



November 6, 2019

Board of Directors
Sacramento Area Council of Governments
1415 L Street
Sacramento 95814

Dear Board of Directors

SACOG MTP/SCS DEIR: GHG-RELATED COMMENTS

We appreciate the opportunity to comment on the subject DEIR. Our below comments focus specifically on DEIR Chapter 8.

Sections 8.2 and 8.3, Environmental and Regulatory Setting (DEIR pp. 8-2 ff.)

We'd like to acknowledge the overall high quality of these sections, notwithstanding our particular critiques below. The scope and level of detail of Section 8.3 are particularly noteworthy, especially re explication of SB 375, SB 743, and the Draft Natural and Working Lands Plan and we appreciate the contribution to our understanding

Local And Regional Greenhouse Gas Reduction Plans, Climate Action Plans, And Related Initiatives (DEIR p. 8-15)

SB 375 and the SCS support GHG reductions to be delivered primarily through local agency plans and actions. It's therefore important that the DEIR characterizes such local plans accurately and clearly to adequately inform public and official understanding. We suggest that the DEIR presents an unrealistically sanguine picture of current local plans and initiatives, and offer the following observations and suggestions.

Plans' Regulatory Status is Not Characterized

Per the DEIR,

Many of SACOG's member jurisdictions and partner agencies have climate action plans (CAPs), GHG reduction plans, and/or sustainability plans that set goals and targets on the reduction of GHG emissions, and outline policies to help achieve those goals.... At the time of writing ... cities ... as well as ... counties ... have adopted CAPs. (p. 8-15),

This section's title and the above sentences conflate three commonly encountered plan titles, obfuscating their critical differences. Only a "qualified", CEQA-compliant, greenhouse gas reduction plan (GHGRP) has regulatory definition and status, and is required to include enforceable GHG reduction measures. Other terms such as

“CAP” and “sustainability plan” are undefined, may be applied to any document (including a qualified GHGRP), and are therefore meaningless in terms of meaningfully assessing regional support of GHG reduction goals. The DEIR should describe the relevant regulatory context, and should note that at least some of the referenced plans are not “qualified” (e.g., Sacramento and Placer County’s plans). We offer a possibly useful description of the role of Climate Action Plans ([Attachment 1](#))

The significance of Policies versus Measures is not Distinguished

The DEIR states,

Policies observed among CAPs ... Transportation policies ... CAPs frame policies ... jurisdictions are committed to establishing policies

We likewise have observed many climate-related policies in local CAPs and general plans; but notice also a much scarcer inventory of enforceable measures and implementation actions, particularly regarding the broad planning strategies presented in the SCS. Without further context, the DEIR’s citation of such policies is misleading. The DEIR should recognize that most such policies await implementation.

Level of Demonstrated Commitment.

We also question the extent to which,

... jurisdictions are committed to establishing policies that will provide energy efficiency for both residential and commercial land uses.

First, the term “jurisdictions” is so indefinite in regional scope (two?... all?) as to be almost meaningless. Second, the assertion raises the question, given such commitment why haven’t such policies been established (let alone implemented)? Finally, we are unaware of any such local policies more progressive than the requirements of the Title 24, 2019 CalGreen codes effective January 2020. If there are such actionable, practically significant policies we request they be identified as examples of effective local action. Otherwise, absent other substantial supporting evidence, the statement should be modified to reflect the uncertain level of commitment evident for most jurisdiction in the planning area.

Enforceability of 2050 State Goal

The DEIR states,

given that the 2050 target ... has not yet been codified in legislation ... the 2017 Scoping Plan does not provide a framework to achieve emissions targets beyond 2030 (DEIR p. 8-24).

The DEIR should reconcile this statement with legal and judicial guidance that “community-wide targets should align with ... long-term (2050) GHG emissions limits set forth in ... the Executive Order [S-3-05]” (California Attorney General’s Office, March 06, 2009. “Climate Change, the California Environmental Quality Act, and General Plan Updates: Straightforward Answers to Some Frequently Asked Questions”); cited in *Center for Biological Diversity v. California Dept. of Fish and Wildlife* (2015) 62 Cal.4th 204, 229–230).

Likelihood of GHG Mitigation

The DEIR states,

Future development would also be required to undergo environmental review... It is likely that in cases where climate change impacts are identified, appropriate and feasible mitigation would be applied to reduce GHG emissions (DEIR p. 8-24)

This appears to be a speculative statement unsupported by substantial evidence, and we suggest there is substantial evidence to the contrary (see ECOS/et al, GHG comment letters re Elk Grove, Placer County, Galt, Sacramento County CAPs).

Mitigation Measure Measure GHG-2: Coordinate ... to reduce regional GHGs...

The DEIR states:

SACOG ... shall work with the counties and cities ...to adopt qualified GHG reduction plans (e.g., CAPs), develop ... policies, and implement ... initiatives ... including ZNE ... retrofits of existing buildings, incentivizing ... renewable energy ... and other measures.

We offer the following observations:

- As noted above, “qualified” GHGRPs are regulatory-defined documents; “CAPs” are not. To identify the latter as an example or subset of the former is an ‘apples and oranges’ misnomer.
- The DEIR does not here identify how SACOG might “work with” “local agencies (e.g., by referencing the programs listed under “Impact GHG-2”).
- The DEIR does not indicate how SACOG proposed support for building envelope efficiency and renewable energy would support SB 375, CARB, and the SCS’s focus on integrated land use, housing, and transportation; light-vehicle VMT reduction; and future development with a mix of housing located close to jobs and transit. Regarding the development of policies, we note above the uncertain value of the existing policies that, “*Many of SACOG’s member jurisdictions...*” have already adopted.

Mitigation Measure GHG-3: Implement ... mitigation measures to reduce GHG emissions ...

Re, construction worker commuting’

Project proponents shall ...incentivize ... construction workers to carpool ... or use ...transit

Please provide any available examples or cites for this measure.

Editorial Comments

p. 8-9 Re, “*SB 375 ... demonstrates how the region will meet its GHG per capita*” (“). Replace “will” with “can”, since the DEIR repeatedly acknowledges that the SCS is not enforceable.

p. 8-11 Please provide a citation for, “The second document, published by CARB in

January 2019”.

p. 8-14 “The measures included in the Draft Plan... reductions of -36.6 to -11.7MMTCO₂e....”. The negative values seem anomalous.

p. 8-15 The sentence, “At the time of this writing ... West Sacramento ...West Sacramento ...have adopted...”, lists West Sacramento twice.

p. 8-15 The City of Roseville also has “Communitywide Sustainability Action Plan”

p. 8-19 Table 8-2. Electricity...Consumption.... The gasoline value for 2035 seems anomalous.

p. 8-21 Table 8.3, Proposed Reduction Targets. This table presents daily per capita GHG targets. Such targets are usually expressed on an annual basis. To facilitate ready comparison with State and local targets, please provide annual targets instead of or in addition to the daily values.

Thank you very much for your GHG-reduction efforts.

Sincerely,



Laurie Litman, President
350 Sacramento



Ralph Propper, President
Environmental Council of Sacramento

The Role of Climate Action Plans (CAPs)

California has determined that climate change is a serious and immediate threat. Climate-forcing GHG emissions are one type of impact that lead agencies must consider under the California Environmental Quality Act (CEQA). An agency may do so either on a project-specific basis, or at a programmatic level via a “Climate Action Plan” (CAP).¹ CAPs themselves also require CEQA review.² If there is substantial evidence (i.e., a “fair argument”) that approving a project or plan such as a CAP may have a significant impact, an Environmental Impact Report is prepared.³

Correctly done, CAPs can provide more comprehensive and detailed GHG-reduction than is practical on a project-specific basis; can ensure analysis of cumulative impacts; and allow consideration of broad policy and program-wide alternatives and mitigation not feasible during project-level review.⁴ CAPs can also provide co-benefits such as better air quality and health outcomes, habitat protection, more livable communities, and economic savings through energy and mobility efficiencies.

CAP “Streamlining” Function. If a jurisdiction adopts a CAP compliant with CEQA, future projects consistent with the CAP's provisions may tier their GHG analysis from the CAP's environmental document and are relieved of further GHG mitigation. This “streamlining” is efficient for lead agencies and project proponents. However, a weak CAP can be more troublesome than none, because inadequate measures may be (incorrectly) asserted as sufficient mitigation for future projects. A fully CEQA-compliant CAP from which future GHG analysis may be legitimately tiered is commonly referred to as being “qualified”.

CEQA's Enforceability Requirements. A fundamental prerequisite of CEQA mitigation is that it be certain, i.e., “*fully enforceable through permit conditions, agreements, or other legally binding instruments.*”⁵ Enforceable and otherwise credible GHG-reduction mitigation is incumbent on lead agencies and project proponents, whether CEQA-compliance is tiered or project-specific, and lead agencies are prohibited from approving projects if feasible mitigation measures would reduce impacts.⁶ If CAP measures are not fully enforceable, they must be made so at the project level, and if there is substantial evidence that the measures would be inadequate, GHG impacts must be analyzed in the project EIR.⁷ A CAP proposing non-enforceable or ineffective measures thus fails its streamlining function. Arguably “non-qualified” CAPs create process uncertainty, ill-serving the lead agency, project proponents, and the general public.

¹ California Code of Regulations, Title 14 (14 CCR) §15183.5 (b). CEQA regulations use the term “greenhouse gas reduction plans”; “CAP” is the common designation.

² Golden Door et al v. County of San Diego (2018), Cal. Ct. App., 4th.

³ 14 CCR §15064

⁴ 14 CCR §15168(b)

⁵ 14 CCR §15126.4(a)(2)

⁶ 14 CCR §15021(a)(2); §15096(g)(2)

⁷ 14 CCR §15183.5(b)(2)