



ENVIRONMENTAL DEFENSE FUND

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August 27, 2009

Christopher Calfee, Special Counsel
ATTN: CEQA Guidelines
California Resources Agency
1017 L Street, #2223
Sacramento, CA 95814
CEQA.Rulemaking@resources.ca.gov

Re: Comments on Proposed Amendments to the State CEQA Guidelines Addressing Analysis and Mitigation of Greenhouse Gas Emissions Pursuant to SB 97

Dear Mr. Calfee:

Thank you for the opportunity to comment on the Proposed Amendments to the State CEQA Guidelines (“Proposed Amendments”). We continue to limit our comments in scope to the use of various state and regional plans throughout the Proposed Amendments, and are not implying that the changes described herein are the only changes that should be made to the regulations.

In our comments on the January 9, 2009 Preliminary Draft CEQA Guideline Amendments for Greenhouse Gas Emissions (attached), we pointed out that Section §15064(h)(3) and similar guidelines over-relied on plans that may or may not be binding on the project, to the exclusion of the lead agency’s independent analysis and mitigation. The Proposed Amendments have attempted to remedy this situation by requiring that “when relying on a plan or program, the lead agency should explain how the particular requirements in the plan or program ensure that the project’s incremental contribution to the cumulative effect is not cumulatively considerable.” We feel that this change is a tangible step to addressing our concern, but does not entirely fill the regulatory gap that we described.

We urge the Resources Agency to make additional changes to ensure that projects not covered by mandatory policies do not escape a finding of significance for greenhouse gas emissions. As written, the proposed amendment does not require the lead agency to ensure that the elements of the plan actually result in reduced cumulative emissions from the project. Thus, we recommend that the amendment be expanded to include the requirement, “The applicable plan elements must apply to the project, be mandatory (i.e. not voluntary or incentive-based), and be undertaken before or concurrently with the start of the project.” Appropriate changes should be made throughout the Preliminary Draft where the same concerns apply. Similarly, we recommend that §15183.5 (b)(1) be amended to indicate that the greenhouse gas emissions reduction plan being relied upon should include all of the elements described (i.e. change “may” to “should”).

Please contact Lauren Navarro at (916) 492-7074 or lnavarro@edf.org if you have any questions or comments.

Sincerely,

Lauren Navarro
Attorney