



February 23, 2012

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CEQA Guidelines Update
c/o Christopher Calfee
Special Counsel, California Natural Resources Agency
1400 Tenth Street
Sacramento, CA 95814

Re: Proposed Additions to the CEQA Guidelines Implementation SB 226

Dear Mr. Calfee:

The California State Association of Counties (CSAC) would like to submit the following comments on the proposed additions to the Guidelines for Implementation of the California Environmental Quality Act (CEQA Guidelines) implementing SB 226 (Chapter 469, Statutes of 2011). We would also like to extend our gratitude to you for meeting with our membership to discuss the purpose of the proposed additions and to get our feedback on how to accomplish the goals in SB 226 within the CEQA Guidelines and ultimately SB 375.

CSAC is an advocate for sustainable communities, compact growth and development, emphasizing infill over greenfield development, the protection and preservation of prime agricultural and open space and resource lands, and state, regional, and local efforts to efficiently and effectively invest in infrastructure. Further, we believe counties have an integral role to play in order for California to meet these mutually shared objectives. California's counties stand ready to work collaboratively with all levels of government to accomplish the greenhouse gas (GHG) reduction goals pursuant to SB 375 (Chapter 728, Statutes of 2008) in the context of these other goals.

It's with these mutual goals in mind that we unfortunately find the new infill streamlining provisions in SB 226, and therefore the corresponding proposed additions to the CEQA Guidelines, lacking with respect to county access. While we understand that the proposed guideline changes are currently bound by statute pursuant to SB 226, we also understand that the Governor's Office of Planning and Research (OPR) was responsible for drafting the language found in SB 226, and specifically defining "urban area" within the bill after OPR outreached to various stakeholder groups. CSAC has, and will continue, to advocate for a statutory change to the definition of "urban area" to allow counties to qualify for the infill streamlining provisions. In the meantime, we cannot pass up an opportunity to register our concerns with the direction the State is taking with respect to incentivizing sustainable growth practices and infill development in California to the exclusion of land use authority granted county boards of supervisors, with the limited exception of specific unincorporated islands. More specifically, we would like to convey the following:

- 1. Using Jurisdictional Boundaries to Determine Eligibility is Arbitrary.** Again, while it is the statute that ultimately dictates who is eligible for CEQA streamlining for infill development pursuant to SB 226, we feel very strongly that using jurisdictional boundaries as a metric to determine eligibility is a missed opportunity towards our mutual goals. Many existing urbanized areas in counties are similar to incorporated cities in size, population, density, etc. Further, some urbanized areas in counties are even more densely populated than incorporated cities. We can cite numerous examples throughout the state where unincorporated areas are more appropriate for such growth than their neighboring cities. Jurisdictional boundaries do not determine whether a project will lead to reduced vehicle miles traveled (VMT), GHGs, and incentivize more orderly and compact growth. Other metrics, such as population within an urbanized area, sufficient infrastructure to support the infill project, development within a defined urban growth area, or the performance standards within the proposed additions, are the true determinant whether a project meets the goals of more compact development such as, providing affordable housing, protection of open space and other resource areas, reduction of VMT and GHGs, etc.
- 2. Sustainable Community Strategies Identify Unincorporated Areas Appropriate for Growth.** Pursuant to SB 375, California's 18 Metropolitan Planning Organizations (MPOs) have already adopted, or are in the process of developing and adopting, a regional Sustainable Communities Strategy (SCS). Within the SCS, each MPO must determine, based on reasonably likely to occur growth patterns based on local general and other land use plans, where development and transportation improvements should occur in order to meet the State's GHG emissions reductions goals. These plans will more than likely identify growth to occur in unincorporated communities. In fact, the Sacramento Area Council of Governments' (SACOG) draft SCS identifies priority growth areas in unincorporated counties within the region. Furthermore, under the draft plan, some infill development projects along the Sacramento region's light rail system will be eligible for SB 226 while others will not. The only difference is that eligible projects are within the city while the exact same type of project will be ineligible at the next light rail stop because it's in Sacramento County. MPOs are determining that they can meet GHG emissions goals while developing in unincorporated areas. Therefore, as long as an infill project within a county unincorporated area has been identified as an area suitable for growth in the SCS, the statute and regulations need not go further in limiting the application of the new infill streamlining provisions. Please note however, that we still believe infill development is appropriate for unincorporated areas outside of MPOs, leading us to the next argument for streamlining CEQA for infill in counties.
- 3. Infill Development is Always Better than Greenfield Development. Always.** It is common knowledge that greenfield development is easier, cheaper, and faster than infill development. This reality is in some part responsible for the sprawling growth patterns in California that have dominated since the 1920s. A main focus of the smart growth and sustainable communities' movement is to incentivize infill development, one of the main goals in SB 226 and the proposed additions to the CEQA Guidelines. However, we believe that limiting the incentives to cities and unincorporated island communities misses the mark. We believe that a policy that only encourages infill in cities is a policy that actually incentivizes greenfield development in counties. What counties don't understand is how even a small infill development project in an existing urbanized

unincorporated area isn't better than a small non-infill development project in a non-urbanized area in a county. CSAC strongly believes that incremental change in each of California's counties and cities will ultimately result in significant outcomes and more compact growth in all types of local communities statewide.

4. **Annexation of Unincorporated Islands Not Likely to Occur.** SB 226 and the proposed additions assume that if infill occurs in unincorporated islands, they will eventually be annexed into a neighboring city. Unfortunately, this assumption ignores the fact that most of these communities have been created by cities choosing to annex more profitable land around the now island areas. Also, the infrastructure is seriously lacking in these areas, making infill development even more difficult in these cases.
5. **State Priorities Promote Compact Development in Existing Urban Areas, Not Just Cities.** The SB 226 statutory limitations and corresponding performance measures as proposed by the additions to the guidelines ignores many existing urbanized areas. Existing urbanized areas are plentiful in California's counties. Until the statute and proposed additions reflect this reality, the State is missing an opportunity to promote infill development over sprawl and will not achieve its own stated growth and development goals.
6. **Market Demands, Changing Demographics.** The millennial generation as well as aging baby boomers are those pushing the housing market and demanding more compact housing in close proximity to job opportunities, transportation options, and goods and services. This trend is even apparent in rural California. By providing compact infill housing projects in unincorporated towns, counties can help meet the market demand.
7. **Conflicting State Mandates.** California law requires every county and city to plan and zone land for their fair share of housing at every income level (Government Code §65580). At the same time, SB 375 requires regional agencies to plan transportation improvements around a land use pattern that focuses on more compact growth and could realistically determine that housing is not appropriate in every jurisdiction and that it should be concentrated in specific jurisdictions within the region for maximum GHG emissions reductions. SB 226 only incentivizes infill development in cities and unincorporated islands further adding to the conflicting nature of state mandates and regulations. Do we want housing in every jurisdiction? Or, do we want housing only where it makes the most sense from an environmental standpoint? And, shouldn't we use tools such as infill streamlining to incentivize counties and cities to meet the State's goals for housing?
8. **Missed Opportunity.** Given the statutory omission of many county urbanized areas within the definition of "urban area" for purposes of determining eligible infill projects, we wonder if OPR has missed an opportunity to craft an addition to Guidelines Section 15183 that would clarify the use of this section. It could be that counties and cities would use the provisions of Section 15183 more readily if it were amended to provide specific examples or to clarify its general applicability to development projects within existing urbanized areas of cities and counties.

Finally, CSAC wants to express that – contrary to the intent of many laws to concentrate growth within cities, the reality is, that for a variety of reasons, unincorporated urban areas and towns exist in many counties throughout California. CSAC feels that the State and its regional and local government partners still have much work ahead of us in order to fully develop and promote the necessary tools for infill development, to curb suburban sprawl, and to meet SB 375’s goals.

We hope to gain support to seek a statutory change and allow all communities the opportunity to support infill where appropriate without compromising greenhouse gas or other environmental goals. Again, thank you for the opportunity to provide feedback on the proposed additions to the CEQA Guidelines. Should you have any questions on our position on these issues, do not hesitate to contact me at (916) 650-8104 or at dbaker@counties.org.

Sincerely,

A handwritten signature in blue ink that reads "DeAnn Baker". The signature is written in a cursive, flowing style.

DeAnn Baker
Senior Legislative Representative

cc: The Honorable Joe Simitian, California State Senate
Randy Pestor, Consultant, Senate Environmental Quality Committee