

# LAND USE SERVICES DEPARTMENT



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JULIE RYNERSON ROCK  
Director

December 2, 2008

Mr. James Goldstene, Executive Officer  
California Air Resources Board  
1001 "I" Street  
P.O. Box 2815  
Sacramento, CA 95812

Re: Comments on the California Air Resources Board Draft Greenhouse Gas Emissions  
Significance Thresholds

Dear Mr. Goldstene:

The County of San Bernardino appreciates the opportunity to provide comments on the California Air Resources Board (ARB) Draft Greenhouse Gas (GHG) Emissions Significance Thresholds for use in evaluating projects under the California Environmental Quality Act (CEQA). San Bernardino County recognizes the tremendous effort required to develop a statewide GHG significance threshold for CEQA analysis and commends the ARB for its leadership on this important issue.

San Bernardino County is in the process of developing Interim CEQA Significance Thresholds for GHG emissions analysis in CEQA documents and a Countywide GHG Emissions Reduction Plan. Based upon this experience, coupled with our record of environmental stewardship and extensive experience in CEQA implementation, we would like to submit, for your consideration, several recommendations on the ARB Draft GHG Significance Thresholds.

### ***Tiering from Regional Plans in CEQA Analysis:***

The original purpose of CEQA was to inform decision makers and the public of the environmental effects of proposed activities; identify ways to avoid or reduce environmental impacts associated with proposed activities; prevent avoidable, significant environmental impacts through the use of mitigation measures; and disclose to the public the reasons why government agencies approved the project in the manner the agency chose (CEQA Guidelines §15002). CEQA was never intended as a barrier toward project approval particularly when potentially significant environmental impacts can be avoided or reduced. In fact, CEQA allows tiering of analysis in order to streamline the CEQA process when previously approved plans or policies already address potentially significant impacts that may occur as a result of project implementation (CEQA Guidelines §15152).

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The County of San Bernardino believes that the most rational way of evaluating a project's incremental GHG emissions contribution to global climate change and potential mitigation to reduce such impacts is on a regional basis. Since for many projects, the contribution of GHG emissions comes primarily from indirect and mobile sources; the best way to reduce indirect and mobile sources is through a regional GHG Reduction Plan. Many local governments are in the process of developing regional GHG Reduction Plans in order to have a rational and effective way of reducing GHG emissions within their jurisdictions. The result of these GHG Reduction Plans is to have mitigation measures on a regional scale that reduce GHG emissions in ways that could never be achieved with a project-by-project approach. Therefore, CEQA analysis of projects needs the ability to tier from these Regional GHG Reduction Plans in order to achieve a realistic analysis of GHG emissions and the ability to mitigate emissions effectively.

To that end, the ARB has within the commercial/residential thresholds (Attachment B of the ARB Draft GHG Significance Thresholds) the ability to tier from GHG reduction plans. However, the ARB's Draft GHG Significance Thresholds do not provide the ability for an industrial project to tier from regional GHG reduction plans.

The County of San Bernardino **strongly recommends** that the ARB **amend the Draft GHG Significance Thresholds to include the ability for industrial projects to tier from regional GHG reduction plans.** Many industrial projects such as logistics/warehousing, which dominate the Industrial use inventory in our County, can only have GHG emissions effectively addressed in a regional GHG reduction plan.

Also, regional GHG reduction plans are the best way to show how GHG emissions from both existing and future sources will be reduced in order to achieve the composite reduction target. This task of showing how both existing and future emission sources interact and how the composite emissions can be reduced to achieve the reduction target would be difficult if not impossible to do with a project-by-project approach in CEQA.

Finally, regional GHG reduction plans can best show how the composite reduction targets fit within the context of state, federal and international efforts to reduce global climate change impacts. For this reason, regional GHG reduction plans offer a legally defensible way of dealing with project-generated GHG emissions in CEQA.

Therefore, the County of San Bernardino **strongly recommends that regional GHG reduction plans be kept at a high priority** (remain as option 2 in the commercial/residential and industrial thresholds) in the ARB Draft GHG Significance Thresholds hierarchy.

### ***Numerical Thresholds***

The County of San Bernardino **opposes the use of numerical thresholds** for two reasons. First, numerical thresholds for a project do not account for project size or type (other than generic industrial vs. commercial/residential classifications). With a numerical threshold very small projects can slip under the numerical threshold with very little or no mitigation, while very large projects cannot reduce emissions to less than significant regardless of the amount of mitigation incorporated into the project. The temptation for the decision makers of large projects is to simply write a statement of overriding consideration during the CEQA process

rather than struggle with, and take advantage of, the mitigation possibilities that large projects possess. The unintended consequence of a numerical threshold is to favor small projects with very little mitigation and discourage large projects even though they may more effectively mitigate emissions.

The County of San Bernardino realizes that the ARB built into the thresholds performance standards that must be achieved in order to try and combat this situation. However, because the numerical threshold is relatively small [7,000 Metric Tons of Carbon Dioxide equivalent (MTCO<sub>2</sub>E)], many projects will not be mitigated to a level of efficiency needed to truly address this impact, opting instead to write a statement of overriding considerations. Therefore, the County of San Bernardino **strongly recommends that the ARB focus on performance standards rather than a numerical threshold.**

The County of San Bernardino can help the ARB in this effort. Currently, the County of San Bernardino is working with the Governor's Office of Planning and Research (OPR) to incorporate climate change into CEQA guidelines. Furthermore, the County of San Bernardino is working on Interim GHG Emissions Thresholds based on performance standards to be used during environmental review required under CEQA. The San Bernardino County Interim GHG Emissions CEQA Thresholds includes screening tables that provide an expedited process for review of small projects. In this way, the County of San Bernardino is reducing GHG emissions from all projects regardless of size that require CEQA review. These efforts will incorporate climate change into the planning process now.

The second reason the **County of San Bernardino opposes numerical thresholds** is that the numerical thresholds **are not based upon facts or scientific evidence addressing global climate change impacts and are thus susceptible to legal challenge.** The numerical threshold is based upon a 90 percent capture rate, meaning that 90 percent of emission sources are above the numerical threshold. How does the 90 percent capture rate address global climate change impacts? There are other reasons the County of San Bernardino opposes the numerical thresholds based upon a 90 percent capture rate, which are discussed below.

#### ***Numerical Thresholds Based upon a 90 Percent Capture Rate***

The ARB and other state agencies incorrectly assume that most projects that require compliance with CEQA are reviewed using an Environmental Impact Report (EIR), but the opposite is true. It is the County of San Bernardino's experience that most projects (over 90 percent) gain approval using CEQA exemptions, negative declarations, or mitigated negative declarations. By incorporating a numerical threshold based upon a 90 percent capture rate, many projects that are currently being approved as a negative declaration or mitigated negative declaration will need to go through the EIR process. This will constitute an undue financial and administrative burden on public entities acting as lead agencies under CEQA, while at the same time failing to adequately reduce project impacts. This is because, negative declarations and mitigated negative declarations must reduce impacts to less than significant; therefore, must struggle with how to reduce emissions in order to achieve the less than significant finding. However, projects using an EIR are allowed to override significant impacts. If the only reason a project analysis is elevated to the level of an EIR is because of numerical thresholds, the temptation is to simply write a statement of overriding consideration.

The 90 percent capture rate used as the rational for the numerical threshold will significantly increase the cost of CEQA analysis for most projects, significantly slow down the approval process for most projects, but will not increase mitigation to reduce GHG emissions.

The County of San Bernardino **strongly recommends** that instead of a numerical threshold, **the ARB focus on efficiency measures and performance standards that will streamline the CEQA process** and insure that all projects, regardless of size, reduce GHG emissions.

In conclusion, the County of San Bernardino supports ARB in the effort to develop recommended GHG significance thresholds for use in CEQA documents. However, we feel that there are significant practical considerations, as discussed in this letter that must be addressed as ARB moves forward. The County of San Bernardino welcomes the opportunity to help ARB confront these considerations, should ARB want the County's help.

Thank you for the continued opportunity to play an active role in this process. Should you have any questions or need additional information regarding our comments, please do not hesitate to contact me at (909) 387-4141 or via email at [jrynersonrock@lusc.sbcounty.gov](mailto:jrynersonrock@lusc.sbcounty.gov).

Sincerely,



Julie Rynerson Rock, Director

JRR:bjr

cc: Lance Larson, Legislative Affairs  
Mary O'Toole, Executive Analyst, Second District