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California Air Resources Board
1001 "I" Street
Sacramento, CA 95814

ELECTRONIC SUBMITTAL

<http://www.arb.ca.gov/cc/scopingplan/scopingplan.htm>

Subject: Comments on CARB's December 2, 2016, *Discussion Draft, 2030 Target Scoping Plan Update*.

On behalf of the Association of Environmental Professionals (AEP), Climate Change Committee, we appreciate the opportunity to provide comments on the *Discussion Draft, 2030 Target Scoping Plan Update*. This supplements our comments previously provided to CARB on June 8, 2016 on the *2030 Target Scoping Plan Concept Paper* and comments provided on November 21, 2016 on the November 7, 2016, *Public Workshop on the 2030 Target Scoping Plan Update: GHG Policy Scenarios, Natural & Working Lands, and Public Health Analysis*.

AEP is a non-profit organization of California's environmental professionals. AEP's Climate Change Committee (Committee) members are actively involved in supporting California cities and counties in the evaluation of greenhouse gas (GHG) emissions impacts for new development subject to the California Environmental Quality Act (CEQA), preparing communitywide GHG emissions inventories and forecasts and developing and implementing Climate Action Plans (CAPs).

The update to the Scoping Plan to address the 2030 target in Senate Bill 32 (SB 32) and Executive Order B-30-15 is of great interest to the Committee and our CEQA and climate action planning work with California cities and counties, especially as it relates to local target setting. The Committee supports CARB in its challenging work to establish a working framework for achieving the next milestone in GHG reductions for California. The Committee published two white papers in 2015 and 2016 (<http://califaep.org/climate-change>) that examine in detail the challenges for both CEQA practice and local climate action planning related to post-2020 GHG reduction targets. Many of us are already engaged in developing local CAPs that include post-2020 GHG reduction goals. As a result, we are concerned that the proposed policies for local plan level goals extend too far into local policy decision-making by specifically identifying a local target for climate action plans. The committee is also concerned that establishing a community-wide goal for 2050 will immediately shift the focus of CEQA and Climate Action Plan target setting to the 2050 goal, for which no clear path is certain for local governments and which will result in an ineffective and speculative focus on 2050 at the expense of the real and urgent necessity to focus on meeting the ambitious 2030 goal. Moreover, delving into project-level CEQA thresholds is better left to local air districts and counties since they are attuned to local-regional constraints. Therefore, our recommendation is to remove the section regarding *Local Plan-Level GHG Reduction Goals* and the section regarding *Project-Level GHG Reduction Actions and Thresholds* from the *2030 Target Scoping Plan Update*:

Additional recommendations are as follows:

1. CLEARLY DEFINE THE ROLE OF LOCAL AND REGIONAL ACTIONS BUT LEAVE THE CHOICE OF LOCAL AND REGIONAL GHG REDUCTION PLAN-LEVEL TARGETS TO THE LOCAL OR REGIONAL GOVERNMENTS. As iterated in our June 8, 2016 and November 21, 2016 comment letters to CARB, the *2030 Target Scoping Plan Update* should not establish a one-size fits all local or regional target. Yet, in the Discussion Draft, CARB is recommending exactly that with its 6 MTCO₂e community-wide goal for 2030 and 2 MTCO₂e goal for 2050. Although the Discussion Draft includes a caveat that

these goals are not appropriate for use as a project level goal, the same concern applies to community climate action planning. Sector emissions can vary widely by community and can result in one place easily achieving the goal and another place the goal may be infeasible. A single community goal results in a perverse incentive for some high emission areas to adopt no goals or plans and for other high emission areas to adopt infeasible goals that have no chance of success. On the converse side, for communities that are higher density but may not have a lot of newer building stock may not need to do anything to achieve a per capita GHG efficiency metrics. The one-size-fits-all goal approach also ignores County governments which have widely varying amounts of urban and rural development with substantially different emission profiles and are often called upon to address agriculture and forestry sector emissions in their local plans. We recommend that the *2030 Target Scoping Plan Update* focus on the statewide regulations, programs, and policies implemented by statewide agencies to achieve the 2030 GHG reduction goal rather than use this update as an opportunity to create local policy for individual cities and counties. This sets bad precedent as it does not provide local communities the flexibility they need to achieve local GHG reduction goals. Rather than identify numeric targets that would apply blankly to all jurisdictions, CARB should focus on general principles for formation of GHG reduction targets that are supportive of overall state GHG reduction targets. Cities and counties are highly diverse in a state like California. What works best in each locality is a judgment best left to the local or regional jurisdiction. They are best positioned to understand and engage with their communities to determine GHG reduction targets that are supportive of the statewide efforts but which suit their local communities best and are achievable. Similar to CARB's statewide task, the adoption of achievable targets and feasible GHG reduction measures is a challenging endeavor on the local and regional level, and the balancing of diverse interests, outcomes, and opportunities is best done by the government entities closest to the community they serve. As such, the Scoping Plan should not include such a specific Community-wide¹ goal of 6 MTCO_{2e} per capita by 2030 and a 2 MTCO_{2e} per capita by 2050 goal for all climate action plans in California, nor should it take away alternative metrics as a means of target setting, such as reduction from existing levels. To underscore this point, a per capita target may not be suitable for local governments with a large service-industry sector (e.g. commercial retail or goods movement) since these types of land uses would not typically be included in a per capita metric as they may have little population or employment but clearly provide a service to the population at large. Rather, CARB must let individual communities establish local GHG reduction targets that are consistent with the *2030 Target Scoping Plan Update* and the target in SB 32.

2. PROJECT LEVEL THRESHOLDS SHOULD BE LEFT TO LEAD AGENCIES WITH GUIDANCE FROM REGIONAL AIR DISTRICTS AND OTHER AGENCIES TO FIT LOCAL CONDITIONS. The Discussion Draft includes discussion of *Project Level GHG Reduction Actions and Thresholds*. In this section, CARB states that "ARB believes that achieving a no net increase in GHG emissions is the correct overall objective..." We appreciate that CARB included caveats regarding the potential infeasibility of a threshold based on a no net increase in emissions (page 105). However, the examples provided by CARB and this statement imply that a "zero net increase" threshold is an appropriate CEQA threshold even if it is only applicable for some projects. This is simply incorrect, as evidenced in the Governor's Office of Planning and Research's Final Statement of Reasons for Senate Bill 97 revisions to the CEQA Guidelines in December 2010.² To comply with CEQA, individual projects are required

¹ A clear definition of what sectors and types of land uses included in a "Community-wide" goal must be provided.

² "AB32, and regulations implementing that statute, will require reductions in emissions from certain sectors in the economy, but do not preclude new emissions. Moreover, as explained in the Initial Statement of Reasons, the proposed amendments do not establish a zero emissions threshold of significance because proposed amendments do not establish a zero emissions threshold of significance because —there is no one molecule rule' in CEQA."

to mitigate a fair share of the impact, which a net zero threshold would likely exceed. The complex GHG regulatory structure results in development-related sectors being subject, directly or indirectly, to multiple overlapping regulations, such as fuel efficiency standards, energy efficiency standards, low carbon fuel standards, and Cap and Trade. This makes, determining responsibility for emissions and developing fair share calculations problematic. The Discussion Draft promotes direct investment in local building retrofit programs as a good GHG mitigation measure option but recent studies show that these can have poor cost-effectiveness depending on the type of retrofit and climate zone. Cost effective onsite mitigation measures are preferred because the future homeowners or building tenants will receive a return on their investment in the form of savings on their energy bills. Otherwise, the full cost of the measure is applied to owners and tenants. Furthermore, the example project, *Newhall Ranch Resource Management and Development Plan and Spineflower Conservation Plan*, cited on page 105 was only able to achieve a net zero emissions by requiring purchase of GHG emissions offsets. If used for CEQA purposes, offset programs would require a reasonable assurance to the developer and the public that the reductions are cost-effective, real, surplus, and permanent. The cost of such a program should account for the number of years the project is responsible for mitigating. Project level offset programs should account for declining emissions over time due to other regulatory programs in order to ensure that nexus requirements are met. If nearly every CEQA project that has a net increase in GHG emissions was required to participate in an offset program, it is unlikely that sufficient offsets programs in a local air district, let alone California, are available to fully mitigate development project impacts in perpetuity unless CARB allocates funding for offset programs to regional air district (local offset programs) or statewide (e.g., California offset programs, such as mitigation banking for carbon sequestration in natural lands). A no net increase threshold could also preclude use of CEQA Categorical Exemptions and Negative Declarations. For these reasons, we do not recommend including a section in the *2030 Target Scoping Plan* regarding project-level CEQA thresholds. Rather than identify project level actions and thresholds, CARB should allocate funding so that regional air districts can develop appropriate project-level thresholds that can be tailored to the local region.

3. MAKE ALL METHODOLOGIES, ASSUMPTIONS AND DATA PUBLICALLY AVAILABLE. All the methodologies, assumptions and data used to forecast GHG emissions and GHG reductions should be transparent and publicly available. Textual narrative in the Scoping Plan Update and Appendices should be provided. Excel-based or database documentation of all calculations should also be provided to the public. For example, it is not clear which GHG sectors were included in the target setting for local plans and the population assumptions used to derive the per capita figures.
4. DESCRIBE HOW STATEWIDE GHG REDUCTION MEASURES WILL AFFECT EXISTING DEVELOPMENT VS. NEW DEVELOPMENT SEPARATELY. To date, the 2008 Scoping Plan continues to be the primary resource lead agencies use to establish defensible GHG emissions thresholds under CEQA. Recent CEQA case law in the *Center for Center For Biological Diversity, et al. v. California Department of Fish and Wildlife (The Newhall Land and Farming Company, Real Party in Interest)* (2015) 62 Cal.4th 204 established the principle that CEQA GHG thresholds used for the evaluation of new development can be based on statewide GHG emissions reduction targets provided there is substantial evidence explaining the relationship between the statewide reduction target and the threshold used for evaluation of new development. One of the keys in establishing that relationship is the availability and transparency of the data and assumptions underpinning the state's inventory, forecast, and plan for GHG reductions statewide and in particular how state GHG reduction strategies apply to new development vs. existing development. Furthermore, when conducting local climate action plans, it is critical to understand accurately how statewide measures will affect local development and to do so, one must understand how each statewide measure affects existing vs. new development as well. It is unclear whether or not the per capita goals identified in the Scoping Plan

Local Action Scenarios Workshop Presentation meets the requirements of the Newhall Ranch case. Rather than identifying specific local targets for climate action plans, the Committee requests that the *2030 Target Scoping Plan Update* explicitly identify the effect of each measure on existing and new development separately in order to provide necessary information to support climate action plan development and new GHG thresholds used for CEQA.

5. **KEEP THE FOCUS ON MEETING 2030 TARGETS.** The year 2030 is not the endpoint for climate action planning. There will need to be even more difficult choices made to meet the 2050 GHG reduction targets. CARB has followed a phased approach to GHG reduction planning to date: first bring GHG emissions back down to 1990 levels by 2020, then reduce emissions substantially below 1990 levels by 2030, and then reduce them dramatically further by 2050. As CARB knows, the reductions from 2020 to 2030 will be more difficult than the reductions from 2006 to 2020. The Committee has also seen this at the local and regional level when doing climate action planning and CEQA evaluations. However, the Committee has also seen that an overemphasis on the 2050 goal can actually be counterproductive in motivating local climate action planning because of the difficulty in being able to feasibly and cost-effectively establish a clear path to 2050 emissions targets given that the state does not have a feasible and cost-effective plan to 2050 emissions targets yet. The Committee believes that CEQA evaluations and climate action planning should shift to the 2030 targets once CARB adopts the Scoping Plan Update establishing a statewide approach to the 2030 milestone. Once we achieve (or are close to achieving) the 2030 target, then the state, regional and local governments can focus on meeting post-2030 targets. A phased approach is practical, feasible, and cost-effective. Keeping our focus on 2030 is the most realistic way to make the changes necessary that will set us up for ultimately meeting 2050 targets in the future.
6. **CALTRANS COORDINATION FOR REVIEWING PROJECT-RELATED CLIMATE CHANGE IMPACTS.** To compliment the Mobile Source Strategy and SB 743, CARB should strive for better coordination with Caltrans, as mentioned in Appendix D, *EJAC Initial Recommendations*. Much of the guidance in the *Discussion Draft 2030 Target Scoping Plan* is focused on land use, fuel types, and technological means of achieving greenhouse gas emissions reductions rather than addressing roadway/freeway projects, such as those already programmed into the Regional Transportation Plan (RTP)/Federal Transportation Improvement Plan (FTIP) until the year 2040. Given that the *Discussion Draft 2030 Target Scoping Plan* indicates that transportation is the single largest source of CO₂ in California, which is primarily composed of on-road travel, CARB should coordinate with Caltrans to update its Standard Environmental Reference (SER) for preparing environmental documents to reflect more recent climate change policy (i.e. SB 32 and this Scoping Plan), science, and recommendations, when currently, the SER CEQA Checklist template indicates the following:
 - While Caltrans has included this good faith effort in order to provide the public and decision-makers as much information as possible about the project, it is Caltrans determination that in the absence of further regulatory or scientific information related to GHG emissions and CEQA significance, it is too speculative to make a significance determination regarding the project's direct and indirect impact with respect to climate change.
 - CARB should work with Caltrans to establish a threshold for various types of Caltrans projects, during both the construction and operation phases. A menu of Best Management Practices (i.e., ramp metering, landscaping, energy efficient lighting) could be implemented as a means of determining significance, similar to many land use projects and CAPs, or an efficiency threshold based on greenhouse gas emissions reductions achieved as a result of a project's congestion relief compared to induced travel demand. Doing so would allow for more accurate disclosure and analysis of the impacts of various Caltrans transportation projects,

especially due to the many variables associated with the balance between congestion relief and an increase in capacity, with congestion relief resulting in the potential for a reduction in greenhouse gas emissions and increases in capacity resulting in additional VMT and greenhouse gas emissions. With this improved means of analyzing greenhouse gas emissions and climate change, both the general public and decision makers could better understand and effectively evaluate the impacts of transportation projects throughout the state.

7. CLARIFY THAT INDUSTRIAL (PERMITTED) SOURCES OF EMISSIONS IN A LOCAL CAP ARE A VOLUNTARY SECTOR FOR LOCAL GOVERNMENTS. The Scoping Plan workshop presentation suggested that local government can use its industrial permitting authority to influence GHG and air pollutant emissions. It appears that in the Discussion Draft, CARB agrees with our previous recommendation regarding avoiding use of local government permitting authority over industrial land uses as a CAP strategy. We appreciate that CARB has not included this item in its discussion of local actions in the Discussion Draft.

We applaud the efforts by CARB in developing a statewide framework for continuing to reducing GHG emissions in the post-2020 timeframe.

Sincerely,

AEP Climate Change Committee

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NOTE: The Opinions expressed herein are those of the individual members of the Committee and not the firms or organizations they represent.