

August 27, 2009

VIA Email (CEQA.Rulemaking@resources.ca.gov)

Christopher Calfee, Special Counsel
California Natural Resources Agency
1017 L Street, #2223
Sacramento, CA 95814

Re: Comments from The Nature Conservancy on the Draft CEQA Guideline Amendments for Greenhouse Gas Emissions

Dear Mr. Calfee:

The Nature Conservancy (TNC) appreciates the opportunity to comment on the draft CEQA guidelines amendments for greenhouse gas emissions. TNC strongly supports the State's greenhouse gas emissions reduction target to address climate change, as well as current planning efforts to adapt to its unavoidable impacts. Amending the CEQA guidelines to include consideration of greenhouse gas emissions and the effects of climate change is essential to implement and achieve effectively the State's climate goals. TNC offers the following comments with respect to forests, natural lands and GHG emissions due to conversion.

1) TNC supports the explicit inclusion of forest resources in section II of the Appendix G environmental checklist and requests additional language to include rezoning and subdivision, as recommended by the California Department of Forestry and Fire Protection.

TNC commends the explicit inclusion of forest resources in the Appendix G checklist form so that agencies are provided the guidance to consider the effects of a project, such as forestland conversion, on forest resources. Forests provide multiple environmental and public benefits, including significant climate benefits, by absorbing carbon dioxide from the atmosphere and storing it indefinitely in their biomass. However, when forests are disturbed through events like deforestation and conversion to other uses, much of this stored carbon is released back to the atmosphere, contributing to global warming and other environmental impacts (e.g., water quality, biodiversity, wildlife habitat etc.). Furthermore, there is often the additional climate detriment of losing the ongoing sequestration benefits and climate regulation that the forest area once provided, as forestland conversion to other uses is often permanent.

Thus, the new language in Appendix G provides a greater opportunity for agencies to consider the potential GHG emissions and climate loss that a project may have with respect to forestland

conversion. However, as suggested by the Department of Forestry and Fire Protection (CalFire) at the CEQA public workshop on August 18th, additional language should be added to strengthen this section and recognize rezoning and subdivision as precursors to forestland conversion. TNC therefore strongly recommends inclusion of CalFire's proposed language for Appendix G, II Agriculture and Forest resources as written in their CEQA recommendation letter of August 14, 2009.

2) Section 15064.4 should be amended to include greenhouse gas emissions and foregone sequestration associated with land conversion to other uses and require the estimation or calculation of GHG emissions.

For the reasons stated in part 1 of this letter, TNC recommends that Section 15064.4 of the guidelines be amended to explicitly include language that prompts lead agencies to assess the impacts and significance of GHG emissions and foregone sequestration associated with conversion of forests and natural lands to other uses. The absence of such explicit language could result in lead agencies not giving consideration to these impacts since they have been overlooked historically and many agencies may only think to consider fossil-fuel based GHG emissions, not biological. As identified in the letter submitted by The Pacific Forest Trust on August 27th, the 15064.4 (b) (1) should be modified as follows:

(b)(1) The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting, taking into account greenhouse gas emissions from the loss of carbon stocks and loss of future sequestration capacity.

GHG accounting methodologies exist at both the state and federal levels, and simple look-up tables could be developed, to enable the estimation of biological GHG emissions and lost sequestration associated with the conversion of forestland, as well as other natural lands. To this end, TNC also recommends that the language in this section require the calculation or estimation of GHG emissions over a qualitative analysis, as the State's overall objective is to reduce in absolute terms the amount of GHG emissions in the atmosphere. The Global Warming Solutions Act of 2006 requires that GHG reductions shall be *real, permanent, quantifiable, verifiable and enforceable* (See Health and Safety Code Section 38560.5 (d)(1)). A Qualitative assessment of GHG impacts, and by extension, mitigation under CEQA could have the effect of undermining the state's efforts and desire to accurately measure and reduce greenhouse gas emissions by creating a double standard. In the case of land conversion, there is significant risk that the absence of estimates or actual calculations of GHG impacts would lead to inaccurate and inconsistent assessments and as a result, the inability to effectively mitigate or minimize GHG impacts.

3) Section 15126.4 (c) should be amended to require mitigation measures to be consistent with GHG reduction standards of the Global Warming Solution Act of 2006.1: *real, permanent, quantifiable, verifiable and enforceable*

As mentioned in part 2 of this letter, the State through the Global Warming Solution Act (GWSA) has already established a set of criteria for GHG emissions mitigation, which reflect normative international GHG reduction principles. At this point, case law does not provide adequate precedent for appropriate GHG mitigation approaches under CEQA, as little litigation has occurred with respect to this issue. As a consequence, the most appropriate reference is the state's own policy pursuant to the GWSA which states that GHG reductions shall be *real, permanent, quantifiable, verifiable and enforceable* (See Health and Safety Code Section 38560.5 (d)(1)). To avoid mitigation measures that would be inconsistent or undermine state policy, Section 15126.4 (c) should be amended to include a section which clearly states that GHG mitigation measures shall be consistent with the standards of the GWSA cited above.

4) Off-site mitigation measures for impacts to forest resources should take place within the sector due to the unique and multiple public benefits of forest resources

Section 15126.4 (c) should be amended to specify a preference for off-site mitigation of impacts to forest resources (and other natural lands) to take place within sector. Forests and other natural lands provide significant climate benefits as well as a range of additional public services that would likely not be adequately compensated through mitigation measures in other sectors. These additional public services include, but are not limited to, the protection and enhancement of water quality, recreation, air quality, fish and wildlife habitat and pollination. The uniqueness and breadth of these benefits make it unlikely that off-site GHG mitigation in other sectors for impacts to these resources would be adequate. As a consequence, CEQA guidelines should not only explicitly recognize the need to assess the GHG impacts of forests and other natural lands, but they should also explicitly state a preference for any off-site mitigation to take place within the sector.

5) The Appendix G Checklist should include questions that provide for as assessment of a project's impact on the potential for increased fire risk, as suggested by the California Department of Forestry and Fire Protection.

As suggested by the California Department of Forestry and Fire Protection in their CEQA letter, there is a direct relationship between development and increased fire risk where residences and urban areas intersect with wildlands. A recent study by Dr. Tony Westerling of UC Merced indicates that the effects of global warming will only exacerbate this nexus and fire risk in the future (See *Climate Change, Growth and California Wildfire*, CEC publication #500-2009-046-F). To address this significant issue, we recommend that Section VIII on Hazards be amended to include CalFire's suggested question as follows:



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h) Would the project expose people or structures to a significant risk of loss, injury, or death involving wildland fires due to alterations in fire hazard severity and/or risk through changes in vegetation condition or land use that lessen defensible space, increase fuels, contribute to more frequent ignitions and complicate fire control operation and emergency evacuations where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

We appreciate your consideration of TNC's comments on the draft CEQA Guidelines and would be happy to provide additional clarification and feedback.

Contact: Michelle Passero, MPassero@tnc.org