



ENVIRONMENTAL DEFENSE FUND

finding the ways that work

February 2, 2009

Cynthia Bryant, Director, Office of Planning and Research
Terry Roberts, State Clearinghouse Director, Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

**Re: Comments on the January 9, 2009 Preliminary Draft CEQA Guideline
Amendments for Greenhouse Gas Emissions**

Dear Ms. Bryant and Ms. Roberts:

Thank you for the opportunity to comment on the Preliminary Draft Guideline Amendments for Greenhouse Gas Emissions (“Preliminary Draft”). Our comments are limited in scope to what we see as a fundamental flaw of the Preliminary Draft that must be strengthened to meaningfully address greenhouse gases under CEQA.

Throughout the Preliminary Draft, the proposed guidelines rely on plans that may or may not be binding on the project, to the exclusion of independent analysis and mitigation. For example, in the proposed changes to Section 15064(h)(3), the project’s cumulative effect “is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program,” including regional blueprint plans, sustainable community strategies, climate action plans, and a statewide plan for mitigation for greenhouse gas emissions. Because the AB 32’s implementation plan (the “statewide plan of mitigation for greenhouse gas emissions” in the Preliminary Draft) is considered a greenhouse gas plan for the state, the Preliminary Draft’s language implies that many projects will not have to comply with CEQA.

EDF was a sponsor of AB 32 and continues to be a strong supporter of its implementation. However, we recognize that not all sectors are covered by thorough, mandatory policies under its implementation plan, and some are not covered at all. Allowing projects that are not covered by thorough, mandatory policies to escape a finding of significance for greenhouse gas emissions based on limited mention in the implementation plan will allow many projects to fall through the cracks and their emissions will never be addressed. This regulatory “hole” inadvertently jeopardizes our ability to meet AB 32’s legal requirements. This section also deems projects which comply with blueprints or sustainable community strategies to not have cumulatively considerable impacts. Because blueprints have historically varied in quality and sustainable community strategies already include separate statutory CEQA relief, this language widens the regulatory hole.

The language in the Preliminary Draft should be modified to ensure that CEQA compliance is not moot as a result of AB 32, with special attention to projects that are only partially covered by AB 32. Additionally, the references to Blueprints and sustainable community strategies should

be deleted. These changes should be made throughout the Preliminary Draft where the same concerns apply.

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

Sincerely,

A handwritten signature in black ink that reads "Lauren Navarro". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Lauren Navarro
Attorney
Environmental Defense Fund