



# COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

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*Chief Engineer and General Manager*

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File No.: 31-380.10B

Ms. Elaine Chang, Ph.D  
South Coast Air Quality Management District  
21865 Copley Drive  
Diamond Bar, California 91765-4182

Dear Elaine:

### **Comments on the November 20, 2008 Meeting of the SCAQMD Greenhouse Gas Significance Threshold Working Group**

The Sanitation Districts of Los Angeles County (LACSD) appreciate this opportunity to comment on the SCAQMD's efforts to incorporate climate change concerns into CEQA policy. We also appreciate your invitation to participate in the GHG CEQA Significance Threshold Working Group.

As a CEQA lead agency for essential public wastewater and refuse projects, LACSD is concerned that the incomplete standards offered by the CEQA significance threshold proposal will lead to project delays and litigation. Regardless of SCAQMD's intent, the lack of other strong guidance from CARB or OPR makes this effort the de facto standard. Unresolved issues including the "x percent reduction" in Tier 3 and life cycle analysis requirement leave projects open to challenge even if the CEQA practitioner follows the proposed SCAQMD guidance as closely as possible. We recommend that this proposal be delayed until CARB has taken action on its draft proposal, or in the alternative, that the unspecified "x percent" reduction in Tier 3 be removed and the guidance document further revised to resolve as many stakeholder issues as possible.

In the absence of an up-to-date staff report detailing the November 20, 2008 stakeholder meeting proposal, we offer the following comments based on the handouts and verbal exchange:

- 1) **Comments on the November 20, 2008 Stakeholder Meeting Proposal**
  - a. Requirements to exceed Title 24 should be dropped from Tier 3. Pairing this requirement with a screening threshold is scientifically unjustifiable, as this mandate doesn't speak to significance. Furthermore, this efficiency requirement remains undefined, introducing an arbitrary element into the process. Regardless of this uncertainty and SCAQMD's best intentions to narrow the proposal's scope, the resolution (and the guidance document upon which the resolution is based) will become the de facto standard in the absence of other GHG CEQA standards. As such, LACSD is concerned that this incomplete proposal will lead to confusion among CEQA practitioners,

environmentalists and decision makers, and subsequently invite unneeded litigation.

- b. Clarification is needed on the concept of providing mitigation before occurrence of emissions. For example, in the case of a phased project, requiring mitigation for the entire project prior to the start of construction may be excessive and infeasible. This is contrary to normal CEQA practice where mitigation is not necessarily needed before the impact (e.g., mitigation for impacts to habitat or a species). Further, for GHG impacts which are chronic rather than acute, such a timing requirement seems unjustified.
- c. Compliance with regulations derived from the state's AB 32 scoping plan and/or participation in cap and trade programmatic reductions should be sufficient in and of themselves to keep a project below significance. If a GHG cap-and-trade program were implemented, all projects would, by definition, be forced below significance (zero net impact or less), which would eliminate the need for a CEQA assessment of GHGs.
- d. Industrial performance standards for CEQA should not be identified and treated like BACT determinations. Standards should not be drawn around narrow-niche "boutique" wastewater projects, for example, where cost is no object. These technologies may be inappropriate for mature infrastructure serving a large, diverse population. Decision makers should be allowed the flexibility, already in CEQA, to consider other contributors to public welfare in their choices.

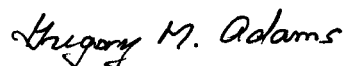
2) Main Points from Our Earlier Comments:

- a. Life cycle analysis (LCA) is likely to be speculative and, therefore, not required by CEQA. This requirement should be dropped.
- b. Emissions from carbon-neutral renewable fuels and other biogenic emissions would occur anyway and should thus not be included in emission estimates. Significance determinations should only be assessed based on *anthropogenic* emissions.
- c. Discussion of quantifiable mitigations should begin immediately. The measures offered to-date are inadequate and, absent documentable emissions reductions, unusable. A numerical threshold invites numerical mitigations. There should be a rock-solid and consistent understanding on what mitigation is worth.
- d. Construction phase emissions should be amortized over the entire project's life-span, even if it exceeds 30 years.

- e. SCAQMD should recognize that in certain situations, mitigations for greenhouse gas emissions may exacerbate criteria pollutant emissions and visa versa. The SCAQMD CEQA guidelines should reflect the SCAQMD Climate Change Committee's policy statement that public health protection should prevail if there is such a conflict. Clarifying this preference in the CEQA guidelines will assist SCAQMD's own staff, permittees in the basin and other districts struggling to develop their own climate change policies.
- f. The guidance document should provide direction regarding how, if at all, a GHG impact (which is a cumulative impact) would trigger an exception to a categorical exemption.
- g. Quantification of GHG emissions for exempt projects is unneeded and the guidance document should be revised accordingly.
- h. If project GHG emissions are sufficient to meet the Tier 3 threshold without accounting for reduction measures, we think quantification of GHG reduction measure effectiveness is unneeded effort. Please revise the guidance document accordingly.

Please note that this is not an exhaustive list and we still hold to our comments submitted July 23, 2008 and October 8, 2008. We thank you for the opportunity to provide these comments to you and for allowing us to participate in this important process. If you have any questions regarding these comments, please do not hesitate to contact Mr. Patrick Griffith at (562) 908-4288, extension 2117.

Very truly yours,  
Stephen R. Maguin



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GMA:PG:bb

cc: Steve Smith – SCAQMD  
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Susan Nakamura – SCAQMD  
Jill Whynot – SCAQMD