

STATE OF CALIFORNIA
California Energy Commission

In the Matter of:

Informational Proceeding on Methods for
Satisfaction of California Environmental
Quality Act Requirements Relating to
Greenhouse Gas Emission Impacts of
Power Plants

Docket No. 08-GHG OII-1

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**ADDITIONAL COMMENTS OF THE
CALIFORNIA UNIONS FOR RELIABLE ENERGY**

December 12, 2008

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I. Introduction

CURE appreciates this opportunity to submit additional comments on the Commission's obligations concerning greenhouse gas emissions under the California Environmental Quality Act (CEQA). CURE is a coalition of unions whose express purpose is to help solve the State's energy problems by building, maintaining and operating conventional and renewable energy power plants. Since its founding in 1997, CURE has been an active participant in a number of siting cases at the Commission.

II. Overview of Initial Comment

In our original comments, CURE provided the Commission with the legal framework for evaluating greenhouse gas (GHG) emissions from power plant siting on a project-specific basis; as is required by CEQA. CEQA compliments AB 32 because it provides additional opportunities to reduce GHG emissions in a tailored

project-specific way that is not available through the implementation of AB 32 alone. The analysis of global warming impacts should be integrated in the Commission's siting process.

The Commission's analysis of GHG should follow the standard CEQA analysis it employs to study other environmental impacts. The Commission must determine whether GHG may be generated by a proposed project and, if so, quantify or estimate the GHG emissions by type and source including transportation and construction emissions. Then the Commission must assess whether those emissions are cumulatively significant. When assessing whether a project's effects on climate change are "cumulatively considerable" the Commission must view the project in connection with the effects of past, current, and probable future projects. Most power plant applications that will come before the Commission will require mitigation. Finally, if the lead agency determines that the GHG emissions from the project as proposed are potentially significant, it must evaluate and implement ways to avoid, reduce, or otherwise mitigate the impacts of those emissions.

III. Mitigation Principles

The good news is that there are a myriad of ways to mitigate GHG emissions. CEQA Guidelines define mitigation as either: (a) avoiding the impact altogether by not taking a certain action or parts of an action, (b) minimizing impacts by limiting the degree or magnitude of the action and its implementation, (c) rectifying the impact by repairing, rehabilitating, or restoring the impacted environment, (d)

reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action, or (e) compensating for the impact by replacing or providing substitute resources or environments.¹

It is especially important that mitigation occur in the region where the plant would operate. Although the effects of climate change are indisputably global, they are also indisputably local, and there are a lot of compelling reasons why mitigation should remain local, as is generally required for other environmental impacts.

First, California is already acutely feeling the impact of climate change in many ways such as reduced Sierra snowpack, droughts, and fishery declines. This temperate climate that is so perfect for cultivating food for the country and world is also highly vulnerable to climate change. California needs investment to cope with the potential for incalculable losses.

Second, it is easier to verify, monitor and enforce mitigation when it is local. In fact, CEQA Guidelines require that mitigation be enforceable. “Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments.”² It is very difficult to enforce mitigation that is done outside the area, state or even on a different continent.

Third, local mitigation can result in other pollution reductions in the air basin where the project will be located to maximize co-benefits and promote better relationships with plant neighbors. Efforts as simple as planting trees and

¹ 14 California Code of Regulations § 15370.

² 14 California Code of Regulations § 15126.4.

establishing greenbelts can provide significant improvements to a community while simultaneously mitigating GHG emissions.

Although some are sure to argue that much of the proposed GHG mitigation will be cost-prohibitive, cost increases alone cannot preclude the requirement to impose feasible mitigation under CEQA. Economic considerations are a legitimate part of the CEQA process, but mitigation that increases the cost of a project can still be imposed. CEQA requires lead agencies to impose *feasible* mitigation. Feasible does not mean free. Feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.³ The fact that mitigation may be more expensive or make a project less profitable is not sufficient to show that the mitigation is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project.⁴ This decision should be made on a project-specific basis. The Commission should not hesitate to include a whole host of mitigation options in its toolbox when evaluating how to mitigate GHG under CEQA.

IV. Practical Mitigation Opportunities Available to the Commission

During the proceeding on November 19, 2008, Commissioners Douglas and Byron solicited written input from stakeholders on the question of what the Commission can do to mitigate project-specific GHG impacts. The Commission

³ CEQA Guideline 15364.

⁴ *Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167.

sought practical approaches to mitigate GHG and noted that there were a number of projects currently pending badly in need of analysis and potentially mitigation. CURE submits that there are many possibilities available to the Commission right now for deep and meaningful mitigation. These mitigations measures would be included as Conditions of Certification in the permitting process.

1. **Energy Efficiency Building Retrofits:** Applicants would arrange to retrofit buildings in the communities where the plants will operate. These upgrades could include installation of a heat-reflecting “cool roof” and heat-reducing window awnings, high-efficiency air conditioning systems with programmable thermostats, and energy-saving fluorescent lighting fixtures that feature daylight and occupancy sensors. Project applicants would supply documentation to the Commission once the mitigation is complete.
2. **Microturbines:** Applicants that would ordinarily include highly inefficient duct burners to boost the power generated by their project could be required to install microturbines instead.
3. **Water Conservation Measures:** The Commission released a report in 2005⁵ that described the energy-power relationship in California. That report concluded that water-related energy use consumes 19 percent of the state’s electricity, 30 percent of its natural gas, and 88 billion gallons of diesel fuel every year as of 2005, and the numbers were growing. Applicants or the

⁵ California's Water – Energy Relationship Prepared in Support of the 2005 Integrated Energy Policy Report (04-IEPR-01E) FINAL STAFF REPORT NOVEMBER 2005 CEC-700-2005-011-SF.

Commission could propose innovative water conservation programs that would mitigate a project's GHG emissions.

4. **Public Transportation:** Applicants could provide buses, bus-pads, park and ride lots, fees toward establishing rapid transportation corridors and infrastructure or networking opportunities through regional computer applications. Applicants should also provide incentives for employee carpooling in each project.
5. **Greening the community:** Applicants could plant trees and other greenery in the community where the plant is located so enabling the project to be a good neighbor as well as a zero-net emitter of GHG.
6. **Installing cool roofs:** Applicants could install cool roofs and cool pavements in the communities nearby the plant. This would alter the surface energy balance, resulting in a lower ambient temperature which, in turn, would further reduce the air-conditioning energy use.
7. **Funding Sustainable Building Grants:** California Integrated Waste Management Board funds Green Building programs through Sustainable Building Grants. Applicants could provide funding for these grants that would be overseen by this Board.
8. **Greening Local Farm Operations:** Applicants could install anaerobic manure biodigesters to recover methane from animal manure. Methane is over 20 times more effective in trapping heat in the atmosphere than carbon dioxide. For applicants seeking to site powerplants in air basins that are

already overburdened with animal operating facilities, this could be a win-win situation for the air basin, for the neighbors and for the plant applicant that needs to find mitigation of GHG emissions for plant approval.

V. Conclusion

These ideas are really just the starting point. We are barely scratching the surface of the mitigation options that are available. The Commission should develop a set of ideas and applicants should also propose options that make the most sense in the location where the plant would be located.

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Respectfully submitted,

/s/

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