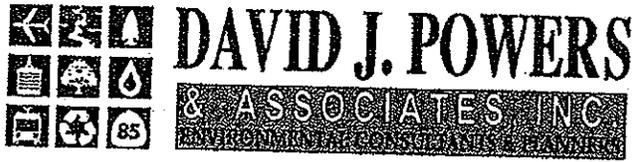
25-3 See Master Response MR-8.

25-4 See Master Response MR-1.

25-5 See Master Response MR-5.

25-6 See responses above.





October 7, 2009

Greg Tholen  
 Principal Environmental Planner  
 Bay Area Air Quality Management District  
 939 Ellis Street  
 San Francisco, CA 94109  
 Email: gtholen@baaqmd.gov

RE: BAAQMD Draft Air Quality Guidelines

Dear Mr. Tholen:

We have attended several of the Bay Area Air Quality Management District (District) workshops on the CEQA Guidelines Update and reviewed the CEQA Draft Air Quality Guidelines released in September 2009. We would like to submit the following questions and comments on the guidelines.

**Chapter 2—Thresholds of Significance and Screening Criteria**

We see that while the thresholds for daily emissions of criteria pollutants have gone down for reactive organic gases (ROG) and nitrogen oxides (NOx), improved vehicle emissions have caused the screening levels in Table 2-2 to be generally higher than in the current guidelines. The screening levels for significant greenhouse gas (GHG) emissions are much lower (approximately 1/6) those of the criteria pollutants. The threshold for greenhouse gas emissions, considering indirect emissions from electricity use, could trigger completion of an EIR and the need to adopt overriding considerations for some projects that otherwise would have no significant unavoidable impacts. Our concern is that identifying significant unavoidable GHG impacts too frequently will cause the issue to lose its meaning and there will be less of a distinction between smart growth and urban sprawl. For example, in the case of infill projects and new industrial projects on brownfield sites, where a climate action plan has not been adopted (most of the Bay Area), this threshold could discourage redevelopment in areas that ultimately would reduce VMT per capita or VMT per Service Population (SP).

26-1

Section 2.1.2, for Land Use Projects, the thresholds of significance text does not mention tiering off of an adopted Climate Action Plan. Similar to assuming a general or area plan would have a less than significant GHG emissions if it is consistent with a Climate Action Plan (pg 5-2), a land use project should have a streamlined evaluation and less than significant GHG emissions, if

26-2

it is determined to be consistent with an adopted, CEQA-vetted Climate Action Plan. Would BAAQMD provide some guidance/mitigation measures that could be employed for a limited time (i.e., 18 to 24 months) by Lead Agencies for infill sites until jurisdictions have adopted Climate Action Plans?

### Section 2.6 Odor Impacts

Would BAAQMD provide some justification for the odor screen distances in Table 2-8? Some of the screening distances seem large, compared to others (e.g., feed lot/dairy is the same one mile as coffee roaster and painting/coating operations). Also, a source like painting/coating operations is more likely in an urban, location than many of sources, and is already subject to regulations for emissions of VOCs, which may also reduce odors.

26-3

### Chapter 3 – Mitigating Operational-Related Impacts

Page 3-13. Given that the Bay Area is home to Silicon Valley and is striving to attract "green" manufacturing businesses, would the District add measures/standards related to facilities with high electrical demand associated with electronics (i.e., data centers or office/R&D with on-site facilities) or manufacturing (i.e., solar manufacturers)?

26-4

### Chapter 4 and Chapter 5—Assessing and Mitigating Local Community Risk and Hazard Impacts (Project Level and Plan-Level Impacts)

#### *Project Level Impacts*

Page 4-5. Will the District work with Caltrans on developing a program for additional planting trees adjacent to roadways as an alternative to planting trees on each site? Coast redwoods do not fare particularly well on the valley floor in the South Bay without additional water. Will the District consider it a significant unavoidable impact if redwood or deodar cedar trees are not planted between the source of risk and livable structures?

26-5

Page 5-4, Table 5-1 – the example plan-level GHG/SP threshold for mixed use plans is 4.59 MT CO<sub>2</sub>e/SP/yr vs. Page 2-9 the threshold is 4.6 MT/SP/yr.

26-6

#### *Plan-Level Impacts*

Page 5-5: **Special Overlay Zones of 500 feet on each side of all freeways and high-volume roadways.** Would the District revise this guideline to include an option for a jurisdiction to base Special Overlay Zones on actual conditions and air quality impacts? For example, due to meteorological conditions, risks from diesel particulates near a highway are generally lower where the predominant wind conditions are across a roadway rather than parallel to it. Also, on some highways and high-volume roadways, truck traffic represents a lower proportion of total traffic than in some assumptions used to develop the 500 foot zone. As part of a General Plan Update, the City or County may want to refine the overlay zones to reflect actual conditions.

26-7

Would the District add a reference to an acceptable methodology or models for refining the 500 foot zone?

### Chapter 6—Construction Related Impacts

Section 6.2 and Screening Criteria in Table 2-6 (page 2-11): The screening criteria used appears to penalize infill and mixed use development by requiring quantification of construction emissions for any demolition and for construction projects that include more than one land use type. Given a defined square footage of development and duration of construction, why would construction of more than one land use type generate more significant construction impacts than construction of one land use type?

Would the District add:

- screening criteria for demolition that incorporates BAAQMD rules and BMPs (based on the size/amount of demolition); and
- a methodology which allows weighting of land use types for mixed use projects?

Page 6-17. **Naturally Occurring Asbestos.** Please clarify the last sentence on the page. Should it say: "If a residential project would be located in an area moderately likely to contain NOA and earthmoving is involved, then the impact to future uses would be considered significant?"

Currently, BAAQMD has an established Asbestos Dust Mitigation Plan and Air Monitoring Plan that is considered sufficient to mitigate construction impacts to less-than-significant. Would the District add a list of possible mitigation measures that would reduce this post-construction impact to a less than significant level? Alternatively, are mitigation measures being left up to the Lead Agency? For infill projects, would removal of soil to a depth of one-two feet (in areas not covered by buildings or pavement) and replacement with non-serpentine derived soil be acceptable?

We appreciate the opportunity to provide comments on the draft guidelines and look forward to completion of the update of the District's CEQA Guidelines.

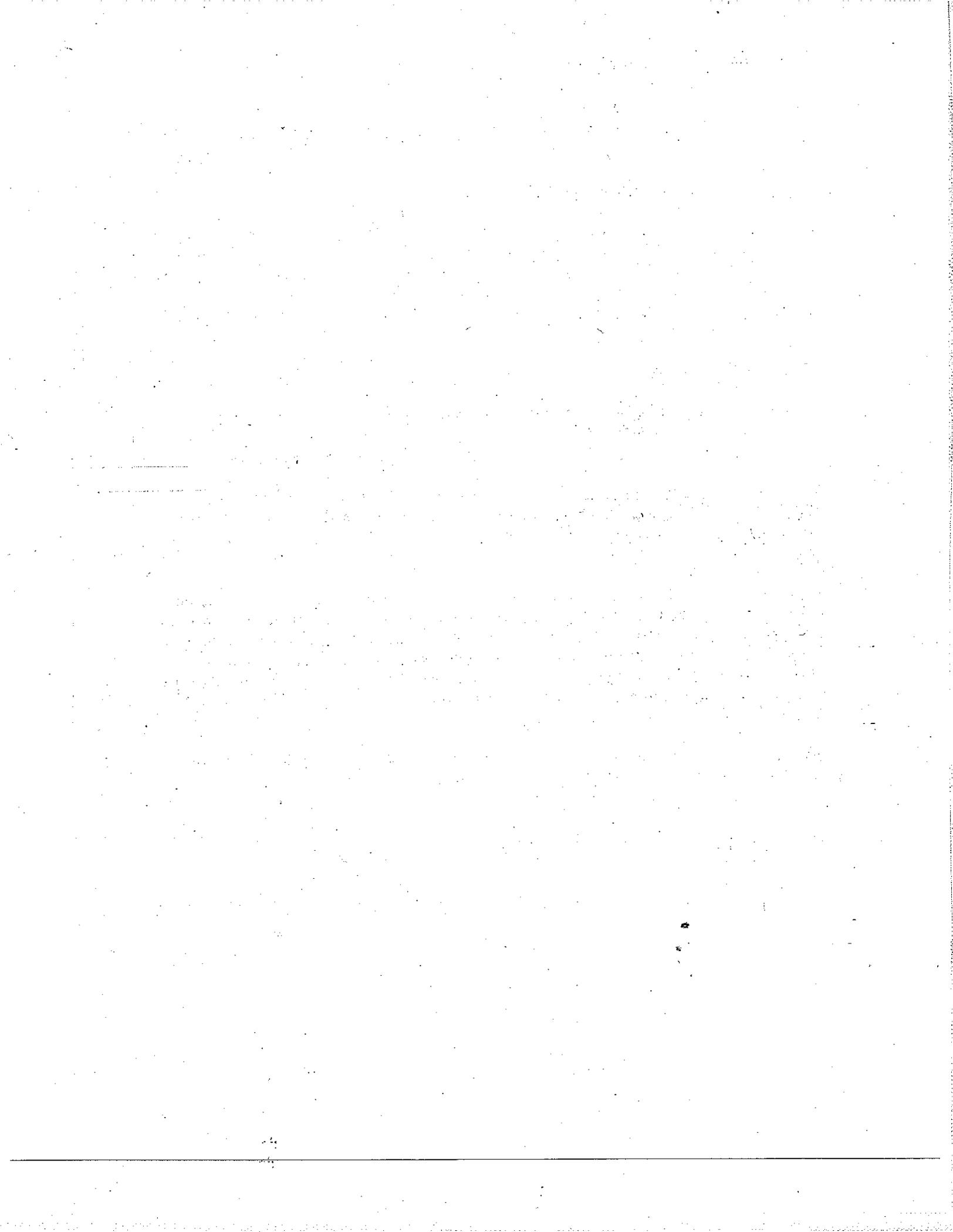
Sincerely,

*Nora H. Monette*

Nora H. Monette  
Principal Project Manager

*Will Burns*

Will Burns  
Project Manager



Comment Letter #: 26

Date: October 7, 2009

From: Nora Monette, Principal, and Will Burns, Project Manager, David J Powers

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Response to Comments:

26-1 See Master Response MR-1.

26-2 The revised plan-level GHG threshold in the *Proposed Thresholds of Significance* report (November 2, 2009) reflects the commenter's suggestion. The revised plan-level GHG threshold recommends that if a proposed project is consistent with an adopted qualified climate action plan, or Sustainable Communities Strategy, it can be presumed that it will not have significant GHG emission impacts. In addition, for local governments that have not yet adopted a qualified climate action plan as defined by the CEQA Guidelines, they have the option to demonstrate that their collective set of climate action policies, ordinances, and other projects are consistent with AB 32.

26-3 The Air District released a *Revised Draft CEQA Thresholds Options and Justification Report* for public comment on October 8, 2009. The report provided substantial evidence and justification for the District-recommended thresholds, including the odor thresholds.

26-4 Air District Staff will consider adding specific measures that address facilities with high electrical demand.

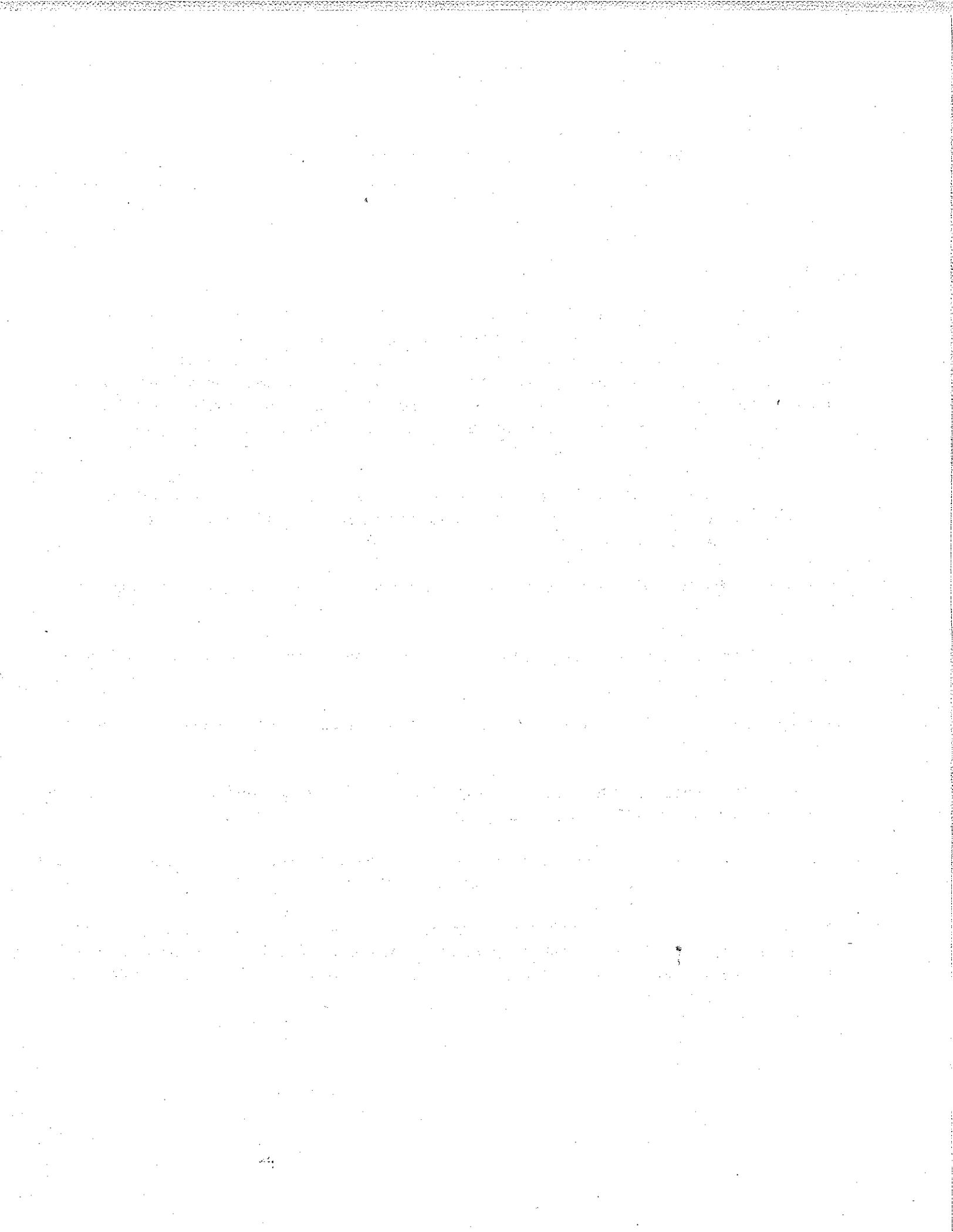
26-5 Lead agencies should work with Caltrans on developing standards and alternatives to tree planting along roadways.

26-6 Comment noted. The updated CEQA Guidelines now include thresholds from the *Proposed Thresholds of Significance* report.

26-7 Lead agencies are encouraged to refine their overlay zones to reflect actual conditions based on Air District-approved modeling. See also Master Response MR-7.

26-8 Staff will revise and clarify the construction criteria. Staff will consider the commenter's suggestions for additional screening criteria and methodology recommendations.

26-9 The intent of the revised CEQA Guidelines regarding naturally occurring asbestos is that projects that propose disturbing the NOA should mitigate potential impacts of causing asbestos to become airborne. The updated CEQA Guidelines will clarify recommendations made on naturally occurring asbestos and will consider the commenter's suggestions.



#27



# Delta Diablo Sanitation District

OFFICE AND TREATMENT PLANT: 2500 PITTSBURG-ANTIOCH HIGHWAY, ANTIOCH, CA 94509-1373  
TEL.: (925) 756-1900 ADMIN. FAX: (925) 756-1961 MAINT. FAX: (925) 756-1963 OPER. FAX: (925) 756-1962 TECH. SVCS. FAX: (925) 756-1960  
www.ddsd.org

October 8, 2009

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109

**SUBJECT: CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES UPDATE  
AND GREENHOUSE GAS EMISSIONS OF POWER PLANTS**

To Whom It May Concern:

As the Bay Area Air Quality Management District (BAAQMD) considers an update to its California Environmental Quality Act (CEQA) Guidelines, we would like to raise awareness of the potential for reducing Greenhouse Gas emissions associated with power plants through the use of recycled water for cooling in lieu of the often used "dry cooling" systems.

Delta Diablo Sanitation District (DDSD) is a regional wastewater agency serving the communities of Antioch, Bay Point and Pittsburg. In 2000, DDSD began operating a regional Recycled Water Facility designed to produce over 12 million gallons per day (MGD) of tertiary recycled water. DDSD currently provides recycled water for landscape irrigation to the city of Pittsburg, and approximately 7 MGD of recycled water to two local Calpine natural gas-fired power plants for cooling tower water.

DDSD has conducted research on power plant cooling systems using recycled water, including a literature review and project-specific analysis, which indicates that recycled water cooled systems can have significant greenhouse gas (GHG) benefits over air cooled systems. For example, a proposed 530 MW natural gas-fired power plant for base load electricity generation could generate increased GHG emissions of approximately 12,000 tons of CO<sub>2</sub> equivalents per year. This would be equivalent to the emissions of over 2000 cars.

While we understand that additional GHG emissions associated with air cooling are only a small fraction of a power plant's total GHG emissions, they are not insignificant, particularly since GHG impacts can be considered cumulative. For power plant siting cases where a reliable recycled water supply can be made available, these unnecessary emissions could easily be eliminated by use of the proven and reliable recycled water cooling technology.

We therefore respectfully request that the BAAQMD consider incorporating this finding into its approach to addressing GHG related issues under the CEQA. We believe analysis of cooling system alternatives should be included in CEQA documents for such projects, including a review of the availability of recycled water for cooling. In situations where a reliable supply of recycled water for cooling is available, plants choosing to instead use air cooling should be held

27-1

27-2

Bay Area Air Quality Management District

October 8, 2009

**CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES UPDATE AND  
GREENHOUSE GAS EMISSIONS OF POWER PLANTS**

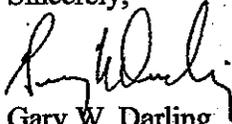
Page 2

responsible under CEQA to mitigate the additional, unnecessary GHG emissions due to air cooling.

27-2

We would be happy to share the documentation of our findings and stand ready to assist as the BAAQMD considers development of related guidelines. Please feel free to contact me at (925) 756-1920.

Sincerely,



Gary W. Darling  
General Manager

CQ/GWD:dj

cc: District File RW-CORRES  
Chron File

Comment Letter #: 27

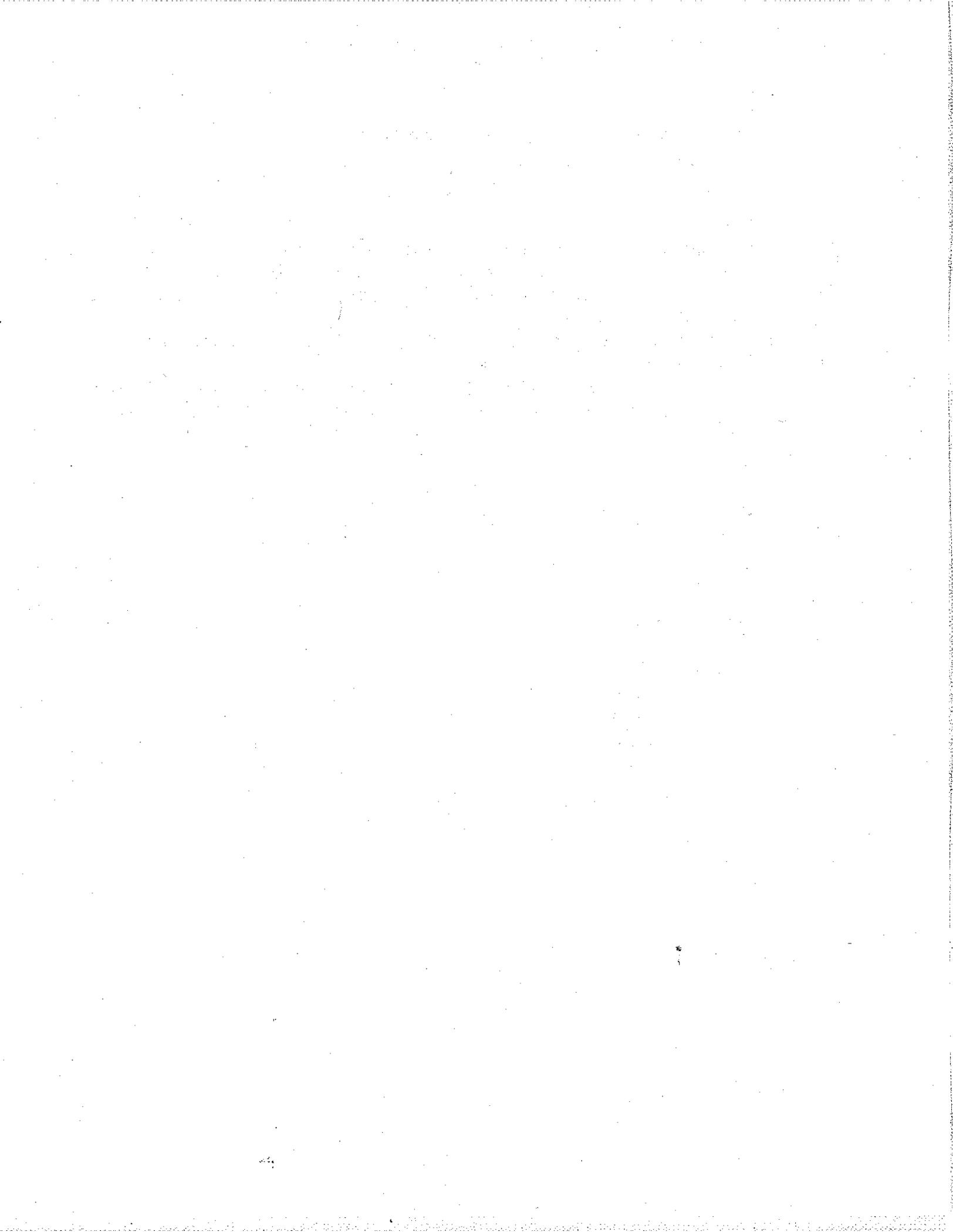
Date: October 8, 2009

From: Gary W. Darling, General Manager, Delta Diablo Sanitation District

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Response to Comments:

- 27-1 The Air District appreciates all recommendations for viable, feasible mitigation of significant air quality and GHG impacts. The revised CEQA Guidelines include mitigation measures, at both the project and plan levels, that encourage the use of recycled water for irrigation. Air District staff will further explore additional opportunities to include measures to mitigate impacts through water conservation, including mitigating GHG emissions in power plant cooling systems with the use of recycled water.
- 27-2 Air District staff will analyze the commenter's referenced literature and research and determine the feasibility of mitigating power plant emissions through the use of recycled water for power plant cooling systems.





# SAN FRANCISCO PLANNING DEPARTMENT

#28

October 8, 2009

Mr. Greg Tholen  
Principal Environmental Planner  
Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

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415.558.6409

Planning  
Information:  
415.558.6377

Dear Mr. Greg Tholen,

The City and County of San Francisco's Planning Department supports the Bay Area Air Quality Management District's (BAAQMD's) California Environmental Quality Act (CEQA) Draft Air Quality Guidelines Update (*BAAQMD Guidelines*) process. We commend the BAAQMD for undertaking its efforts to provide definitive guidance concerning these complex and interrelated air quality and Greenhouse Gas (GHG) issues and offer the following comments. The Planning Department looks forward to working with the District on further development of the proposed *BAAQMD Guidelines*.

## GENERAL COMMENTS

- A. The Planning Department does not believe that the proposed *BAAQMD Guidelines*, with respect to greenhouse gas emissions, are consistent with the Office of Planning and Research's (OPR's) proposed amendments to the CEQA Guidelines. 28-1
- B. The *BAAQMD Guidelines* emphasize identifying air quality impacts based on vehicle miles traveled. The Department cautions against using this metric and would be supportive of a "vehicle trips" metric or other travel demand measure, consistent with OPR's proposed amendments to the CEQA Guidelines. 28-2
- C. San Francisco has established policies through ordinances, the General Plan, the Planning Code and resolutions of City commissions that incorporate most of BAAQMD's proposed mitigation measures and standards suggested by Senate Bill 375 (SB 375) and Assembly Bill 32 (AB 32) for compact, infill, mixed-use development projects. Nevertheless, our testing of the proposed thresholds for operational emissions and GHG for typical San Francisco projects indicates that smart growth development projects in San Francisco would incongruously trigger EIR requirements and have the deleterious effect of discouraging the types of projects that should be encouraged. 28-3
- D. The Planning Department respectfully requests that BAAQMD postpone further action on the *BAAQMD Guidelines*, as they pertain to GHG emissions, until convening a stakeholder

working group to address concerns regarding the region's ability to meet our GHG reduction targets, should these thresholds be established. It is our contention that the *BAAQMD Guidelines* would inhibit San Francisco's ability to meet its GHG reduction targets under SB 375 and may actually impede the region's practical ability to promote land use patterns consistent with SB 375's mandates.

28-4

Our perspective is informed by San Francisco's many existing policies and practices which effectively promote land use patterns and alternative modes of transportation consistent with achieving reductions in GHG and harmful emissions. In the case of toxic air contaminants (TACs), San Francisco has already addressed dust control and exposure to busy roadway emissions through local ordinances which essentially embody the protective measures suggested by the *BAAQMD Guidelines* for emissions from TACs. In addition, our environmental documents also routinely include comprehensive analyses of criteria contaminants, GHG, TACs, and appropriate health risk assessments.

San Francisco has developed and implemented numerous policies and programs that directly and indirectly limit the amount of GHGs which would otherwise be emitted into the atmosphere. The City's climate change related policies are embodied throughout the City's municipal codes, ordinances, and the General Plan. The following examples, although not exhaustive, highlight just some of the City's actions that reduce GHG emissions and other harmful emissions.<sup>1</sup>

City Charter Section 16.102: Transit First Policy has been in effect since 1973 and gives priority to public transit investments. It adopts street capacity and parking policies to discourage increased automobile traffic and encourages the use of transit, bicycling and walking rather than use of single-occupant vehicles. San Francisco's Municipal Transportation Agency (SFMTA) is one of America's oldest public transit agencies, the largest in the Bay Area and seventh largest system in the United States. It currently carries more than 200 million riders annually.

Environment Code Section 421. Commuter Benefits Program requires all employers with at least 20 full-time employees to provide at least one of the following commuter benefits: (1) a pre-tax commuter benefit election program; (2) an employer paid benefit; or (3) employer provided transit. Numerous provisions in our Planning Code mandate limitations on, and management of, parking and require the provision of bicycle and carshare facilities.

Environment Code, Chapter 9: Greenhouse Gas Emissions Targets and Departmental Climate Action Plans established the following GHG emissions goals for the City: (i) By 2008, determine

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<sup>1</sup> The San Francisco Department of the Environment maintains a list of environmental ordinances and regulations. Please see: [http://www.sfenvironment.org/our\\_policies/overview.html?ssi=13#EnvironmentalOrdinances](http://www.sfenvironment.org/our_policies/overview.html?ssi=13#EnvironmentalOrdinances). Accessed October 7, 2009.

1990 City GHG emissions as provided in Section 902(c) below; (ii) By 2017, reduce GHG emissions by 25 percent below 1990 levels; (iii) By 2025, reduce GHG emissions by 40 percent below 1990 levels; and (iv) By 2050, reduce GHG emissions to 80 percent below 1990 levels. To meet these reduction goals, the Chapter 9 code requires: (1) Departmental Climate Action Plans; (2) a review of the City's General Plan to add greenhouse gas emissions limits and policies to achieve those targets; (3) consideration of a project's impact on the San Francisco GHG emissions limit under the California Environmental Quality Act; (4) review of City transit, pedestrian, bicycle, parking and transportation demand management programs; (5) improved energy efficiency in new construction and alterations to existing buildings, optimization of HVAC, lighting, and other building systems, and retrofitting of buildings at time of sale; (6) review of street and public lighting standards to enhance energy efficiency; (7) increased energy efficiency of City buildings; and (8) consideration of the impact of City procurement decisions on the environment.

Environment Code Section 906. Market-based Compliance Mechanisms authorizes the Department of the Environment to develop a carbon market for the City of San Francisco to reach the GHG goals.

Environment Code Section 907. Local Energy Generation requires the San Francisco Public Utilities Commission (SFPUC) to develop and implement a plan towards becoming fossil fuel free by 2030 and to develop policies within the Sewer Master Plan to reduce GHG emissions.

Environment Code, Chapter 14: Construction Demolition and Debris Recovery Ordinance requires that projects proposing full demolition of an existing structure to develop a waste diversion plan that diverts 65 percent of all non-hazardous construction and demolition debris from landfills.

Environment Code, Chapter 10: Mandatory Recycling and Composting Requirements mandate all persons located in San Francisco to separate recyclables, compostables, and landfill trash and to participate in recycling and composting programs. This ordinance contains enforcement mechanisms which has enabled San Francisco to exceed targets.

Building Code, Chapter 13: Green Building Requirements mandate that newly constructed residential and commercial buildings must meet a sliding scale of green building requirements based on the project's size in order to increase energy and water efficiency in new buildings and significant alterations to existing buildings.

Planning Code: San Francisco Planning Code incorporates numerous smart growth policies and includes electric vehicle refueling stations in city parking garages, bicycle storage and carshare facilities for commercial and office buildings, unbundled parking and parking maximums in new residential building, and zoning that is supportive of high density mixed-use infill development.

Zoning in San Francisco establishes residential densities that far exceed density limits in other cities, with housing densities reaching as high as 283 units per acre in the downtown areas and generally no lower than 14 units per acre in the west and southwest neighborhoods of the City. The City's recent area plan rezonings remove housing densities altogether in favor of height limits, unit mix, and open space requirements. Our 2009 Housing Element proposes policies that discourage single use developments, requiring new development to provide a mix of uses to reach a sustainable jobs/housing balance.

Within the framework of the General Plan and the City's Municipal Code, San Francisco has developed, and continues to develop, strong and multi-faceted policies designed to reduce GHG emissions citywide and regionally. In addition to the mandatory programs identified above, San Francisco has developed a variety of voluntary, incentive-based programs. For example, the SFPUC's "GoSolarSF" program offers San Francisco's businesses and residents incentives in the form of a rebate program that could pay for approximately half the cost of installation of a solar power system, and more to those qualifying as low-income residents.

## SPECIFIC COMMENTS

### Project Level Impacts: Criteria Air Pollutants

1. For criteria air pollutants (CAPs) and many other air quality analyses identified by the BAAQMD, the District offers screening levels by which they believe a project would generally not result in a significant air quality impact. These screening levels are largely dictated by inappropriate reliance on ITE trip generation rates which, while reliable for major land use categories such as residential, office and retail, many other land use categories often have wide variability in the ranges for data results with associated high error factors. Appropriate use of ITE's trip generation rates in urban areas is further limited because these reflect data primarily collected for non-urban areas with virtually exclusive reliance on auto travel. Very different modal and development patterns exist in urban areas, which need to be incorporated in any appropriate guidance from BAAQMD. In order to effectively deal with these important differences, which fundamentally affect how emissions are calculated, we recommend that the *BAAQMD Guidelines* allow local jurisdictions to develop screening levels and calculate impacts, based on vehicle trips rather than ITE Trip Generation Rates.
2. The mitigation measures identified for Criteria Air Pollutants and GHG are presented as a range of unscaled reductions. The *BAAQMD Guidelines* require the lead agency to provide justification for the reductions achieved from implementation of the mitigation measures.

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The mitigation measures themselves are highly subjective and subject to highly variable effectiveness, making it difficult for the lead agency to correctly determine whether an impact has been fully mitigated or not. Furthermore, the *BAAQMD Guidelines* do not offer any sources or references regarding the range of scaled reductions suggested. It is imperative that the District provide the source material for lead agencies to reference and understand where there is variability in the mitigation effectiveness, including the limitations of isolated measures not coupled with a comprehensive program.

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Project Level Impacts: Greenhouse Gas Emissions

3. The *BAAQMD Guidelines* fail to adequately provide substantial evidence required for determining how GHG emissions above the proposed BAAQMD thresholds would result in a significant impact to global climate change (CEQA Guidelines Section 15064.7).
4. The basis for the quantitative reduction needs additional supporting evidence. It appears that all electricity generation and on-road vehicle emissions are attributed to the land use sector, and the proposed analysis techniques do not consider the goods movement sector and other sectors that contribute to these emissions.
5. It is unclear how the state mandated reductions and programs have or have not been accounted for in the *BAAQMD Guidelines*.
6. The links between the statewide emissions and our regional emissions and reduction target are unclear. It would be more appropriate to base a reduction target on the regional allocations being developed under SB 375- a process that is taking a substantial amount of time in developing a sensible and defensible methodology.
7. The appropriateness of the GHG reduction targets is questionable. It appears that all new development is being tasked with taking on more than its fair share for meeting the GHG reduction targets. Under CEQA, a project is only legally responsible for its contribution to environmental effects.
8. The Planning Department does not recommend a quantitative threshold for GHG emissions. In our view, such a requirement will only result in the need for relatively small, infill projects to perform costly GHG analysis, only to demonstrate that there are no viable mitigation strategies for them to implement beyond the extensive strategies already mandated by the City and incorporated into the development. The Planning Department would prefer to see significant strides in the development of performance standards that produce real and accountable GHG reductions. In our experience, the quantitative analysis approach does not produce meaningful results to mitigate climate change. In fact, requiring a quantitative analysis would place an unfair burden on smaller projects, affordable housing projects, and other projects lacking the upfront financial resources to satisfy the extensive analyses which would become pervasive requirements under the

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*BAAQMD Guidelines*. The Planning Department has found that GHG analyses can be prohibitively expensive, particularly for non-profit and affordable housing projects, with costs ranging from \$10,000 to \$100,000.

28-1

9. The Planning Department further believes that a quantitative threshold would promote piecemealing of a series of smaller projects to avoid the proposed thresholds. The result will be less optimal development in San Francisco and the region, i.e. less compact development that does not reach its full development capacity compared to allowed zoning coupled with greater dispersed sprawl. The Greenhouse Gas Emissions thresholds identified in the *BAAQMD Guidelines* should be a starting point for discussing appropriate thresholds. As recommended in the beginning of this letter, the Planning Department recommends working group sessions represented by cities and counties in the Bay Area, a similar process under taken by other air districts (San Joaquin and South Coast).

28-13

10. Should a quantitative GHG analysis remain the desired mechanism for determining a significant impact, the *BAAQMD Guidelines* should clarify how the screening levels should be used. As written, the screening levels appear to recommend undertaking a GHG analysis for projects even below the threshold. Further, the thresholds state that projects above the screening levels could have a significant climate change impact. This conclusion would have the practical effect of requiring a lead agency to prepare a focused Environmental Impact Report for all projects exceeding the screening levels and thereby delay and financially burden projects which would otherwise be subject to a more streamlined environmental review process. A focused EIR for an infill development project of modest size could potentially be cost prohibitive and effectively kill such projects.

28-14

11. Should a quantitative approach be preferable, the screening levels should consider mixed-use projects. From a policy standpoint, San Francisco does not encourage single use projects and instead encourages and/or require that a project include mixed uses. Neither the screening criteria, nor the proposed thresholds, consider the benefits of mixed uses. In fact, our testings of methodologies in the *BAAQMD Guidelines* for projects of modest size with a mix of uses in San Francisco indicate that such projects would most likely be above the proposed screening levels in the *BAAQMD Guidelines*, and could require an EIR. This directly contradicts the goals and mitigation measures outlined in the *BAAQMD Guidelines* which are designed to reduce GHG emissions and call for encouragement of mixed-use infill development projects (See *BAAQMD Guidelines* pages 5-8 to 5-19, "Mitigating Plan Level Impacts"). Not only do the proposed thresholds conflict with regional efforts to reduce GHG emissions, but they also conflict with BAAQMD's own guidelines for reducing GHG emissions.

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12. The screening levels do not distinguish between infill development or transit oriented development compared to greenfield and/or suburban development. Considering that transportation emissions represent almost two-thirds of all project-level GHG emissions in the Bay Area, an analytical distinction between infill and transit oriented development projects versus greenfield and suburban development should be made. A one-size-fits-all

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numerical threshold would be a detriment to infill development and affordable housing projects.

- 28-17
13. The screening levels do not make practical sense. It is difficult to understand how a 24 hour convenience market with gas pumps (i.e. "gas station") would emit more GHGs than 120,000 square feet of general heavy industry. Presumably, the screening level for a gas station is this low because of the number of trips into and out of the gas station. Many of these trips should not be solely attributed to the gas station, as many of these trips are pass-by or linked trips. While a regional shopping center can appropriately be treated as a destination point, gas stations and other complimentary land use types have a much higher percentage of pass-by and linked trips than URBEMIS presumes.
- 28-18
14. A number of the methodological approaches to assessing and mitigating operational-related impacts are flawed. Because vehicle trips, not raw trip rates, are the primary determinant of operational-related impacts, vehicle trips should be used as the basic input rather than trip rates. Many of the input parameters identified in Table 3-1 are not well-adapted to reflect appropriate adjustments needed for use of URBEMIS in urban areas. The *BAAQMD Guidelines* direct that net calculations are permissible only if the existing emission sources "would continue if the proposed redevelopment project is not approved;" this guidance may be appropriate for stationary source emissions, but it would be impossible to know whether or not existing uses would continue in the absence of proposed land use projects proceeding. The URBEMIS default value of 0.5 FAR for all non-residential uses highlights the severe limitations of applications to San Francisco, where FAR ratios many multiples higher are common. The schematic simplicity of Tables 3-2 and 3-3 belie the actual practical flaws in how emissions are proposed to be calculated and mitigated under the *BAAQMD Guidelines*.
- 28-19
15. The URBEMIS program was not intended to calculate vehicle miles traveled. The GHG calculations that are based on ITE trips do not directly correlate into vehicle miles traveled and there are practical problems with applying ITE rates for analyzing VMTs. The *BAAQMD Guidelines* treat vehicle miles traveled and their subsequent GHG emissions as point sources, when, in fact, they are not. It is speculative to presume, as the *BAAQMD Guidelines* do, that all new developments are sources of additional VMTs. It can be just as easily argued that certain forms of development that incorporate green buildings and patterns that support alternative modes of transportation may reduce existing vehicular trips and could, in fact, produce fewer VMTs. The Planning Department recommends further research and analysis be conducted as to the usefulness of VMT as a metric for determining additional GHGs from new development. Approaches that consider the service area of a given land use (grocery store, etc.) may be preferable.
- 28-20
16. Should the BAAQMD prefer a quantitative approach, a per capita and/or per service population would be preferable over a "bright line" numeric threshold not sensitive to different settings. The Planning department does not support the development of a quantitative approach for the reasons discussed above but recognizes that a per capita and/or per service population threshold would appear to not discriminate based solely on

a project's size. The Planning Department does have concerns, however, that the per capita and per service population thresholds are unrealistically low and we question the reasonableness of these thresholds. If BAAQMD proceeds with a per capita or per service population threshold, the Planning department wishes to see additional documentation supporting the proposed thresholds and additional examination of the effects of such a threshold on infill development, transit-oriented development, and other development types designed to meet the state and regional GHG reduction targets.

17. Significant strides have been made by the Planning Department to streamline CEQA review for infill development projects using the Class 32 Categorical Infill Exemption and the Statutory Community Plan Exemption (CEQA Section 21083.3). It is unclear how the proposed thresholds relate to these exemptions, as well as the statutory exemption for affordable housing of 100 units or less (Residential Infill Exemption, CEQA Guidelines Sections 21059.20, 21059.23, 21059.24). Based on our investigations, the proposed thresholds would conflict with and undermine the policy objectives that the California legislature established in enacting these exemptions. A serious problem with the proposed screening levels is that they make no distinction between the types and densities of the residential categories. CEQA's infill exemption applies to residential projects with density of at least 20 units per acre. San Francisco has many developments approved and under consideration exceeding 100 units per acre. Rather than encouraging infill development, the *BAAQMD Guidelines* will make infill development more costly and difficult.

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Further, the screening levels proposed seem premature in light of the work currently underway to implement SB 375. Under SB 375, transit priority projects would be exempt from CEQA (CEQA Section 21151.1). These are projects that contain residential units at 20 units or more per acre and are within a half mile of a major transit corridor and accord with a sustainable community strategy accepted by the metropolitan planning organization. Although it will take time to implement the SB 375 planning process, SB 375 recognizes the importance of not just considering the land use type and square footage, but also the importance of taking into account the location, density, proximity to transit and other considerations integral to accurately determining a project's contribution to GHGs.

18. The *BAAQMD Guidelines* lack sufficient evidence to support how and why a stationary source that emits ten times more GHGs than many of the uses identified in BAAQMD's proposed thresholds would have less of an impact on global climate change. Effective mitigation measures to address adverse emissions from stationary sources can more realistically be defined and implemented than emissions from vehicle trips and should appropriately be held to a more restrictive standard.

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19. Based on the Workshop Options Report, the BAAQMD has identified a maximum feasibility of mitigation in the range of 25-35 percent. By our calculations, any project emitting more than 1,485 MT would have a significant and unavoidable impact. To the extent that proposed threshold encourages projects to downsize, this does not support infill development; it merely limits the size of a project and de facto encourages dispersal

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of smaller, less compact projects. Furthermore, it is preferable to have a larger project on an infill site from a regional GHG standpoint.

20. Another approach to consider is a mechanism to allow for large infill development projects to reduce their emissions in comparison to a business-as-usual model which would need to be clearly defined and use this comparison as the basis for not requiring preparation of an EIR solely based on inappropriate GHG thresholds. Much more research and refinement of this idea and other concepts for thresholds should be considered before determination of thresholds. A mechanism that actually encourages a project to be designed and sited to incorporate enhanced measures protective of the environment would be more appropriate. 28-24
21. The *BAAQMD Guidelines* are unclear concerning whether or not lead agencies can use their own methodologies for calculating GHG emissions. The project-level approach appears to dictate that the methodology in the *BAAQMD Guidelines* must be used, but, when addressing Plans, the *BAAQMD Guidelines* appear to allow for more flexibility. 28-25
22. It is unclear how the proposed mitigations are supposed to be addressed in a CEQA document. The proposed mitigations lack documentation regarding their effectiveness and seemingly encourage free rein for the lead agency to improvise in potentially random adoption of effectiveness measures. More research and emphasis should be placed on what is considered effective mitigation and to document realistic targets concerning percent reductions of GHGs. How do the *BAAQMD Guidelines* account for existing citywide policies and programs to reduce GHG emissions? Specifically, how are existing Green Building Ordinances and transit policies accounted for? 28-26
23. Should a quantitative approach for GHG thresholds be desirable, the Planning Department has many concerns over the methodology used to calculate project-level emissions because the tools available are still in the developmental stage. Specifically, how does the proposed methodology account for reasonable reductions from the transportation, energy, natural gas, and water sectors that are expected from AB 32 ? URBEMIS does not currently include AB 32 projected emissions reductions from these sectors.
24. When determining indirect emissions from energy required to convey, treat, and distribute water, does this also include the emissions from the electricity required to treat wastewater? When proposing a numerical threshold, the *BAAQMD Guidelines* should be very clear about what to calculate and how. 28-27
25. The methods for project-level impacts do not consider the embodied energy of existing buildings and as such makes no distinction between adaptive reuse and new development. The lack of distinction between these types of development conflicts with plan-level mitigating policies that advocate for adaptive reuse and reconditioning of 28-28

existing buildings and recognize that such practices may substantially offset impacts relative to demolitions (*BAAQMD Guidelines*, page 5-7).

Project-level Impacts: Local Community Risks and Hazards

26. For project-level impacts on local community risks and hazards, it is unclear whether a project proposing a new source of contaminants would need to analyze the excess cancer risk, acute HI, chronic HI and additional PM<sub>2.5</sub> levels, or if the project need only analyze against one of these criteria. The *BAAQMD Guidelines* as written seem to indicate that a project would need to perform all four of these analyses irrespective of the characteristics of the setting.

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27. Is the air district planning to develop screening levels that would trigger these thresholds?

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Plan level impacts: Greenhouse Gas Emissions

28. The *BAAQMD Guidelines* propose two methods for determining the significance of a proposed plan's impact on greenhouse gas emissions. The first method is a quantitative threshold that the plan must meet and the second is a qualitative analysis based on the project's compliance with a qualified climate action plan. The Planning Department has concerns over the numeric threshold and we believe that it is unrealistically low. The Planning Department requests additional information to support the proposed thresholds and an analysis of the practicality of the thresholds.

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29. Furthermore, should a per capita or per service population threshold be desirable, the BAAQMD should clearly identify what a service population is and how it should be calculated. For example, are retail customers part of the service population, or just the number of jobs and residents? The BAAQMD should further identify what GHG emissions should be included in the per capita/per service population GHG limit. How would a per service population/ per capita threshold distinguish between new trips and diverted trips?

30. The Planning Department favors a program that analyses greenhouse gas impacts on a larger scale, preferably a regional scale. BAAQMD's proposal for determining a project's consistency with a qualified climate action plan is generally appropriate. The Planning Department does, however, believe that the *BAAQMD Guidelines* should make explicit what constitutes a "qualified" climate action plan. San Francisco has a climate action plan that did not undergo CEQA review because it largely functions to calculate an emissions inventory, define the problem, and establish a tool for departments in the City to use in developing further policies and programs. However, a vast majority of the recommended policies cited to in the *BAAQMD Guidelines* on pages 5-7 to 5-19 are already included in San Francisco's existing policies and ordinances which have undergone CEQA review at

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the time that these policies were adopted by the City. The Planning Department requests a process whereby the City could submit an evaluation to the BAAQMD of existing climate-related policies for a determination as to whether the City meets the definition of having a qualified climate action plan.

31. The plan-level approach encompassed by the *BAAQMD Guidelines* should not be limited to Climate Action Plans and should be broadened to include corresponding policies embedded in other types of Plans, such as a General Plan, Sustainable Communities Strategy, GHG reduction element of the General Plan, etc, to be consistent with OPR's proposed revised CEQA guidelines (specifically the revised checklist). The consistency with a Climate Action Plan threshold should be broad enough such that a lead agency can show, through whatever appropriate documents, that the jurisdiction meets the AB32 or Executive Order S-3-05 reduction targets. The only portions that should be required to undergo additional CEQA review should be limited to reduction measures to be implemented to meet a jurisdiction's GHG reduction targets. For example, a lead agency should have flexibility to prepare a Climate Action Plan that makes policy recommendations to the General Plan and those policies, measures, etc., should undergo CEQA review, but not necessarily the Climate Action Plan itself. This approach is consistent with guidance from the Attorney General's office and OPR.

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32. The plan-level approach should be very clear about what the Climate Action Plan should and should not include in its inventory. Climate Action Plans across the state and country are not directly comparable because jurisdictions choose which emissions they believe they are responsible for without consistent guidance from regional or state air districts. For example, Los Angeles and San Francisco use very different methodologies in accounting for inter-regional trips, such that when looked at on the surface, Los Angeles fares better than San Francisco on a per capita comparison.

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Plan level Impacts: Local Community Risk and Hazards

33. The threshold for determining significance of a plan on local community risk and hazards should be revised to include a process whereby a plan can show that the buffer, if not 500 feet, would result in PM<sub>2.5</sub> levels below 0.2 micrograms per cubic meter at the closest sensitive receptor. If this were to be considered in the *BAAQMD Guidelines*, the plan should indicate, through its projections of future highway/roadway volumes, that receptors are sited in locations that are below the 0.2 microgram per cubic meter of PM<sub>2.5</sub> levels in the cumulative setting.

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34. Figure 4-1 of *BAAQMD Guidelines* identifies much of San Francisco and other Bay Area urban core areas as Communities of High Concern. San Francisco has adopted local ordinances which require detailed risk assessments for its affected areas. Any proposed additional regulations for these areas should incorporate appropriate evaluations of

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potential exposures coupled with well-defined protective measures to avoid stifling economic revitalization of these areas and enable urban infill development.

Construction-related Impacts: Criteria Air Pollutants

35. The proposed mitigation measures for construction-related impacts of Criteria Air Pollutants (page 2-8) that limits idling times is not practically enforceable.

28-37

36. Screening levels for construction-related criteria air pollutants and precursors are inappropriately triggered by reliance on ITE trip generation rates grounded in non-urban data with wide variability and high error factors for many of the land use types identified. Treating the construction impacts of similarly-sized land uses as identical irrespective of whether these activities are focused on high-density on a small, urban parcel or are spread over a wide swath of outlying land does not make sense.

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37. Please clarify what the Basic Construction Mitigation Measures are. Are these the same Best Management Practices (BMPs) identified for Plan-level construction thresholds, or are they the same Basic Control Measures from the 1999 BAAQMD Guidelines?

28-39

38. Our reading of the BAAQMD Guidelines seems to indicate that if a project includes demolition, no matter the size of the project, that the project would be required to do an analysis of construction-related CAPs—is this a correct understanding? This would seem onerous for smaller projects, particularly infill development that often involves demolishing a less-intense land use and replacing it with denser development. Specification of an appropriate screening level might help to determine the size of demolition that would require analysis of construction emissions.

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39. Extensive site preparation and extensive material transport are vague terms and should be clarified. Is there a screening level for this (cubic yards of material, haul trips, etc.)?

40. Our understanding is that the District is no longer proposing BMPs for mitigating greenhouse gas emissions from construction on a project-by-project basis, but is requiring a case-by-case analysis of construction greenhouse gas emissions. The criteria for requiring this analysis is vague. The District should provide guidance and/or examples of projects for which they believe this analysis should be required.

28-41

41. Although the District is apparently no longer proposing the GHG construction-related BMPs for every project, the Planning Department offers the following comments on these BMPs.

- 28-41
- a. The guidelines should clarify the relationship of these BMPs to CEQA categorical exemptions. It will be infeasible for certain types of projects to implement these BMPs (e.g., local materials for utility projects). If failure to employ construction BMPs undermines the use of a categorical exemption because of the link to cumulative impacts, then public agencies may lose an essential means for making minor repairs to existing facilities (Class 1 Cat Ex). BAAQMD needs to fully understand the implications for otherwise routine categorical exemptions if BAAQMD adopts potentially infeasible and inflexible mitigation requirements – particularly with regard to the implications for public infrastructure projects.
  - b. The first BMP is whether the project construction vehicles are alternative-fuel based for at least 15 percent of the fleet. Has the feasibility of this mitigation measure been considered for all projects under CEQA? While this may be a desirable goal, more information is needed as to feasibility. Do these thresholds only apply to projects that are above the screening level? How are projects that would normally be exempt being considered?
  - c. The second BMP is whether the project uses at least 10 percent of its building materials that are fabricated locally. Is this ten percent by weight, by cost, or by some other measure? What constitutes a "building material"? Again, more information is needed as to feasibility in relation to a broad range of projects – and especially public infrastructure.
  - d. Regarding the second BMP, due to the specific nature of some projects, local building materials may not be available within 100 miles. Generally projects try to procure materials locally, reducing the transportation costs. However, many materials are manufactured elsewhere and shipped to the San Francisco Bay Area. This measure may not be very applicable to some projects. For instance, how applicable is this to a pipeline project where the majority of the materials are the pipe itself? Does it make sense to have a project that replaces piping in the Central Valley to need to find materials within 100 miles, if such manufacturing is not readily available? Again, there is a problem with even application of this BMP because it results in a GHG determination that is weakly correlated to the level of emissions. For instance, a very small gas or water pipeline repair project that utilizes specially fabricated components from over 100 miles away would trigger an EIR, while a project utilizing large volumes of locally produced concrete could be less-than-significant despite resulting in orders of magnitude more GHG emissions. Pipeline and electricity infrastructure projects in rural areas, including solar energy generation projects, would almost automatically result in significant and unavoidable impacts, thereby increasing the cost and delay of critical infrastructure.
  - e. The third BMP should be revised to state: "Recycle at least 50 percent of non-hazardous construction waste or demolition materials."

Construction-related Impacts: Local Community Risks and Hazards

42. The District should circulate the screening levels that are to be developed under the construction-related TAC threshold prior to adoption of the proposed thresholds.

Carbon Monoxide Impacts

43. Please provide the empirical basis for the screening levels that the District believes would require a detailed carbon monoxide analysis. As BAAQMD is aware, many years have elapsed without violations of carbon monoxide standards in San Francisco. While we continue to conduct carbon monoxide evaluations in our environmental documents in accordance with the 1999 BAAQMD Guidelines, these analyses have also for many years not shown any potential for exceedances. Because these analyses are dependent upon completion of our comprehensive transportation impact studies, conducting carbon monoxide analyses commonly create unnecessary delays and increase the costs associated with the environmental review process without providing meaningful results. The Planning Department is requesting that the BAAQMD Guidelines be modified to allow local jurisdictions to not perform carbon monoxide impact analyses in environmental documents and establish that an affected jurisdiction's prolonged record of actual compliance with carbon monoxide standards constitutes substantial evidence for exercising this discretion.

28-42

The City and County of San Francisco Planning Department thanks you for the opportunity to provide comments on the proposed BAAQMD Guidelines as well as your time to recently meet with us. Should our concerns as outlined above be addressed by the District, we believe that we can support the proposed BAAQMD Guidelines relating to significance thresholds for Criteria Air Pollutants, Carbon Monoxide, Local Community Risks and Hazards, and Odors. However, we urge BAAQMD to postpone development of thresholds of significance for GHG operational emissions and construction-related criteria air pollutants and precursors until convening with stakeholder groups and local planning agencies versed in the CEQA process. We believe that through these stakeholder sessions, the District will be able to develop appropriate CEQA thresholds of significance that advance the State and the Region's efforts to reduce these emissions from the land use sector.

Sincerely,



Bill Wycko  
Environmental Review Officer  
San Francisco Planning Department

Comment Letter #: 28

Date: October 8, 2009

From: Bill Wycko, Environmental Review Officer, San Francisco Planning Department

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Response to Comments:

28-1 The Air District's proposed guidelines are highly consistent with OPR's proposed amendments to the CEQA guidelines. Specifically, OPR's proposed amendments to the CEQA Checklist, Appendix G, include the following questions. Would the project:

- a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?
- b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

The Air District's proposed thresholds of significance for GHGs would provide consistency for Lead Agencies when attempting to answer these questions. Most projects individually would not result in sufficient GHG emissions such that a noticeable incremental change in the global average temperature would occur. In fact, it would be impossible to downscale the global impact of climate change to the project level for land use development projects. AB 32, however, establishes a statewide context for California to reduce GHG emissions as a whole, and do its share toward preventing dangerous climate change. Since GHG emissions in the State need to decrease, not increase, any net increase in GHG emissions could potentially be considered to contribute to climate change. Because the legislature does not intend to meet its AB 32 mandates through limiting population or economic growth in California, it is acknowledged that some amount of GHG emissions must be allowed from new development. The Air District proposes that 1,100 MT CO<sub>2</sub>e/year constitutes a substantial increase in GHG emissions in its jurisdiction such that a project would have a cumulatively considerable impact on climate change. In addition, the Air District proposes that if a project would accommodate development in a way that would result in GHG emissions less than 4.6 MT CO<sub>2</sub>e/SP/year, the project would not conflict with a AB 32 (i.e., the plan, policy, or regulation adopted for the purpose of reducing GHG emissions) goals. Both of these quantitative were developed, based on substantial evidence, because they permit development in a manner which complies with the goals of AB 32. See also master responses MR-1, MR-3 and MR-4.

Appendix G is to be used as a guide for Lead Agencies to consider when analyzing environmental impacts, but in no way limits the Lead Agency to these considerations. The Lead Agency may use other criteria it believes are appropriate to ensure that environmental impacts are sufficiently analyzed and mitigated. In other words, just because a question is or is not asked in Appendix G, doesn't relieve the Lead Agency of the duty to adopt a threshold and evaluate an impact.

As always, "in preparing an EIR, the agency must consider and resolve every fair argument that can be made about the possible significant environmental effects of a project, irrespective of whether an established threshold of significance has been met with respect to any given effect." See *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099.

- 28-2 In the *Proposed Thresholds of Significance* report (November 2, 2009) the Air District recommends that either the rate of increase in VMT of vehicle trips be used in comparison with the rate of population growth.
- 28-3 See master response MR-2.
- 28-4 See master response MR-3.
- 28-5 See master response MR-6. In addition, an Agency may use screening levels and thresholds that it feels are appropriate, as long as the rationale for deviation from BAAQMD-recommended guidance is substantiated based on evidence.
- 28-6 The updated CEQA Guidelines will provide direction on quantifying emissions from the list of mitigation measures. See master response MR-7.
- 28-7 See master response MR-3, and Appendix D of the Draft CEQA Guidelines.
- 28-8 See Appendix D of the Draft CEQA Guidelines. Emission sectors that were attributed to land use include: on-road mobile, commercial, residential, electric power generation, and domestic wastewater treatment. These are the sectors that OPR recommends be included in a CEQA analysis in its Technical Advisory, *CEQA and Climate Change* (June 2008).
- 28-9 See master response MR-3
- 28-10 Please see Appendix D of the Draft CEQA Guidelines. The statewide emissions inventory was used to derive the GHG/SP threshold metric, whereas the regional emissions inventory was used to derive the emissions reduction target for BAAQMD.
- 28-11 The proposed Draft CEQA Guidelines only apply to projects subject to CEQA, which would only apply to new development. Thus, the Draft CEQA Guidelines would only apply to new development. See also master response MR-3
- 28-12 The commenter recommends a performance standard approach to thresholds, rather than a quantitative metric. The Air District evaluated a performance standard approach in Appendix D of the draft CEQA Guidelines, and the evaluation showed that it did not achieve the desired emissions reduction target for BAAQMD's jurisdiction.
- 28-13 See master response MR-4.
- 28-14 The updated CEQA Guidelines will clarify this issue.
- 28-15 The updated CEQA Guidelines will clarify issue. See also master response MR-4.
- 28-16 The updated CEQA Guidelines will clarify this issue.
- 28-17 The proposed screening levels in the CEQA Guidelines are not intended as thresholds of significance. They are just screening levels to minimize the need for full analysis in situations where BAAQMD has determined no significant air quality impact would occur because Air District staff have modeled the

screening level projects under very conservative assumptions and have determined that such projects will not exceed the applicable thresholds of significance. The methodology for emissions quantification provides instructions on how the user can account for density and other project attributes that would reduce emissions relative to model defaults.

28-18 See master response MR-6.

28-19 See master response MR-3.

28-20 See master response MR-2.

28-21 See master response MR-2 and MR-5.

28-22 See master response MR-3.

28-23 See master response MR-2.

28-24 See master response MR-6 and MR-7.

28-25 The Air District recommends that the user perform manual calculations to account for jurisdiction-specific regulations that would affect emissions from the projects. These regulations, if appropriate, should be accounted for in the project design/attributes, and not as mitigation. The user should provide evidence in support of the emission reduction credited to the regulations (such as green building ordinance or TDM program). BAAQMD's proposed mitigation measures for operational emissions may be used to gather such evidence in support of emission reductions.

28-26 See master response MR-6.

28-27 The proposed GHG thresholds and methodology for calculating GHG emissions were developed considering emissions associated with domestic wastewater treatment.

28-28 The Air District's proposed emissions calculation methodology does not account for embodied emissions in building materials. Doing so would be speculative because the level of detail of lifecycle of building materials is typically unknowable at the time of preparation of the environmental document. Nonetheless, if a project would remodel an existing building rather than propose new construction, the construction emissions calculation methodology would reflect the reduced level of site preparation, utility installation, and construction activity involved with remodeling an existing building.

28-29 The updated CEQA Guidelines provides detailed instructions on local community risk and hazard impacts. See also master response MR-7.

28-30 The Air District will be developing screening tables for community risk and hazard impacts.

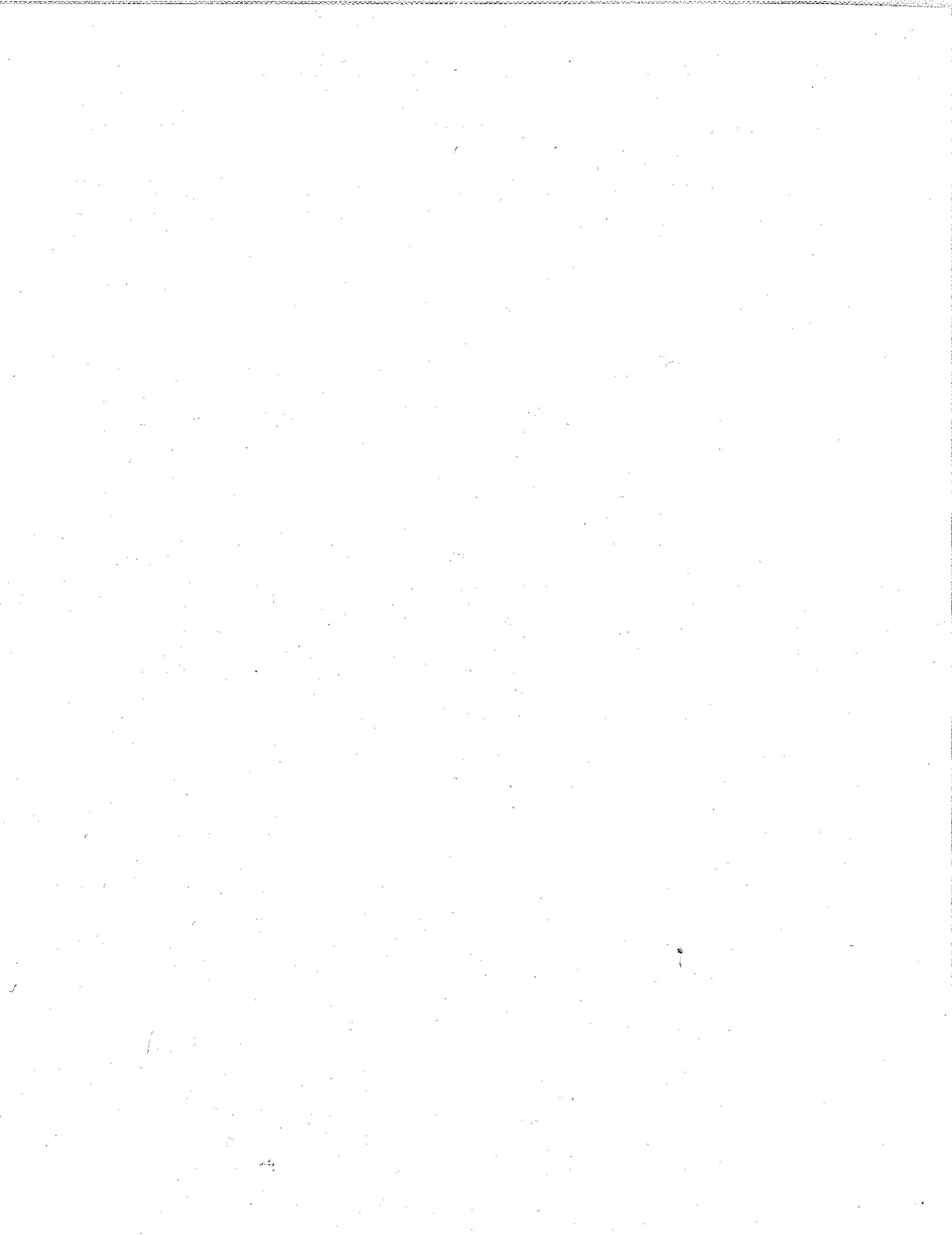
28-31 BAAQMD defines service population as the number of residents plus the number of jobs accommodated by a project or plan. Methodology to calculate GHG/SP is provided in Chapters 4 and 9 in the updated CEQA Guidelines. The GHG/SP calculation methodology purposely does not distinguish between diverted trips or new trips, because this analysis is concerned with accommodating

development in a method that is consistent with AB 32 mandates, rather than making a distinction between existing and new potential to emit. See also master response MR-3.

- 28-32 According to OPR, in order for a climate action plan to be used for the purpose of determining significance, a plan must contain specific requirements that result in reductions of GHG emissions to a less than significant level and must be adopted in a public review process. The City should consult with the Air District as to whether the City's CAP contains these specific requirements.
- 28-33 The plan-level GHG threshold in the *Proposed Thresholds of Significance* report recommends for local governments that have not yet adopted a stand alone qualified climate action plan as defined by the CEQA Guidelines, they have the option to demonstrate that their collective set of climate action policies, ordinances, and other programs are consistent with AB 32. Demonstration of AB 32 consistency should be considered equivalent to a qualified climate action plan. In the case of demonstrating that a collective set of climate action policies, ordinances, and programs are consistent with AB 32, this would not qualify as a project under CEQA and would not need to go through CEQA review.
- 28-34 The updated CEQA Guidelines is intentionally not prescriptive on how to perform a CAP emissions inventory because ARB is in the process of producing a protocol on how to conduct community-wide emissions inventories. ARB has already published its Local Government Operations Protocol for conducting municipal inventories, which BAAQMD also recommends be followed. BAAQMD recommends use of ARB's guidance. In the interim period between now and the publication of the community-wide emissions inventory protocol, BAAQMD recommends attributing GHG emissions that are within the jurisdiction (either geographical or operational) of the community/agency.
- 28-35 The updated CEQA Guidelines provides detailed instructions on local community risk and hazard impacts.
- 28-36 See master response MR-7.
- 28-37 Minimizing idling time for construction vehicles is a commonly implemented mitigation measure to reduce exhaust emissions. If there are specific circumstances wherein this measure would be considered infeasible, the Lead Agency should explain.
- 28-38 Screening levels for construction-related criteria air pollutants and precursors were not based on ITE trip generation rates. The commenter misunderstands the screening criteria for construction.
- 28-39 Basic construction mitigation measures will be identified in Chapter 8, Section 8.2 of the updated CEQA Guidelines. These are the same BMPs applicable to construction of plans, identified in Chapter 9, Section 9.4 of the November 2009 version of the *Draft Air Quality Guidelines*. The proposed Basic construction mitigation measures differ slightly from the 1999 Air Quality Guidelines.
- 28-40 Staff will revise and clarify the construction criteria in the updated CEQA Guidelines.
- 28-41 The GHG threshold for construction that recommended implementation of construction best management practices referred to in this comment has been omitted from the *Proposed Thresholds of Significance* report (November 2, 2009). The Lead Agency should use a threshold it believes is

appropriate for construction-generated GHG emissions, or consult with the Air District. The commenter's suggestions for the construction best practices will be considered for the construction mitigation measures in the updated CEQA Guidelines.

28-42 The updated CEQA Guidelines will clarify the screening criteria for the carbon monoxide threshold. The screening criteria will be made less stringent to reflect the fact that a CO analysis is rarely necessary in the Bay Area.





# CITY OF DUBLIN

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Website: <http://www.ci.dublin.ca.us>

October 9, 2009

Greg Tholen  
Principal Environmental Planner  
Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109

**Subject: BAAQMD CEQA Guidelines Update**

Dear Mr. Tholen,

Thank you for the opportunity to comment on the District's proposed CEQA Guidelines.

The City of Dublin respectfully submits the following comment:

1. It is our understanding that the District Board has the discretion to determine when the thresholds of significance proposed in the updated CEQA Guidelines would become effective, if adopted. The City of Dublin is concerned about projects for which CEQA review is already underway prior to the adoption of any new or revised standards. It is unclear to us if these projects would use the current standards or if the new standards and thresholds (proposed in the updated CEQA Guidelines) would apply.

29-1

The City of Dublin is requesting that the Bay Area Air Quality Management District provide guidance and clarification on the effective date of the new thresholds of significance in relation to both Environmental Impact Reports and Negative Declarations/Mitigated Negative Declarations that are already underway.

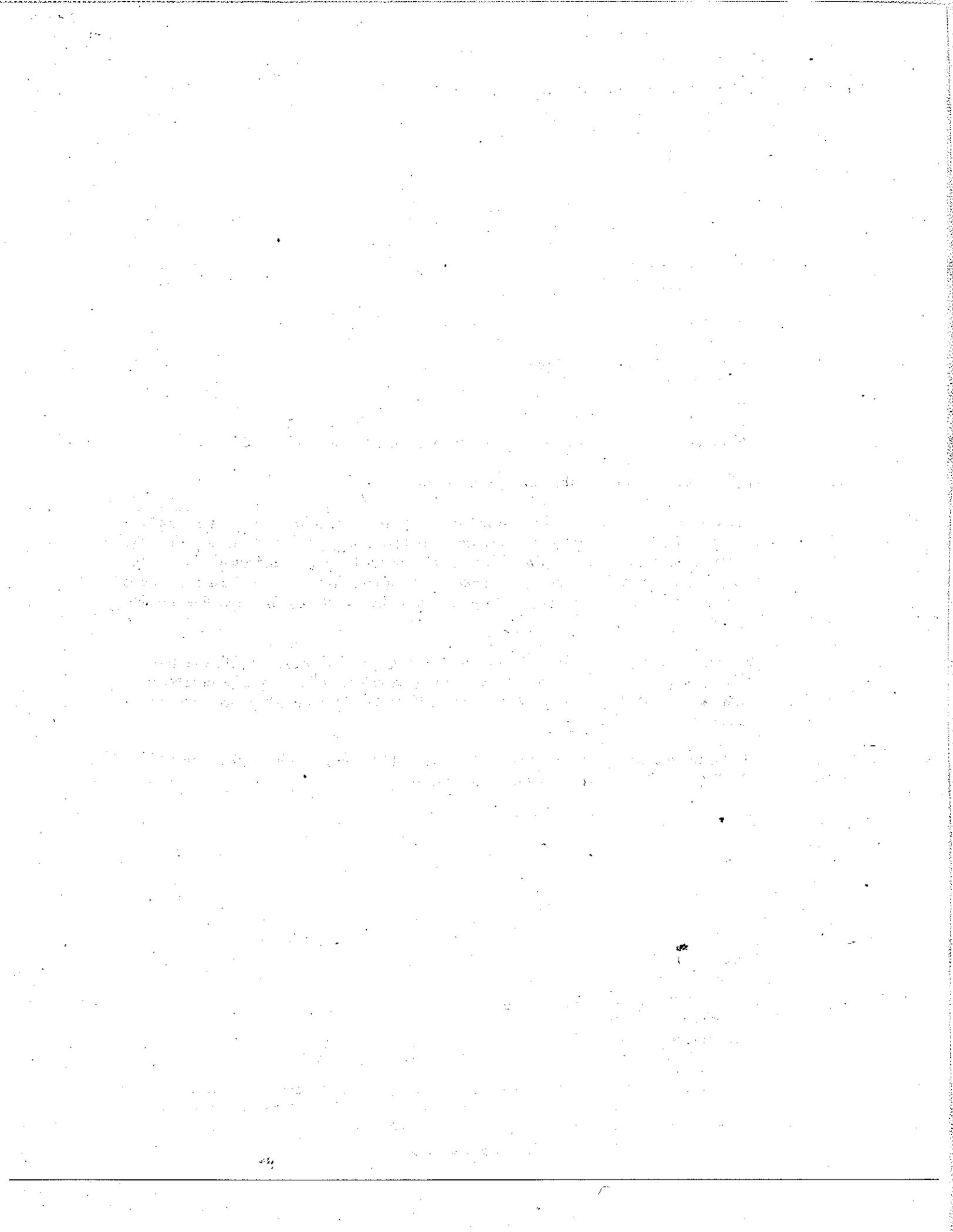
Thank you again for the opportunity to comment on the updated CEQA Guidelines. Please feel free to contact me at 925-833-6650 if you require additional information.

Best Regards,

*Joni Pattillo*  
for Joni Pattillo  
City Manager

- cc: Chris Foss, Assistant City Manager  
 Roger Bradley, Administrative Analyst II  
 Jeri Ram, Community Development Director  
 Jeff Baker, Planning Manager  
 Martha Aja, Environmental Specialist  
 Kit Faubion, Meyers Nave, 555 12<sup>th</sup> Street, Ste. 1500, Oakland, CA 94607

Area Code (925) • City Manager 833-6650 • City Council 833-6650 • Personnel 833-6605 • Economic Development 833-6650  
 Finance 833-6640 • Public Works/Engineering 833-6630 • Parks & Community Services 833-6645 • Police 833-6670  
 Planning/Code Enforcement 833-6610 • Building Inspection 833-6620 • Fire Prevention Bureau 833-6606



Comment Letter #: 29

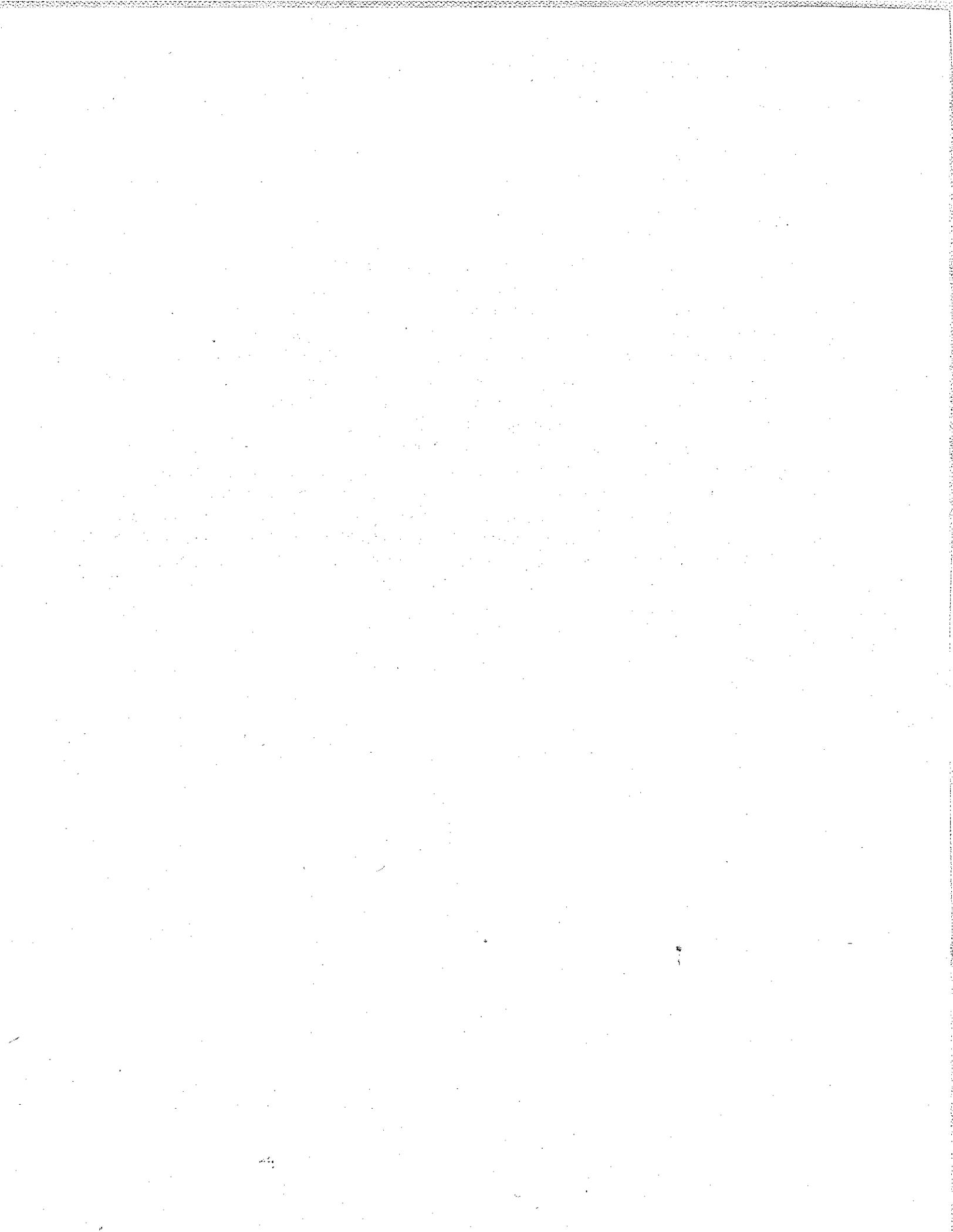
Date: October 9, 2009

From: Joni Pattillo, City Manager, City of Dublin

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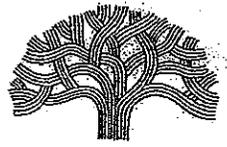
Response to Comments:

29-1 The District's proposed thresholds of significance will not be mandatory for use by other lead agencies in the Bay Area. Lead agencies may choose to apply the District's thresholds to determine the significance of projects before them, or they may determine that some other method of analysis would be more appropriate for their particular agency or for a particular project. The District cannot therefore adopt a specific "effective date" upon which the thresholds will become mandatory. For lead agencies with projects that are already under review when the proposed thresholds are adopted, it will be up to each individual agency to determine whether and when to apply the District's revised thresholds for those projects. If the lead agency finds it appropriate to apply the District's revised thresholds in its significance analysis for such projects, it may do so. If the lead agency finds that it would not be appropriate to apply the revised thresholds to projects already under review, it may use some other means to determine significance as long as the determination is supported by substantial evidence as required by CEQA. For these reasons, staff is not proposing an "effective date" for the proposed thresholds. For those jurisdictions choosing to use the District's recommended thresholds, the District will establish a date upon which we recommend the thresholds become effective.



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Community and Economic Development Agency  
Planning & Zoning Services Division

(510) 238-3941  
FAX (510) 238-6538  
TDD (510) 238-3254

VIA U.S. MAIL AND ELECTRONIC MAIL

October 9, 2009

Mr. Greg Tholen  
Principal Environmental Planner  
Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109  
[gtholen@baaqmd.gov](mailto:gtholen@baaqmd.gov)

RE: Oakland Comments on BAAQMD Draft CEQA Guidelines (September 2009)

Dear Mr. Tholen:

Thank you for the opportunity to review and comment on the Bay Area Air Quality Management District's Draft CEQA Guidelines. The City of Oakland respectfully submits the following comments and requests (a) that the District provide detailed responses to the City's comments, and other public comments, prior to the Board taking any action on the Guidelines, (b) an opportunity to review and comment on such responses and any revisions to the Draft Guidelines for at least 30 days before the Draft Guidelines are submitted to the Board for adoption (c) the District provide for review and comment its "Justification" for the thresholds of significance, which is currently missing from Appendix C in the Draft Guidelines, and (d) that the currently scheduled Board adoption date of October 2009 for the Guidelines be re-scheduled for a later date to accommodate the necessary public review/comment period.

30-1

General Comments

1. Guidelines Development: Due to the importance of the new Guidelines and the existence of a variety of stakeholders interested in the new Guidelines, the City believes that a collaborative process involving stakeholder representatives would be a more effective method for preparing the new Guidelines. The City requests that the District consider conducting such a stakeholder process before releasing a revised draft of the new Guidelines. If such a stakeholder process is to occur, the City would be interested in participating in the process.

30-2

2. Effective Date: To reduce potential confusion concerning the applicability of the new Guidelines to projects currently in the environmental review process, and to avoid additional (and more costly and time-consuming) environmental review for projects for

30-3

which some environmental review has already occurred, the City recommends that the District clarify when the new Guidelines will become effective and how the new Guidelines should apply to pending projects. The City recommends that the new Guidelines not apply to projects for which an application for a development permit has been deemed complete by the lead agency, or for which a Notice of Preparation for an EIR has been published by the lead agency, prior to the effective date of the Guidelines.

30-3

In order to allow lead agencies a reasonable amount of time following the adoption of the Guidelines to review the adopted Guidelines and prepare for implementation of the Guidelines, the City recommends that the Guidelines not become effective until at least ninety (90) days after the Guidelines are adopted.

3. Screening Criteria & Smart Growth: The City supports the proposal to use screening criteria to screen out projects that would result in a less-than-significant impact. Unfortunately none of the proposed screening criteria consider the location of the project. The District proposes that the same screening criteria be applied to projects in urban infill locations and to projects in suburban locations. Since projects in urban infill locations with access to transit tend to result in fewer vehicle miles traveled (VMT) than projects in suburban locations without access to transit, it is likely that many projects in urban infill locations that exceed the screening criteria, thereby signifying a potentially significant air quality impact, would not exceed the thresholds of significance after the anticipated emissions are quantified. This approach is inconsistent with the District's stated goal of promoting smart growth and infill development, as well as with SB 375.

30-4

Page 1-1 of the Draft Guidelines states that the District uses tools to support smart growth. The proposed screening criteria do not appear to support smart growth if an urban infill project that would otherwise be exempt from environmental review exceeds screening criteria that are applied to all projects in the region only to determine later that the project would not exceed the quantified threshold of significance after the completion of a lengthy and costly environmental review process. The City recommends that the screening criteria consider the location of the project so that the screening criteria are more accurate indicators of anticipated emissions. For example, for each topic in the Guidelines (criteria air pollutants, greenhouse gases, etc.) there could be two sets of screening criteria—one for urban infill locations and one for suburban/rural locations. One possible method for identifying urban infill locations would be to reference the Priority Development Areas (PDAs) designated through the Bay Area's FOCUS Program. The FOCUS Program is a regional development and conservation strategy for the Bay Area sponsored by the District, the Association of Bay Area Governments, the Metropolitan Transportation Commission, and the Bay Conservation and Development Commission that focuses future regional growth in infill development areas near transit. Development in PDAs supports the FOCUS Program, smart growth, and SB 375 because PDAs are infill locations in the region with convenient transit access and lower per capita VMT.

4. Mitigation Measures: In Oakland, many of the mitigation measures recommended in the Draft Guidelines for mitigating potentially significant impacts are already incorporated into projects when they are initially proposed by project sponsors or are regularly imposed on projects by the City as Uniformly Applied Development Standards (pursuant to State CEQA Guidelines section 15183(f)) through the use of Standard Conditions of Approval. As the City recommended previously in the e-mail sent to you on March 24, 2009 (see attached), the City recommends that the Guidelines state that if a project includes any of the mitigation measures as part of the project description, or if the mitigation measures would already be imposed on a project through the use of Best Management Practices, Performance Standards, Uniformly Applied Development Standards or Standard Conditions of Approval, then the benefits of the measures can be considered during the initial emissions screening/analysis/quantification and not necessarily during detailed CEQA review. Therefore, the initial emissions analysis/quantification would more accurately reflect the project's potential environmental impact and a Mitigated Negative Declaration or EIR would not be required assuming the project does not exceed the thresholds of significance (or other applicable thresholds). 30-5
5. Justification for Thresholds of Significance: The current version of the Draft Guidelines does not include the justification for the proposed thresholds of significance (Appendix C). The City can not fully comment on the proposed thresholds without seeing the justification. As stated previously, the City requests the opportunity to review and comment on the justification before the Draft Guidelines are submitted to the Board for adoption. 30-6

#### *Operational-Related Impacts*

6. Greenhouse Gases/Climate Action Plan (p. 2-2): At the District's September 10, 2009, workshop in Oakland on the Draft Guidelines, District staff stated that one of the thresholds of significance for operational-related greenhouse gas (GHG) emissions would be compliance with a qualified climate action plan. Compliance with a climate action plan is listed in the Draft Guidelines for plan-level GHG impacts but not for project-level operational-related GHG impacts. The City recommends that the climate action plan threshold for project-level operational-related GHG, as presented at the September workshop, be included in the Guidelines. The City recommends that the term "Qualified Climate Action Plan," which was used at the September 2009 workshop, be used in the Guidelines to refer to climate action plans that satisfy the criteria listed on page 2-9. The City also recommends that the Guidelines provide more detailed guidance on the level of rigor and detail that a climate action plan must include, in addition to the components listed on page 2-9, in order for the plan to be considered a Qualified Climate Action Plan. The City questions whether the components listed on page 2-9 are the most appropriate indicators of a climate action plan that would successfully reduce GHG emissions. It is likely that a wide range of climate action plans would include these components with some plans being more effective than others. The City believes that the collaborative 30-7

stakeholder process recommended in comment 1 (above) would be an effective process for identifying appropriate criteria for Qualified Climate Action Plans.

7. Greenhouse Gas Quantification (pp. 5-2 through 5-4): The Draft Guidelines recommend using the California Climate Action Registry (CCAR) General Reporting Protocol (GRP) for quantifying indirect GHG emissions from energy generation. The Guidelines should provide more guidance on which year the emission factors should be based on and whether the factors should be based on the local utility provider, a state average, or something else. To date, the CCAR has not projected emission factors for future years. The Guidelines should clarify whether the most recent set of certified CCAR emission factors should be used or if the lead agency should estimate project year emission factors. The City recommends the former approach (using the most recent certified emission factors) to ensure consistency among lead agencies.

30-8

The Draft Guidelines recommend that direct and indirect emissions be counted when quantifying GHG emissions, including emissions from vehicles, energy generation, and water conveyance. The City recommends that operational emissions associated with waste generation also be counted in order to provide a more accurate count. Existing models, such as the EPA's Waste Reduction Model (WARM), can estimate GHG emissions associated with waste generation and disposal.

8. Mitigation Measures (pp. 3-16 & 3-17): What is the purpose of the non-quantifiable non-URBEMIS mitigation measures in the Draft Guidelines? The City recommends that the Guidelines provide guidance on the use and value of these measures. Would the use of these measures reduce a project's potential operational impact from significant to less-than-significant? Also, see comment 4 (above) for general recommendations concerning Standard Conditions of Approval and mitigation measures.

30-9

### *Community Risk and Hazard Impacts*

9. Definitions (pp. 2-6 & 4-2): The term "sensitive receptors" should be defined in the Guidelines. Also, the term "sensitive receptor" and the term "receptor" are both used. Please clarify if these terms have the same meaning.
10. Screening Criteria (New Sources) (p. 2-6): Similar to the screening criteria proposed for other topics in the Guidelines, the City recommends that screening criteria be included for siting a new source of toxic air contaminants (TACs) and/or PM<sub>2.5</sub> so that projects that do not exceed the criteria would be considered to result in a less-than-significant impact and not be required to quantify the cancer risk or undergo a detailed CEQA evaluation. The benefits of providing screening criteria would be (a) project sponsors, lead agencies, and the public would know which types of projects are likely to emit TACs and/or PM<sub>2.5</sub> and (b) smaller projects unlikely to result in a significant impact would not be required to undergo a detailed CEQA evaluation.

30-10

30-11

11. Types of New Receptors (pp. 4-4 & 4-5): The City recommends that the Guidelines clarify which projects involving receptors would be required to analyze the cancer risk when locating within 1,000 feet of a source of TAC. Would all discretionary projects under CEQA involving receptors proposed within 1,000 feet of a source of TAC, including, for example, a new single-family home proposed within 1,000 feet of a dry cleaner, be required to analyze the cancer risk? Would the risk analysis be required for projects that would otherwise be categorically exempt from environmental review under CEQA due to the presence of a TAC source located within 1,000 feet? 30-12
12. New Receptors and Smart Growth (pp. 4-4 & 4-5): Data from the Draft 2007-2014 Housing Element of the Oakland General Plan indicate that housing opportunity sites capable of accommodating approximately 4,500 dwelling units in Oakland are located within 1,000 feet of a freeway. "Opportunity sites" are vacant or underutilized sites which are currently zoned for high-density housing. The 4,500 dwelling units represent nearly half of all the potential housing that could be accommodated on opportunity sites in the city. This figure represents only a conservative estimate of potential new housing to be developed near existing TAC sources because the number only includes housing near freeways, it does not include housing near other sources of TAC. If other TAC sources are included, the amount of housing units would likely increase substantially. Requiring each of these housing developments to quantify the cancer risk would discourage development of needed infill housing due to the potential time, expense, and unfamiliarity associated with hiring the air quality consultants necessary to quantify the cancer risk. Given the large number of potential new housing units to be developed near freeways and other sources of TAC, and the goals of the District, SB 375, and the Bay Area FOCUS Program of promoting smart growth and infill development, the City believes it is important for the community risk and hazard impact methodologies and thresholds to carefully balance the goals of promoting smart growth and minimizing local health impacts. The City believes the best way to balance these goals is to prioritize which projects are required to quantify the cancer risk through the use of screening criteria (e.g., project size, project type) and to promote the use of standardized and feasible BMPs in a manner discussed in comments 3 and 4 (above) such that projects which meet the screening criteria or incorporate the required BMPs are not required to quantify the cancer risk and are considered to result in a less-than-significant impact under CEQA. 30-13
13. Identifying Sources When Siting New Receptors (p. 4-4): In order to facilitate the evaluation of potential cancer risks when siting new receptors, the City recommends that the District publish a database and map of existing TAC sources in the region. The City's experience is that the California Air Resources Board's online Facility Search Engine is not complete. 30-14
14. HRAs When Siting New Receptors (pp. 4-4 & 4-5): The Draft Guidelines recommend that in order to analyze the potential cancer risk of siting a new receptor within 1,000 feet of an existing source of TAC the lead agency should evaluate the Health Risk

Assessment (HRA) prepared for the source. Have HRAs been prepared for all existing sources with TAC emissions above the District's prioritization level, including freeways, high-volume roadways, and sources in operation prior to the requirement to prepare an HRA? In the event that a new receptor is proposed within 1,000 feet of a TAC source for which an HRA was not prepared, how would the potential cancer risk be evaluated?

30-14

15. TBACT/TBP Measures for Impacted Communities (p. 4-5): The Draft Guidelines state that all projects in impacted communities must implement the specified Toxic Best Available Control Technology (TBACT)/Toxic Best Practice (TBP) measures. Please clarify if the TBACT/TBP requirement applies to all projects located in impacted communities, including, for example, projects located more than 1,000 feet of a TAC source, or only to projects located within 1,000 feet of a TAC source. Also, please provide more detailed recommendations on the proposed tree-planting measure. Is there a minimum number of trees or planted area required? Is there a minimum tree size required at the time of planting?
16. Exterior Spaces of New Receptors (pp. 4-5 through 4-7): The TBACT/TBP measures and the mitigation measures in the Draft Guidelines focus on mitigating impacts to the interior of a building. It is not clear how or if exterior spaces, such as parks and private yards/courtyards, are to be evaluated. Please clarify whether or not impacts to exterior spaces are to be evaluated and, if they are to be evaluated, how they should be evaluated and mitigated. If a project would result in a significant impact but the impact can be mitigated to a less-than-significant level with measures that reduce impacts to the interior of the building, is the entire project mitigated to a less-than-significant level or is only the interior space mitigated to a less-than-significant level (and the impact remains significant because the exterior spaces are unmitigated)? If exterior spaces are to be evaluated and mitigated, it would be helpful if the Guidelines included mitigation measures specific to exterior spaces. Also, see comment 4 (above) for general recommendations concerning Standard Conditions of Approval and mitigation measures.
17. Mitigation Measures (New Receptors) (pp. 4-6 & 4-7): Please clarify if only one, some, or all of the recommended mitigation measures would be required to mitigate a significant impact to a less-than-significant level or if the lead agency should use its judgment to determine how many mitigation measures are necessary to mitigate the impact to a less-than-significant level. Also, see comment 4 (above) for general recommendations Standard Conditions of Approval and concerning mitigation measures.
18. Mitigation Measures (New Sources) (pp. 4-6 & 4-7): The Draft Guidelines do not contain recommended mitigation measures for siting new sources of TAC. The City recommends that the Guidelines recommend appropriate mitigation measures for new TAC sources, preferably by project type (similar to the mitigation measures recommended for mitigating odor impacts). Also, see comment 4 (above) for general recommendations concerning Standard Conditions of Approval and mitigation measures.

30-15

***Plan-Level Impacts***

19. Types of Plans (pp. 5-1 through 5-7): Please clarify if all of the proposed thresholds of significance for evaluating plan-level impacts under the various topics apply to all types of long-range plans and to each plan adopted by the lead agency. It does not seem appropriate to apply thresholds of significance for a topic unrelated to the plan. For example, applying the community risk and hazard impact thresholds to the Noise Element of the General Plan would not be appropriate because TACs are not related to noise. Also, it would be redundant and unnecessary to apply policy thresholds to a plan when the policies are contained within an existing plan that has already been adopted by the lead agency. For example, if the community risk and hazard policies regarding special overlay zones are already contained in the Land Use Element of the General Plan, it would be unnecessary to apply the community risk and hazard thresholds to a proposed Housing Element of the General Plan. The City recommends that each set of thresholds should only be applied to relevant long range plans and that the applicable thresholds would not be exceeded, and the potential plan impact would be less-than-significant, if the recommended policies already exist in another adopted plan.

30-16

Also, the Draft Guidelines state that the guidance offered in Chapter 5 should be applied to discretionary, program-level planning activities. However, not all discretionary, program-level plans are considered a "project" under CEQA that would be subject to environmental review. Long-range programmatic plans that do not contain regulatory policies, such as so-called "vision" plans that articulate a desired physical appearance for an area or certain climate action plans that merely express a vague commitment to a reduction of GHG emissions, may not be subject to CEQA review. The language in the Draft Guidelines may confuse readers to believe that all long-range plans, whether or not they are subject to CEQA, must conduct the analysis contained in Chapter 5. The City recommends that the Guidelines state that the methods in Chapter 5, as well as all of the guidance in the Guidelines, apply only to projects subject to CEQA. Since currently there is no uniform standard for the content of climate-change-related plans, there exists a wide range of types of climate-change-related plans, including plans containing only abstract visions and plans containing concrete regulatory policies. Therefore, the City recommends that the Guidelines provide guidance on which types of climate-change-related plans the District believes are subject to CEQA review.

20. Greenhouse Gas Thresholds (pp. 5-2 through 5-4): The Guidelines recommend that the same GHG thresholds of significance be applied to all types of plans. The City believes it is not appropriate to apply a community-wide numeric GHG threshold to all types of plans, particularly plans that concern a single topic or a limited geographic area. For example, applying the District's recommended service population GHG threshold to an economic development plan covering only a limited geographic area would only provide a limited assessment of the community's GHG impacts. It may be possible, for example, for such a plan to exceed the GHG threshold while the community as a whole does not exceed the threshold. The City recommends that community-wide thresholds, such as the

30-17

District's proposed GHG threshold, only apply to comprehensive, community-wide land use plans (e.g., General Plans).

21. Greenhouse Gas Quantification (pp. 5-2 through 5-4): Currently there is no uniform standard concerning which emission sources are to be considered when a community calculates GHG emissions. For example, GHG emission sources such as rail, air travel, upstream and downstream waste emissions, and pass-through highway emissions are traditionally counted by some communities and not others. The City recommends that the Guidelines provide guidance on which GHG emission sources should be included when quantifying GHG emissions. 30-17
22. Community Risk and Hazard Thresholds (p. 5-5): Please clarify what types of regulations or policies the required special overlay zones should contain. 30-18
23. Greenhouse Gas BMPs (pp. 5-6 & 6-14): Are the proposed BMPs for construction-related GHG emissions (plan-level and project-level) practicable? The City recommends that the District consult with the local construction industry to confirm that these BMPs can be realistically implemented and then present the results of these consultations during the CEQA Guidelines Update process prior to the Board's consideration of the proposed Guidelines. 30-19
24. Mitigation Measures (pp. 5-7 through 5-19): Please clarify if only one, some, or all of the recommended mitigation measures would be required to mitigate a significant impact to a less-than-significant level or if the lead agency should use its judgment to determine how many mitigation measures are necessary to mitigate the impact to a less-than-significant level. Also, see comment 4 (above) for general recommendations concerning Standard Conditions of Approval and mitigation measures.

### *Construction-Related Impacts*

25. Basic Construction Mitigation Measures (p. 6-10): Since the District recommends that the Basic Construction Mitigation Measures be applied to all projects, whether or not a project would result in a significant impact, the City recommends that the measures be presented as required best management practices (BMPs) (and not labeled "mitigation measures") and moved from section 6.3 of the document to section 6.2 to avoid confusion. 30-20
26. Screening Criteria (Greenhouse Gases) (p. 6-14): Similar to the screening criteria proposed for construction-related criteria air pollutants, the City recommends that project-size-related screening criteria be included for construction-related GHG emissions so that projects that do not exceed the criteria would be considered to result in a less-than-significant impact and not be required to implement the proposed BMPs. In addition to project-size-related screening criteria, the City also recommends that projects that are consistent with a qualified climate action plan, similar to the District's proposal 30-21

for plan-level operational-related GHG emissions, be screened out and considered to result in a less-than-significant impact without the need for detailed CEQA review.

27. Greenhouse Gas Mitigation Measures (pp. 6-14 & 6-15): The District's proposal that the construction-related GHG mitigation measures be the same as the construction-related GHG thresholds of significance (i.e., the BMPs) is confusing. The City recommends that project-size-related and climate-action-plan-related screening criteria be developed for construction-related GHG emissions (see comment 26 above) and the proposed BMPs be considered mitigation measures. Also, see comment 4 (above) for general recommendations concerning Standard Conditions of Approval and mitigation measures.

30-21

28. Screening Criteria (Diesel Particulate Matter) (p. 6-15): Similar to the screening criteria proposed for construction-related criteria air pollutants, the City recommends that project-size-related screening criteria be included for construction-related diesel particulate matter (PM) so that projects that do not exceed the criteria would be considered to result in a less-than-significant impact. Screening criteria would be helpful for screening out projects that would result in a less-than-significant impact particularly since the Draft Guidelines recommend evaluating diesel PM impacts on a case-by-case basis. Determining an appropriate impact analysis on a case-by-case basis may not be practical if there are no screening criteria and all projects require an impact analysis.

30-22

### *Carbon Monoxide Impacts*

29. Thresholds of Significance (p. 2-13): The Draft Guidelines state that the project would result in a significant impact to air quality if the project would *cause* local emissions of carbon monoxide to exceed any of the proposed thresholds of significance. Should these thresholds be interpreted to mean that the project would exceed the thresholds if the project (a) *causes* local emissions currently below the thresholds (under existing conditions) to exceed the thresholds in the post-project condition or (b) *results* in a situation where the post-project condition exceeds the thresholds (regardless of the existing (pre-project) condition)?

30-23

30. Screening Criteria (Congestion Management Program) (p. 2-13): Please clarify how "consistency" with an applicable congestion management program is defined.

30-24

31. Screening Criteria (Intersection Volume) (p. 2-14): Should this screening criterion be interpreted to mean that the project would exceed the screening criterion if the project (a) *causes* an intersection already (under existing conditions) experiencing less than the specified volume of vehicle trips to experience more than the specified volume of vehicle trips in the post-project condition or (b) *affects* an intersection already (under existing conditions) experiencing the specified volume by generating one or more vehicle trips at the intersection?

30-25

32. Emissions Quantification (pp. 7-1 through 7-4): Please clarify if the emissions to be quantified are the project's emissions, the existing emissions (without the project), and/or the existing emissions plus the project's emissions (existing-plus-project condition). The emissions to be quantified should relate with the way the carbon monoxide thresholds of significance are to be interpreted (see comment 29 above). Also, the emissions quantification procedures refer to both roadway intersections and roadway segments. Please clarify if the emissions to be quantified are emissions from roadway intersections or roadway segments and specify which roadway intersections or segments are to be quantified—all intersections/segments affected by the project (which could be dozens) or only those intersections/segments that do not meet the screening criteria.

30-26

***Odor Impacts***

33. Definitions (p. 8-2): The term "sensitive receptors" should be defined in the Guidelines. Also, the term "sensitive receptor" and the term "receptor" are both used. Please clarify if these terms have the same meaning.

30-27

34. Impact Determination (p. 8-3): The Draft Guidelines state that potential odor impacts should be qualitatively evaluated on a case-by-case basis. The City supports this approach but recommends that the Guidelines provide more guidance on determining, after the lead agency conducts the qualitative evaluation, whether a potential odor impact should be considered significant. For example, it would seem unreasonable to conclude that a potential odor impact would be significant if the complaint history shows one confirmed complaint for an isolated incident that does not represent normal operating conditions (e.g., if a sewer line breaks at a restaurant resulting in foul odors) or if the complaint history shows multiple confirmed complaints by one hypersensitive person in a densely populated area. In addition to considering the factors recommended on page 8-1 when evaluating a potential odor, the number of potentially affected receptors should also be considered.

30-28

Therefore, the City recommends that the Guidelines be revised to the following:

A potentially significant impact would occur when the project would frequently create substantial objectionable odors affecting a substantial number of sensitive receptors.

35. Mitigation Measures (pp. 8-3 through 8-6): The recommended mitigation measures apply to siting a new source of odors. It would be helpful if the Guidelines also included recommended mitigation measures for siting new receptors. Also, see comment 4 (above) for general recommendations concerning Standard Conditions of Approval and mitigation measures.
36. Food/Restaurants (pp. 8-5 & 8-6): It is unclear from the Draft Guidelines what level of odor impact analysis, if any, is recommended for restaurants. Recommended mitigation

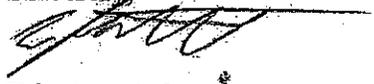
measures for restaurants are listed in the Draft Guidelines. However, restaurants are not listed as one of the types of odor-generating facilities on page 2-14. Unlike the other odor-generating facilities listed on page 2-14, restaurants are commonly located in close proximity to receptors. When siting a new receptor, is it recommended to research the odor complaint history of all restaurants within a certain distance? Such an exercise may involve dozens of restaurants. When siting a new restaurant, is it recommended to research the odor complaint history of similar types of restaurants? If fast food restaurants generate odor complaints, rather than consider the siting of a new fast food restaurant a potentially significant impact under CEQA that needs to be mitigated through the course of a Mitigated Negative Declaration or EIR, the City recommends that the Guidelines include BMPs for fast food restaurants such that the restaurant would result in a less-than-significant impact if one, all, or a specified number of BMPs are incorporated such that the project would not need to be mitigated.

Thank you for your consideration in this matter. The City looks forward to the District's detailed response to the above comments prior to the Board taking any action on the Guidelines. Given the importance and complexity of these issues, the City requests the opportunity to review and comment on the revised Draft Guidelines before they are submitted to the Board for adoption. The public review period should be at least 30 days in length in order to provide adequate time to review and comment on the revised Draft Guidelines. In addition, the City needs to review and comment on the District's "Justification" for the Guidelines, which has not yet been made publicly available. Therefore, the City recommends that the adoption of the Guidelines, currently scheduled for October 2009, be re-scheduled for a later date to accommodate the necessary public review period.

30-29

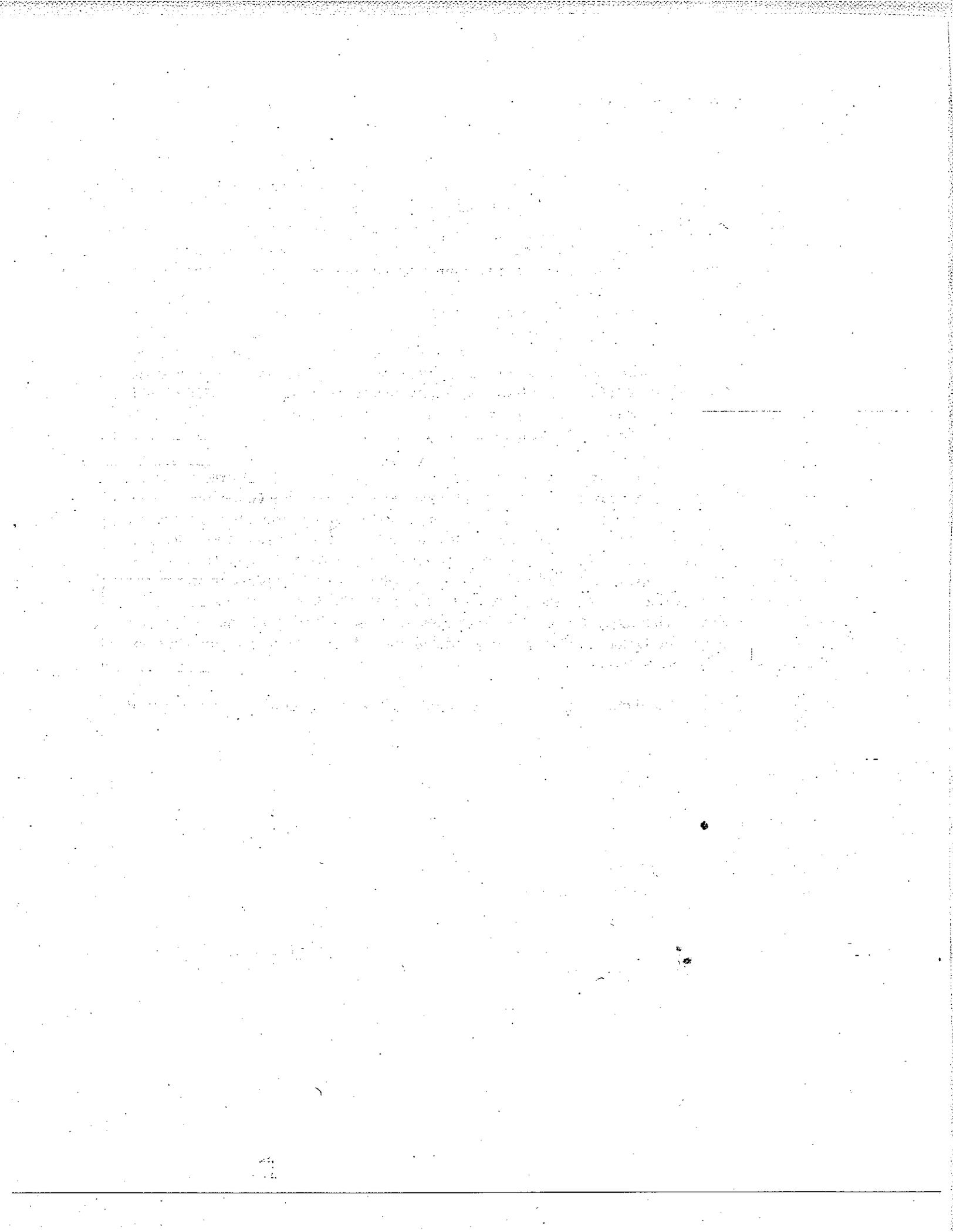
Please contact Darin Ranelletti, Planner III, at (510) 238-3663 or [dranelletti@oaklandnet.com](mailto:dranelletti@oaklandnet.com) if you have any questions.

Sincerely,



Eric Angstadt  
Deputy Director  
Environmental Review Officer  
Community and Economic Development Agency

Attachment: E-mail correspondence from Darin Ranelletti, City of Oakland, to Greg Tholen, BAAQMD (March 24, 2009)



Comment Letter #: 30

Date: October 9, 2009

From: Eric Angstadt, Environmental Review Officer, City of Oakland Community & Economic Dev. Agency

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Response to Comments:

- 30-1 See master response MR-8.
- 30-2 See master response MR-8.
- 30-3 The District's proposed thresholds of significance will not be mandatory for use by other lead agencies in the Bay Area. Lead agencies may choose to apply the District's thresholds to determine the significance of projects before them, or they may determine that some other method of analysis would be more appropriate for their particular agency or for a particular project. The District cannot therefore adopt a specific "effective date" upon which the thresholds will become mandatory. For lead agencies with projects that are already under review when the proposed thresholds are adopted, it will be up to each individual agency to determine whether and when to apply the District's revised thresholds for those projects. If the lead agency finds it appropriate to apply the District's revised thresholds in its significance analysis for such projects, it may do so. If the lead agency finds that it would not be appropriate to apply the revised thresholds to projects already under review, it may use some other means to determine significance as long as the determination is supported by substantial evidence as required by CEQA. For these reasons, staff is not proposing an "effective date" for the proposed thresholds. For those jurisdictions choosing to use the District's recommended thresholds, the District will establish a date upon which we recommend the thresholds become effective.
- 30-4 The proposed screening levels in the CEQA Guidelines are not intended as thresholds of significance. They are just screening levels to minimize the need for full analysis in situations where BAAQMD has determined no significant air quality impact would occur because Air District staff have modeled the screening level projects under very conservative assumptions and have determined that such projects will not exceed the applicable thresholds of significance. The methodology for emissions quantification provides instructions on how the user can account for density and other project attributes that would reduce emissions relative to model defaults. Lead agencies may use screening levels and thresholds that it feels are appropriate, as long as the rationale for deviation from BAAQMD-recommended guidance is substantiated based on evidence. See master response MR-6 and MR-5.
- 30-5 The Air District recommends that the user perform manual calculations to account for jurisdiction-specific regulations that would affect emissions from the projects. These regulations, if appropriate, should be accounted for in the project design/attributes, and not as mitigation. The user should provide evidence in support of the emission reduction credited to the regulations (such as green building ordinance or TDM program). The Air District's proposed mitigation measures for operational emissions may be used to gather such evidence in support of emission reductions.
- 30-6 The substantial evidence and justification for adopting the Air District's proposed thresholds are included in the *Proposed Thresholds of Significance* report (November 2, 2009).

- 30-7 The plan-level GHG threshold in the *Proposed Thresholds of Significance* report recommends for local governments that have not yet adopted a stand alone qualified climate action plan as defined by the CEQA Guidelines, they have the option to demonstrate that their collective set of climate action policies, ordinances, and other programs are consistent with AB 32. Demonstration of AB 32 consistency should be considered equivalent to a qualified climate action plan. In the case of demonstrating that a collective set of climate action policies, ordinances, and programs are consistent with AB 32, this would not qualify as a project under CEQA and would not need to go through CEQA review.
- 30-8 The updated CEQA Guidelines will provide direction on how lead agencies should calculate GHG emissions from direct and indirect sources.
- 30-9 The updated CEQA Guidelines will provide direction and clarify the non-quantifiable non-URBEMIS mitigation measures listed.
- 30-10 The updated CEQA Guidelines will contain a glossary that will define key terms including sensitive receptors.
- 30-11 The Air District will be providing screening tables with estimated calculations of community risk and hazards from all permitted sources and major roadways in the Bay Area.
- 30-12 If a project is likely to be a place where people live, play, or convalesce, it should be considered a receptor. It should be also be considered a receptor if sensitive individuals are likely to spend a significant amount of time there. Sensitive individuals refer to those segments of the population most susceptible to poor air quality: children, the elderly, and those with pre-existing serious health problems affected by air quality. Examples of receptors include residences, schools and school yards, parks and play grounds, daycare centers, nursing homes, and medical facilities. Residences can include houses, apartments, and senior living complexes. Medical facilities can include hospitals, convalescent homes, and health clinics. Playgrounds could be play areas associated with parks or community centers.
- 30-13 The Air District encourages cities and counties to develop community risk reduction plans, especially in impacted communities. Such plans would be the appropriate place to implement the commenter's suggestions. See also master response MR-7.
- 30-14 See comment response 30-11.
- 30-15 The community risk and hazard threshold for toxic best practices referred to in this comment has been omitted from the *Proposed Thresholds of Significance* report (November 2, 2009). See also master response MR-7.
- 30-16 The updated CEQA Guidelines will provide direction on defining and evaluating plan-level impacts.
- 30-17 The Air District's update CEQA Guidelines will provide detailed guidance on how to use CCAR's General Reporting Protocol to calculate indirect GHG emissions from off-site energy generation (see Chapter 4 of the November 2009 version). OPR's technical advisory, CEQA and Climate Change (June 2008) specifies:

“Lead agencies should make a good-faith effort, based on available information, to calculate, model, or estimate the amount of CO<sub>2</sub> and other GHG emissions from a project, including the emissions associated with vehicular traffic, energy consumption, water usage and construction activities.”

Inclusion of GHG emissions associated with solid waste was not included in OPR’s recommendations. There are methodological challenges associated with estimating GHG emissions from solid waste at the project level because GHG emissions from landfills are largely a function of “waste in place” in the landfill, which would not be attributable to the project in question. EPA’s WARM emission factors are intended for facility-specific GHG emissions calculations and not intended for use in bottom-up GHG emissions calculations from solid waste disposal at the project level.

- 30-18 The Air District will provide guidance in the update CEQA Guidelines as to the methods used to establish overlay zones and buffers and what standards are to be applied for acceptable exposure levels.
- 30-19 The GHG threshold for construction that recommended implementation of construction best management practices referred to in this comment has been omitted from the *Proposed Thresholds of Significance* report (November 2, 2009).
- 30-20 The *Proposed Thresholds of Significance* report contains numerical threshold levels for project level construction impacts. The listed best management practices are intended to assist lead agencies in reducing construction emissions to the recommended threshold levels.
- 30-21 The *Proposed Thresholds of Significance* report does not contain a recommended GHG threshold for construction activities. See also comment 30-7.
- 30-22 The Air District will include construction screening criteria for community risk and hazards in the updated CEQA Guidelines.
- 30-23 The updated CEQA Guidelines will clarify the threshold and screening criteria for the carbon monoxide threshold. The screening criteria will be made less stringent to reflect the fact that a CO analysis is rarely necessary in the Bay Area.
- 30-24 Consistency with a congestion management program may include, but is not limited to: consistency with level of service standards, travel demand measures, or other standards established by the county congestion management agency for designated roads or highways.
- 30-25 The screening criteria for local CO should be interpreted to mean that the project would either cause an intersection experiencing fewer vehicles per hour than the screening level to exceed the screening level, or contribute vehicles to an intersection already over the screening level. For most intersections in BAAQMD’s jurisdiction, it is unlikely that the screening level would be exceeded under any circumstances.
- 30-26 If a full analysis of CO is undertaken by the Lead Agency, emissions concentrations should be quantified for intersections that would exceed the screening criteria with and without the project. Emissions

concentrations with and without the project should be compared to determine whether the project results in or contributes to a violation of the CAAQS. See also response to comment 30-31.

30-27 See comment response 30-10.

30-28 The updated CEQA Guidelines will provide direction on evaluating odor impacts. See also master response MR-7.

30-29 See master response MR-8.

October 9, 2009

Mr. Greg Tholen  
Bay Area Air Quality Management District  
939 Ellis St.  
San Francisco, California 94109

RE: Draft CEQA Guidelines for the BAAQMD

Dear Mr. Tholen:

The California Wastewater Climate Change Group's (CWCCG) mission is to address climate change policies, initiatives, and challenges through a unified voice representing California wastewater community perspectives. Together, CWCCG's members provide an essential public service by treating over 90% of the municipal wastewater in California. Our comments focus on biogenic CO<sub>2</sub> emissions from wastewater treatment plants, which we believe should be excluded from threshold determinations in the draft CEQA guidelines.

31-1

In reading the proposed guidelines, it is not clear to us whether the proposed thresholds exclude carbon dioxide emissions from renewable fuels and biogenic sources. Neither the Draft CEQA Guidelines Report nor the Draft CEQA Thresholds Options Report state clearly that the thresholds should only apply to anthropogenic emissions of greenhouse gases.

We feel that any greenhouse gas proposal, CEQA or otherwise, should distinguish between anthropogenic emissions of CO<sub>2</sub> and CO<sub>2</sub> emissions from activities that mimic the natural short-term carbon cycle, i.e., biogenic emissions.

Unlike fossil-fuel emissions that release carbon from entombed petroleum deposits, biogenic carbon dioxide emissions do not change the atmospheric concentration of CO<sub>2</sub> because they are part of a natural cycle. The IPCC, U.S. EPA and the U.S. Climate Change Science Program all recognize the role of biogenic emissions from wastewater treatment plants in this natural cycle, and thus this CO<sub>2</sub> release is considered by these authorities to have no environmental impact<sup>1</sup>. This conclusion was also reached by the BAAQMD in the staff report for the greenhouse gas fee rule that excludes such emissions<sup>2</sup>.

Furthermore, if no distinction is made between CO<sub>2</sub> from fossil-fuels and other anthropogenic emissions versus CO<sub>2</sub> from renewable or biogenic emissions, the combustion of renewable fuels, for example, could falsely trigger a determination of significance, thus discouraging their use as a key strategy needed to combat climate change.

We respectfully request the BAAQMD to advise lead agencies that biogenic emissions exert no adverse impact on the environment. Consequently, these biogenic emissions should NOT be considered in any "bright-line" significance threshold nor any performance standard under CEQA.

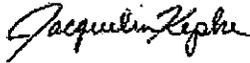
31-2

<sup>1</sup> Biogenic emissions have been excluded from regulation in all major GHG regulatory programs implemented to date around the world. For example, the US EPA's Mandatory Reporting Rule states, "The calculation of total emissions for the purposes of determining whether a facility exceeds the threshold should not include biogenic CO<sub>2</sub> emissions (e.g., those resulting from combustion of biofuels)." Moreover, Chapter 6, page 6.6 of the 2006 IPCC Guidelines for National Greenhouse Gas Inventories states, "Carbon dioxide emissions from wastewater are not considered in the IPCC Guidelines because these are of biogenic origin and should not be included in national total emissions." Lastly, The First State of the Carbon Cycle Report (SOCCR) from the U.S. Climate Change Science Program states, "Carbon dioxide, generated from aerobic metabolism in waste removal and storage processes, arises from biological material and is considered GHG neutral."

<sup>2</sup> See BAAQMD, Staff Report Proposed Amendments to BAAQMD Regulation 3: Fees, p. 15, May 12, 2008.

Thank you again for the opportunity to provide written comments on the Draft CEQA Guidelines. Please contact me if you have any questions at (510) 587-7709 or [jkepke@ch2m.com](mailto:jkepke@ch2m.com).

Sincerely,



Jackie Kepke, P.E.

Program Manager

California Wastewater Climate Change Group

Comment Letter #: 31

Date: October 9, 2009

From: Jackie Kepke, Program Manager, California Wastewater Climate Change Group

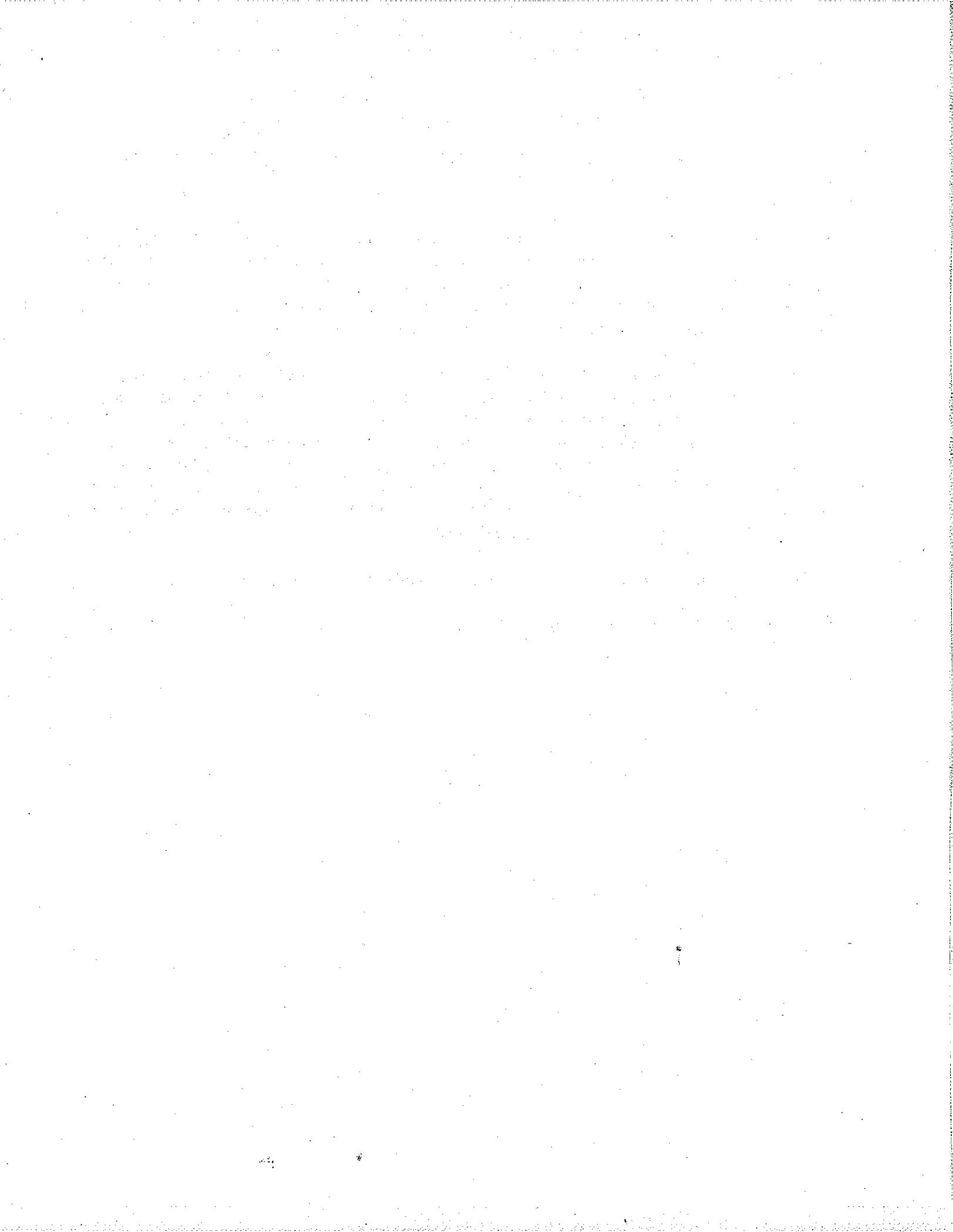
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Response to Comments:

- 31-1 The Air District regulates wastewater treatment plants in the Bay Area as permitted sources. The Air District's GHG Fee Schedule, Regulation 3, is applied to wastewater treatment plants as well. Due to emissions wastewater treatment plants emit from their engines, operations, and combustion of biofuels, the Air District disagrees with the recommendation that wastewater treatment plants should be excluded from threshold determinations in the CEQA Guidelines.
- 31-2 The Air District will recommend that lead agencies follow the California Climate Action Registry's (CCAR) General Reporting protocol on biogenic emissions. Biogenic emissions are produced from combusting biofuels such as wood, biodiesel, and landfill gas. CCAR's protocol provides limited guidance on calculating and reporting biogenic emissions because participants are only required to report anthropogenic emissions in their emissions inventory. However, the protocol does explain that methane (CH<sub>4</sub>) and nitrous oxide (N<sub>2</sub>O) emissions from combustion of biofuels are not considered biogenic and should be calculated. The protocol provides emission factors for calculating methane and nitrous oxide emissions from combustion of biofuels.

Staff will reflect CCAR's protocol guidance on biogenic emissions in the CEQA Guidelines.

Reference: CCAR General Reporting Protocol Version 3.1 January 2009



**From:** Rajeev Bhatia [rajeev@dyettandbhatia.com]  
**Sent:** Friday, October 09, 2009 3:43 PM  
**To:** Gregory Tholen  
**Subject:** Comments on CEQA Thresholds of Significance

#32

Dear Mr. Tholen,

I am offering some comments on the version of the October 2009 version of the Revised Draft Options and Justifications Report.

As someone who has completed general plans and their related EIRs for 20 Bay Area communities, the threshold under Plan-level Criteria Air Pollutants and Precursors (Regional and Local) that states that "Rate of VMT increase or vehicle trips is less than the rate of increase in the Plan's population growth rate" (page 2 of the Summary Table and page 71 of the main document) is flawed as it is currently worded. This threshold is virtually impossible to attain for any plan, well meaning or otherwise, because there is an inherent increase in vehicle miles traveled in every part of the Bay Area over the long term that is related to regional trip-making, and often has nothing to do with a proposed plan.

Let me give you an example: We are currently working for the City of South San Francisco on General Plan amendments to promote mixed-use development and allow housing in a mile-long stretch along El Camino Real, in proximity to two BART stations and in keeping with the regional Grand Boulevards Initiative. Our transportation analysis shows that VMT increase in the city over the next 20 years without this plan would be 21.68% and with the plan 21.75% (that is, virtually no difference), while the population increase as a result of the plan is only about 3.5%. Unless we do something truly massive (like increase the population by more than 50% in the city--which is impossible), there is no land use plan possible that would reduce the VMT increase to less than the rate of population increase. This language, which is a carryover from the 1999 Guidelines and has been reviewed by lawyers on behalf of us, is so problematic, that this in itself has triggered a full-blown EIR for this plan when the entire goal of the plan has been to promote housing along transit corridors. In effect for every General Plan EIR we have done recently (ten Bay Area cities), we have had to making a finding of significance and a adopt a statement of overriding considerations, and face a skeptical public that questions why growth should be accommodated when it leads to violation of regional air quality guidelines.

The projected increase in VMT in the Bay Area is well documented, and is not a subject of controversy. For example the EIR on the 2035 Transportation Plan for the Bay Area adopted this year shows (Table 2.1-15) that VMT in the Bay Area will increase by 27% over the next 30 years.

I am actually not even sure why the VMT requirement is necessary as a threshold, as it penalizes communities who are trying to accommodate growth (regardless of where a development is located--even adjacent to a BART station--it is going to result in increase in VMT as an overwhelming proportion of trips are made by the automobile). Here are some alternative ways of structuring this threshold that would be helpful to planners engaged in local long-range land use planning, if for some reason this requirement is felt to be necessary:

- Use per capita VMT instead of just overall VMT. This is the approach increasingly favored by MTC as well (see page 2.1-22 in the aforementioned EIR). In addition, it should be clarified that similar time horizons need to be compared (for example, not current VMT per capita against VMT per capita 20 years down the road). 322
- Calibrate rate of increase of population and VMT to No Project rather than existing conditions (i.e., rate of increase in VMT exceeds the rate of increase in population compared to the No Project). This distinction is critical, because plans are typically long-range (20+ years) in nature, during which increased through-traffic along regional arterials and freeways is the cause of much of the increase in VMT.
- Calibrate increase in rate of VMT to that projected for the region by the MTC (that is, if a project does better than what the MTC says the region as a whole is going to do, then it should not be considered to have adverse impacts). However, this will create methodological problems, as the modeling processes for the Regional Transportation Plan and local plans may be different.

This stuff may sound arcane, but believe me that there are millions of dollars in consultant time spent as a result of this, and communities go through undue burdens and delays to implement project. Please do not hesitate to contact me if you have any questions.

Sincerely,

Rajeev Bhatia, AICP ASLA

DYETT & BHATIA  
755 Sansome Street, Suite 400  
San Francisco, CA 94111  
415-956-4300 x15  
[www.dyettandbhatia.com](http://www.dyettandbhatia.com)

Comment Letter #: 32

Date: October 9, 2009

From: Rajeev Bhatia, Dyett & Bhatia

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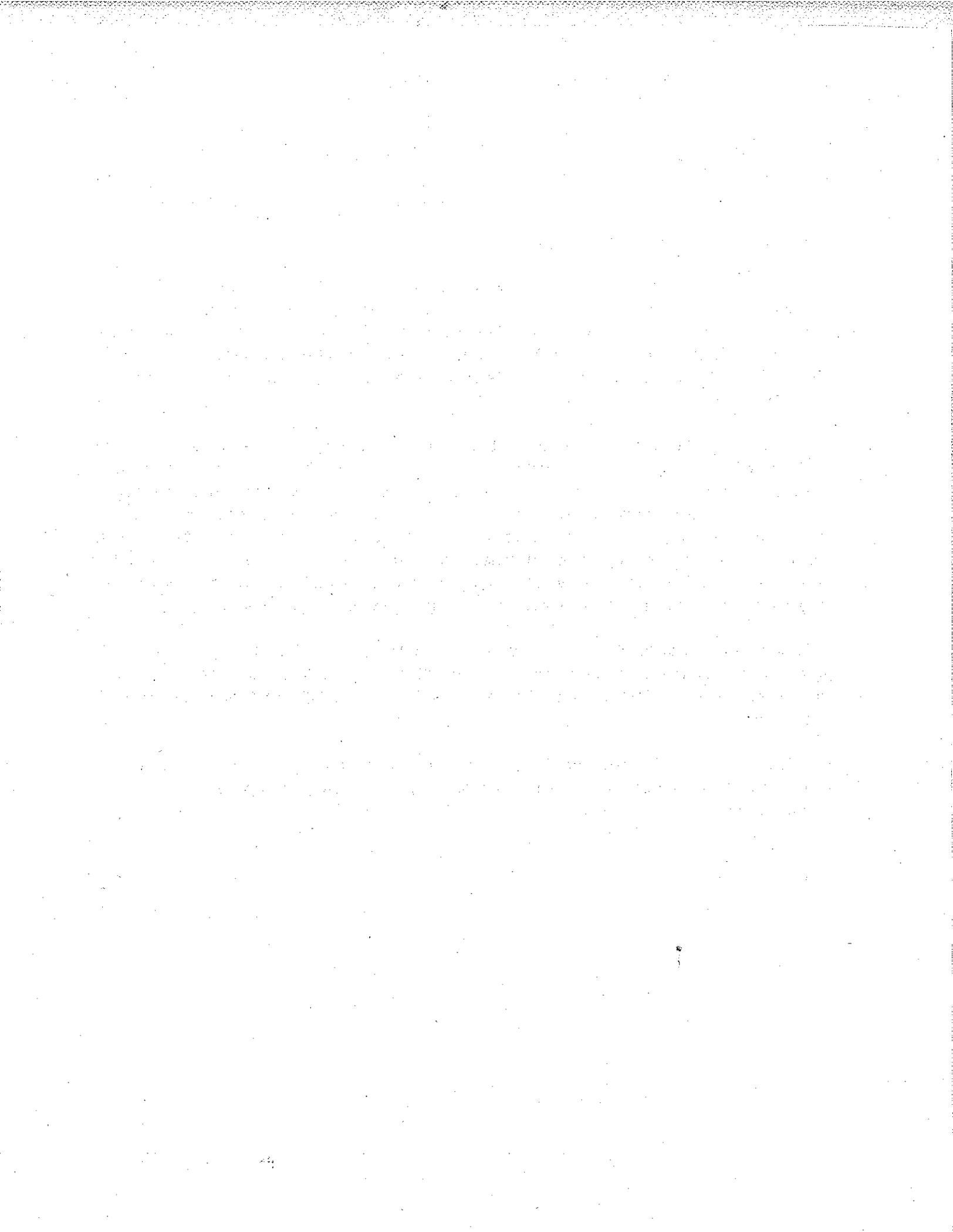
Response to Comments:

32-2 District Staff believes that examining the relationship between vehicle miles traveled (VMT) and population growth informs the public whether a plan is supporting smart growth versus sprawl-like future development. This threshold is intended to incentivize local governments to accommodate future growth through smart growth development patterns such as transit-oriented, mixed-use, and dense projects. A plan's analysis may evaluate VMT per capita in place of comparing VMT and population growth.

District Staff studied whether to allow a plan to evaluate their proposed project to a similar build-out time horizon of "no project" versus "existing conditions." We found that with comparing a proposed project to future no project conditions, the threshold becomes overly lenient and potentially allows for significant air quality impacts. For example, we analyzed a local government general plan with an extremely higher VMT growth rate than population growth (typical of many communities in the Bay Area) and with very few smart growth principles. When compared to no project in the build out year, the proposed plan's VMT per capita was less than the VMT per capita for no project, which would inappropriately indicate that this plan has less than significant air quality impacts.

Staff also considered calibrating a plan's VMT increase to that projected for the region by MTC, but agrees with the commenter's conclusion that this would create methodological problems, as the modeling processes for MTC's Regional Transportation Plan could be different than those for local governments.

The District recognizes that reducing VMT growth to the rate of population growth is a challenge, however, many local governments are making strides in reducing VMT per capita while accommodating population growth.



#33

# Transportation Solutions Defense and Education Fund

P.O. Box 151439 San Rafael, CA 94915 415-331-1982

October 8, 2009  
By E-Mail

Greg Tholen  
Bay Area Air Quality Management District

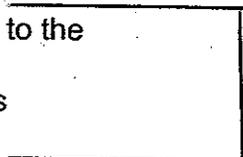
Re: Draft CEQA Guidelines

Dear Greg:

These draft Guidelines are a big step forward from the current set. Thank you for a good job. We are especially appreciative of the cumulative impacts section involving the local community risks. Our comments are divided up into policy comments, comments on the organization of the Guidelines, and some editorial suggestions. We hope they help you make an even better final set of Guidelines.

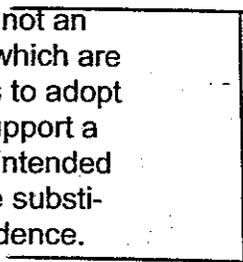
Policy

2-2: It would be helpful to add a footnote to Table 2-1 indicating that changes to the ozone NAAQS now under consideration by EPA are unlikely to change these thresholds, because they are based on the New Source rules and the region's classification as a marginal non-attainment area.



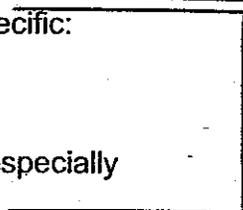
33-1

2-9: Incorporating "AQP control measures as appropriate to the plan area" is not an enforceable standard. The AQP contains a vast array of measures, some of which are not currently being implemented by the District. We believe the District needs to adopt a list of specific measures that then must be adopted into a plan in order to support a finding of plan consistency with the AQP. To enable the tailoring to plan area intended by the "as appropriate" language, we suggest that alternate measures may be substituted, whose emissions reduction equivalence is supported by substantial evidence.



33-2

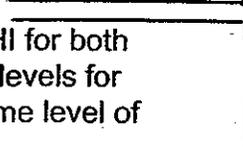
2-11: Is criterion 3a in here because of asbestos? If so, it should be more specific: "Demolition that could possibly release asbestos."



33-3

2-11: Criterion 3b seems disconnected from the world of actual construction.

2-11: Given our region's commitment to mixed use TOD, criterion 3c seems especially counter-productive.



33-4

4-5: It is not clear whether the use of the same excess cancer risk level and HI for both impacted and other areas is a mistake or an intentional choice. Logically, the levels for impacted areas should be the same as for siting a new source, to offer the same level of health protection.

5-5: We are troubled by the looseness created by the use of "as appropriate" in Section 5.4.1, and wonder whether it can be deleted. It would appear that the point at which such discretion is appropriately exercised is during the review of a project's conditions of approval, not during the development of a plan.

33-5

6-12: We would like to see something along the lines of Measure 9 be made part of the basic construction mitigation measures, so that it then became part of the construction impacts screening criteria. After all that has been learned about the harmful impacts of diesel PM, the District should be proposing that reducing diesel PM be a basic construction mitigation measure. While we don't have a specific percentage reduction recommendation, we suggest this measure be designed to protect public health while providing an incentive for PM reductions by allowing projects to pass the screening criteria and avoid having to go through the impact analysis.

33-6

6-15: We believe the statement that "the Basic Construction Mitigation Measures ... would also reduce diesel PM exhaust emissions" trivializes a very serious public health issue, in the absence of the change suggested immediately above.

6-15: The last two sentences of the paragraph fail to establish clear procedural steps for determining the significance of construction impacts, in effect passing that determination on to District staff. There is no justification for proposing this threshold as merely something "BAAQMD recommends." It would be the only such 'recommended' threshold in the Guidelines. Since the purpose of this section is to protect human health from TACs, we propose that, rather than "suggesting," the District set the threshold of significance as the following performance-based BMP: "The project sponsor shall commit to using diesel engines that meet the current CARB standards, or natural gas- or electric-powered equipment, for 95% of engine-hour time?"

33-7

#### Comments on Document Organization

TRANSDEF would like to propose a hierarchical rearrangement of the sections of the Guidelines that we believe would make these Guidelines much easier to use, and far more understandable. A proposed Table of Contents is attached. The structure starts with the recognition that the plan-level and project-level guidelines exist at a higher level of hierarchy than the operational and construction impact guidelines. A further refinement is to recognize that the Local Community Risk, Carbon Monoxide and Odor sections all belong inside a larger operational impacts section. The last element of this scheme is to place the appropriate threshold of significance for each emission category (e.g., criteria pollutant, GHG) with that emission for each section. This eliminates the repetition of the threshold, and places them adjacent to the rest of the text they relate to. We suggest that, to be consistent with Figure 1-2, it is logical to place the screening criteria before the threshold of significance (See 2.1.1 and 2.2.2, where the order is reversed).

33-8

Other structural things we'd like to see changed:

1. The vertical line that precedes the page numbers is an affectation that makes them hard to read.

33-9

2. The Guidelines needs more flow charts like Figure 1-2. Example: The GHG calculations starting on p. 3-9. 33-9
3. The compendium of measures starting on p. 3-11 is a perfect opportunity to use hypertext to make the table more readable. As currently structured, the bibliographic references and notes make for a confusing jumbled presentation. The measure name should contain an active hyperlink that enables the reader to jump to the source document online, or to a specific entry in a bibliography. Enable extended Notes that don't disrupt the table structure by linking to endnotes.
4. We are unconvinced that dividing mitigation measures between URBEMIS measures and non-URBEMIS measures (p. 3-11) is the most logical way to go. It would be more familiar to anyone with an air quality background to divide the measures between mobile source, area source and energy efficiency. A column could be added with a check box to indicate whether that measure is available in URBEMIS. 33-10
5. What is listed as Step 1 on p. 5-2 is not actually a step. It is an alternate path to compliance. Because no compliant plans currently exist, we find the inclusion of this "step" here to be unnecessarily confusing. We suggest it would be better to move the text associated with the current Step 1 to a new sub-section after Step 6, and title it "Climate Action Plan." Put in its place the following sentences: "The following steps will enable the Lead Agency to determine whether the plan has a significant impact from GHG emissions. If a Climate Action Plan has been adopted, go to Section 5.2.2.1." 33-11
6. We suggest that the document would read like a concise set of Guidelines if the instructions for running URBEMIS and RoadMod (p. 3-2 through 3-8, 3-9 through 3-10, 6-1 through 6-10 and 6-11 through 6-14) were separated off into an appendix, leaving behind the key instructions. 33-12
7. Please publish the basis for the GHG efficiency standards on p. 5-4, justifying the higher threshold for residential plans. In an era of SB 375, will there even be any more residential plans? 33-13

Thank you for the consideration of these comments. As always, we stand ready to assist the District in the development and implementation of these Guidelines.

Sincerely,

/s/ DAVID SCHONBRUNN

David Schonbrunn,  
President

Attachments

Proposed Table of Contents  
Editorial Suggestions

Here is a proposed Table of Contents, using section numbers from the current draft:

**1 Introduction**

1.1

1.2 (define operational impact here, please)

2.7 (Add more explanatory material here to contextualize this)

**(new section) Project-Level Impacts**

**3 Operational Impacts**

3.1 Introduction

2.1 Thresholds of Significance

3.2

3.3

**4 Local Community Risk**

4.1

2.2 Thresholds of Significance

4.2

4.3

4.4

**7 Local Carbon Monoxide Impacts**

7.1

2.5 Thresholds of Significance

7.2

7.3

**8 Odor Impacts**

8.1

2.6 Thresholds of Significance

8.2

8.3

**6 Construction Impacts**

6.1 Introduction

2.4 Thresholds of Significance

6.2

6.3

6.4

6.5

**5 Plan-Level Impacts**

5.1 Introduction

2.3 Thresholds of Significance

5.2

5.3

5.4

5.5

5.6

Editorial Suggestions

The cover page title doesn't reflect CEQA Guidelines.

It is tedious to begin each section with "Assessing and Mitigating." Because these functions are inherent to a document of this nature, there is no need to include this phrase in section titles. It is a statement of the obvious.

It is not at all clear that the phrase "and Hazard" adds anything to "Assessing and Mitigating Local Community Risk and Hazard Impacts." It appears to be redundant.

"Climate Action Plan" and "Clean Air Plan" have the same acronyms. This is going to create unnecessary confusion. Can you select another Plan name?

2-1: Define "operational." Use text found in Section 5.2.

2-1: The phrase "Operational-related impacts" is awkward. It would appear that "operational impacts" says the same thing.

2-15: Instead of the first 2 uses of "likely" on this page, it would be better to say "the project would result in a less-than-significant air quality impact, in the absence of substantial evidence to the contrary." This would provide the threshold with more certainty, while leaving open the possibility of rebuttal. This is in keeping with the language on p. 1-4: "If, after proper analysis, the project or plan's air quality impacts are found to be below the significance thresholds, then its air quality impacts may be considered less than significant."

2-9: Change 2 uses of "projects" to "plans" in the paragraph titled Greenhouse Gases.

2-11: "considerable" is undefined in criterion 3e. Can it be tied to URBEMIS?

3-11: The first set of measures needs a sub-heading, like all the rest of the measures.

4-1: Define HI. Each new term should be defined the first time it is used.

4-2: Define "permitted or non-permitted." Provide some background.

4-2: Add "is" after "new source" on the 6th line.

4-2: The portion of the first paragraph starting with "For sources that ..." should be moved to page 4-6 and combined with similar information in the paragraph starting with "BAAQMD recommends ...."

4-2: Add "Proposed" before "Revisions" in the last paragraph. Add "after adoption" after "Consequently."

4-4: Explain "prioritization level" and indicate where to find it.

4-4 & 4-5: In section 4.2.2, change "was" to "is."

4-5: Since section 4.2.2 is titled "Siting a New Receptor" the first bullet under Impacted Communities should read "New receptor projects in impacted communities ..."

4-5: Change "should" on the 6th line from the bottom to "shall."

4-5 & 4-6: Delete the phrase "A Lead Agency shall note, however, that." The sentence becomes intelligible if it starts with "For."

33-14

- 4-6: Change the 3 uses of "should" in the first full paragraph to "shall." Note the use of "shall" on p. 4-4 in reference to use of CAPCOA's Guidance Document.
- 4-6: Change the 2 uses of "should" in the paragraph starting with "Following ..." to "shall."
- 4-6: In the same paragraph, add "measures" after "mitigation" on the last line.
- 4-6: In the same paragraph, change "Section 4.3" to "Section 4.4"
- 5-1: Add "regional" to "transportation plans" to remind MTC that it is governed by these Guidelines. (Because the list of long range plans is only illustrative, the inclusion of county and other types of transportation plans would still be implied.)
- 5-1: The phrasing of the following sentence sends the wrong message about air quality planning: "Due to the SFBAAB's non-attainment status for ozone and PM, and the cumulative impacts of growth on air quality, these plans almost always have significant, unavoidable adverse air quality impacts." We are concerned that this sentence will encourage a dismissive attitude towards impact significance determinations. We suggest this reformulation: "Due to the SFBAAB's non-attainment status for ozone and PM, additional emissions from growth will necessarily produce pollutant levels that exceed air quality standards. As a result, these plans almost always have significant, unavoidable adverse air quality impacts. Nonetheless, with maximal implementation of feasible mitigations, those additional emissions can be minimized."
- 5-1: Define AQP.
- 5-3: Change "Step 2" to "Step 1" and renumber the rest of the steps.
- 5-5: The bullets in Section 5.3 are mis-numbered and out of logical sequence. It makes more sense to call for the creation of overlay zones before requiring them on a land use diagram. Delete "also."
- 5-7: These bullets are also out of logical sequence. See above.
- 5-7: See comments re: p. 5-1 for suggestions on how to make the first sentence of Section 5.6 less discouraging.
- 5-7: Change "of" on the 7th line from the bottom to "or."
- 5-7: Delete "Ideally." Because guidelines direct actual behavior, "ideally" does not belong in guidelines.
- 5-7: Change "should" to "shall" on the 3rd and 5th lines from the bottom.
- 5-7: Change "proposed project" to "proposed plan" on the last two lines from the bottom.
- 6-1: Change the title of Step 1 to "Screening."
- 6-14: Change "For proposed projects that wish to disclose" to "To analyze the."
- 7-1: Delete "nearby" in the first paragraph.
- 8-1: Add "Restaurants" to the list of land use examples.
- B-19: There is no 2009 Ozone Attainment Plan.

33-14

Comment Letter #: 33

Date: October 8, 2009

From: David Schonbrunn, President, TRANSDEF

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Response to Comments:

- 33-1 Even though the Bay Area's designation as a non-attainment area for ozone may not change, the Air District does not know if its classification as marginal will continue or be changed as necessary. It is therefore too speculative to include the footnote suggested.
- 33-2 With consideration to this comment, the Air District's 2009 Clean Air Plan will define specific guidance for plans to demonstrate compliance with the Clean Air Plan including a list of control measures that should be adopted in a plan.
- 33-3 Staff will revise and clarify the construction criteria. We agree with the commenter that criterion 3c should not apply to mixed use infill projects.
- 33-4 The CEQA Guidelines will be updated to reflect the revised thresholds for risks and hazards in the *Proposed Thresholds of Significance* report (November 2, 2009). The same cancer risk and non-cancer risk levels will be applied to impacted communities and other areas.
- 33-5 The CEQA Guidelines will be updated to reflect the revised thresholds for construction in the *Proposed Thresholds of Significance* report (November 2, 2009). The construction threshold is no longer based on construction best practices, but is now based on the same numerical thresholds as the operations threshold. The threshold for particulate matter from fugitive dust relies on construction best management practices.
- 33-6 Comment noted. Staff will consider recommending Measure 9 as a basic, versus additional, construction mitigation measure.
- 33-7 See comment response 33-5.
- 33-8 The CEQA Guidelines have been reorganized with consideration to these restructuring recommendations.
- 33-9 Staff will do its best to ensure that the updated CEQA Guidelines are user-friendly, readable, and possibly offer more flow charts.
- 33-10 Comment noted. Staff will consider restructuring the mitigation measures as suggested by the commenter.
- 33-11 The updated CEQA Guidelines will clarify that the development of a climate action plan are not actually steps for compliance. We agree with the commenter that the language as is could be confusing.
- 33-12 We agree with the commenter's suggestion and will move the URBEMIS instructions to the appendix in the updated CEQA Guidelines.

33-13 The *Proposed Thresholds of Significance* report (November 2, 2009) provides justification for the GHG efficiency standards. Also see Master Response MR-3.

33-14 The editorial suggestions have been reviewed and will be incorporated where appropriate in the updated CEQA Guidelines.



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 MANAGEMENT DISTRICT

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October 12, 2009

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Mr. Greg Tholen, Principal Planner  
 Bay Area Air Quality Management District  
 939 Ellis St.  
 San Francisco, CA 94109

RE: CEQA Thresholds of Significance Report

Dear Mr. <sup>Greg</sup>Tholen:

Thank you for updating the CEQA Thresholds of Significance. We believe the updated report will be helpful for lead agencies in identifying and mitigating significant air quality and climate change impacts, and we are largely supportive of the recommended thresholds. However, we wanted to provide a little more context on how MTC identifies air quality impacts as a part of environmental review of our regional transportation plan. We believe our analysis approach better discloses air quality impacts for regional transportation plans than the proposed plan-level air quality thresholds of significance in the draft report. We request that you clarify that the MTC approach to evaluating plan-level air quality impacts is an appropriate one.

34-1

In evaluating air quality impacts of regional transportation plans, MTC historically has used the following significance criterion, which is based on Appendix G of the CEQA Guidelines codified at Title 14 California Code of Regulations section 15000 et seq.:

*"Implementation of the regional transportation plan would have a potentially significant adverse impact if RTP projects would result in a cumulatively considerable net increase of emissions of criteria pollutants ROG, NOX, CO, PM10 and PM2.5 from on-road mobile sources compared to existing conditions."*

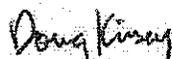
The method of analysis to evaluate this criterion uses regional travel demand model outputs including vehicle trips and vehicle miles travelled at different speeds with emission factors generated by ARB's latest emissions inventory model, EMFAC. This method allows us to quantify estimated changes in emissions of each criteria pollutant separately. For example, the EIR for the Transportation 2035 (T2035) Plan found beneficial impacts for ROG, NOx, and CO, and significant cumulative impacts for PM2.5 and PM10 (although the T2035 Plan's contribution to the impact was not cumulatively considerable). In striving to disclose environmental impacts, we believe our approach, which quantifies the impact of each criteria pollutant separately, fulfills the intention of CEQA.

We believe the Air District's proposed threshold, that the "rate of VMT increase or vehicle trips is less than rate of increase in population," can be a good proxy to identify air quality impacts for lead agencies unable to do an analysis using travel demand models and emissions factor models; however, we believe this threshold could erroneously lead to significant impacts, even when implementation of the proposed project would result in improved air quality. In particular, a project that encourages transition of vehicle fleets to electric vehicles could result in improved air quality, but also higher levels of vehicle travel relative to population increase.

Nevertheless, we believe analysis of the rate of VMT or vehicle trip increase relative to population increase is an important metric. In our T2035 Plan, we included a similar criterion in the EIR's analysis of transportation impacts of the Plan: "*A substantial increase in per capita VMT compared to existing conditions.*" We believe this criterion is an appropriate way to analyze a project's transportation impacts, such as congestion, and we will continue to analyze it in future EIRs for RTPs.

We do recognize the importance of reducing vehicle trips and vehicle travel in aiming to improve air quality and reduce greenhouse gas emissions. In particular, MTC expects the Sustainable Communities Strategies that is developed as a part of the 2013 RTP will include many strategies to reduce both vehicle trips and VMT. However, we believe the most effective way to analyze, disclose, and mitigate air quality impacts of a project is by examining the direct relationship between vehicle travel and emissions factors, rather than the indirect relationship between population growth and vehicle travel. We hope you will clarify that this approach is also an appropriate one for lead agencies to consider in evaluating plan-level impacts. If you have any questions, please contact Liz Brisson of my staff at 510-817-5794. Thank you for considering our input.

Sincerely,



Doug Kimsey  
Planning Director

DK: LB

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34-2

Comment Letter #: 34

Date: October 12, 2009

From: Doug Kimsey, Planning Director, MTC

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Response to Comments:

- 34-1 District Staff recognizes that MTC's approach to evaluating plan-level air quality impacts does a good job of quantifying emissions of criteria pollutants separately, but may not be the most appropriate or only metric to characterize transportation impacts under CEQA. The approach does not address the importance of reducing vehicle trips and miles traveled to improve air quality. Vehicles are continually becoming cleaner due to technology innovations and new regulations. Yet, the increased rate of growth of vehicle miles traveled in the region is offsetting the full air quality benefits from a cleaner vehicle fleet. With the transportation sector as the largest contributor to air pollution in the Bay Area and the state, it is critical that a plan's vehicle trips or miles traveled be evaluated to reduce future emissions from mobile sources.
- 34-2 District Staff believes that examining the relationship between vehicle miles traveled (VMT) and population growth informs the public whether a plan is supporting efficient growth versus auto dependent future development. This threshold is intended to incentivize local governments to accommodate future growth through efficient growth development patterns such as transit-oriented, mixed-use, and dense projects. Even through the region's vehicle fleet is getting cleaner, it is necessary to continue reducing vehicle miles traveled to prevent future air quality benefits from being canceled out by high VMT growth rates and to reduce GHG emissions. The District recognizes that reducing VMT growth to the rate of population growth is a challenge; however, many local governments are making strides in reducing VMT per capita while accommodating population growth. The RTP has enjoyed the benefits of on-road emissions budgets established in a 2001 state implementation plan (SIP) developed for an air quality standard that has since become stricter, a standard for which the Air District anticipates being designated nonattainment. Therefore the Air District recommends significance metrics that examine more than just the relationship between vehicle travel and emission factors. When vehicle travel declines in relation to increases in population, we are more assured that new investments in the RTP and local development is occurring where it is most beneficial to air quality.