

November 21, 2016

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 November 7, 2016, *Public Workshop on the 2030 Target Scoping Plan Update: GHG Policy Scenarios, Natural & Working Lands, and Public Health Analysis*.

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

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 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 for climate action plans/GHG reduction plans. 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 (update attached) that examine in detail the challenges for both CEQA practice and local climate action planning related to post-2020 GHG reduction targets and many of us are already engage 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.

Our recommendations are as follows:

1. CLEARLY DEFINE THE ROLE OF LOCAL AND REGIONAL ACTIONS BUT LEAVE THE CHOICE OF LOCAL AND REGIONAL GHG REDUCTION TARGETS TO THE LOCAL OR REGIONAL GOVERNMENTS. As iterated in our June 8, 2016 comment letter to CARB, the *2030 Target Scoping Plan Update* should not establish a one-size fits all local or regional target. Yet, in the Workshop Presentation for Scoping Plan, Local Action Scenarios it appears the CARB is recommending exactly that. 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. The choice of local or regional GHG reduction targets should be left to local or regional jurisdictions who 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 MTCO₂e per capita by 2030 and a 2 MTCO₂e 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*.

2. CLARIFY THAT INDUSTRIAL (PERMITTED) SOURCES OF EMISSIONS IN A LOCAL CAP ARE A VOLUNTARY SECTOR FOR LOCAL GOVERNMENTS. The Scoping Plan presentation suggests that local government can use its industrial permitting authority to influence GHG and air pollutant emissions. Land use permitting for industrial projects has traditionally been the role of city and county planning agencies. Air quality permitting falls under the purview of air pollution control districts and air quality management districts. Land use planning agencies should not be placed in the position of controlling industrial greenhouse gas emissions or limiting fuels that can be used within a community except to the extent that new industrial projects result in significant air quality impacts in the CEQA context. Cumulative industrial GHG emissions are best managed through the Cap and Trade Program and State and air district regulations to the extent allowed under the Clean Air Act. Industrial sources are particularly susceptible to leakage, so local government actions may have the unintended consequence of incentivizing industry to locate in other states or countries with fewer restrictions.
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. The Scoping Plan Local Action Scenarios Workshop Presentation identifies a community-wide target of 6 MTCO₂e per capita for 2030 and a 2 MTCO₂e per capita goal by 2050. However, 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

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

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 6 MTCO_{2e} per capita for 2030 and a 2 MTCO_{2e} per capita goal by 2050 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.

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

Michael Hendrix, Chair (LSA Associates)
Chris Gray (WRCOG)
Hillary Haskell (SDG&E)
Dave Mitchell (Mitchell Air Quality Consulting)
Haseeb Qureshi (Urban Crossroads)
Tammy Seale (Michael Baker International)
Nicole Vermilion (PlaceWorks)
Rich Walter (ICF International)

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

Enclosures: AEP White Papers:

- (1) *Beyond 2020: The Challenge for Greenhouse Gas Reduction Planning by Local Governments in California*. March 2015.
- (2) *Beyond Newhall and 2020: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California*. October 2016.