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**April 10, 2017**

Mary D. Nichols, Chair  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

**Re: 2017 Climate Change Scoping Plan Update  
*Climate Action Campaign Comments***

Dear Chair Nichols and Board Members:

Please accept the following comments on behalf of our client Climate Action Campaign ("CAC"), on the California Air Resources Board ("CARB")'s 2017 Climate Change Scoping Plan Update ("Scoping Plan Update"). CAC's aim is to make climate action a number one priority for policymakers everywhere until its mission of stopping climate change is achieved.

CAC has been actively engaged in the development and passage of Climate Action Plans throughout the San Diego region. CAC is thus uniquely situated to provide meaningful input regarding the significance of the Scoping Plan Update on local climate planning efforts. Though the Update references local planning and measures in numerous areas – most significantly in the SB 375 context – its local guidance stands to frustrate both local and statewide greenhouse gas ("GHG") reduction measures.

Specifically, the Scoping Plan Update's departure from a local percentage reduction goal is neither sufficiently explained in the document, nor supported by scientific or policy considerations. In the prior iteration of the Scoping Plan, CARB encouraged "local governments to adopt a reduction goal for municipal operations emissions and move toward establishing similar goals for community emissions that parallel the State commitment to reduce greenhouse gas emissions by approximately 15 percent from current levels by 2020." (2008 Scoping Plan, p. 27). This approach not only ensured local governments' actions tracked those at the state level, but also provided local governments with flexibility in their approach to climate action planning.

Now, in an apparent attempt to address the California Supreme Court's recent decision, *Center for Biological Diversity v. California Dept. of Fish and Wildlife* (2015) 62 Cal.4th 204, the Scoping Plan Update not only impedes the State's efforts to reduce GHG emissions to meet statewide goals, but also sets local agencies up for failure. (See, Scoping Plan Update, pp. 134-135). As local jurisdictions review individual projects in the California Environmental Quality Act ("CEQA") context, they – or project proponents – are likely to adopt the per capita goals wholesale. This approach would be inconsistent with the California Supreme Court's recognition that new projects will likely need to make greater GHG reductions than existing development. The Court specifically noted that "a greater degree of reduction may be needed from new land use projects than from the economy as a whole" and that designing "new buildings and infrastructure for maximum energy efficiency and renewable energy use is likely to be easier, and is more likely to occur, than achieving the same savings by retrofitting of older structures and systems." (*Center for Biological Diversity v. California Dept. of Fish and Wildlife* (2015) 62 Cal.4th 204, 226). "Indeed, it seems that new development must be more GHG-efficient than this average, given that past and

current sources of emissions, which are substantially less efficient than this average, will continue to exist and emit.” (*Id.*). Thus, application of the per capita metrics on an individual project level during CEQA review would be directly at odds with *Center for Biological Diversity*.

Further, the Update’s 2050 “per capita” goals are based, in part, on consistency with the Under 2 MOU. (Scoping Plan Update, pp. 133-134). The Under 2 MOU requires signatory parties to pursue reductions of 80 to 95 percent below 1990 levels and/or achieving annual per capita emission goals of less than 2 metric tons by 2050 on a *global level*. (Under 2 MOU, Section II.A). As the Update acknowledges, 170 diverse jurisdictions are signatories to the Under 2 MOU – from nations to cities. (Scoping Plan Update, p. ES3). Though compliance with the Under 2 MOU is a laudable goal, the purpose of the Scoping Plan Update is to meet the State’s 2030 and 2050 targets. In this regard, the Update fails.

Specifically, the Update does not substantiate application of the global per capita goal at the local level as consistent with the State’s 2050 target of 80 percent below 1990 levels. The 2 metric tons per capita local goal – as well as the interim 6 metric tons per capita goal – are purportedly based on one simple calculation: the statewide emission targets for 2030 and 2050, divided by the 2030 and 2050 population projections (respectively) from the California Department of Finance. (See, Scoping Plan Update, p. 133, footnote 198). However, the per capita goals have been rounded up, meaning local jurisdictions relying on these local goals to develop city or county-wide local plans or policies would significantly *underperform* compared to statewide goals.<sup>1</sup>

To ensure consistency with statewide targets, the local targets should likewise be expressed as mass emission reductions. Conspicuously, the Scoping Plan Update did not extrapolate statewide mass emission targets to statewide per capita goals – presumably because it unnecessarily introduces an added layer of uncertainty into GHG modelling and projections.

In contrast, by using statewide population projections to establish uniform per capita goals for local jurisdictions, the Scoping Plan Update introduces an additional, unnecessary variable into local jurisdictional planning. For example, the California Department of Finance population projections for San Diego County differ from the regional transportation planning agency’s (SANDAG)<sup>2</sup> latest projections. SANDAG’s population projections (not the Department of Finance) were used to develop the SB 375 Sustainable Communities Strategy and Regional Transportation Plan.<sup>3</sup> Multiplied across the state, these discrepancies have the potential to seriously undermine the State’s progress in achieving GHG reductions.

In fact, emission target and population projection inconsistencies have already frustrated CARB’s GHG reduction efforts at the local level. Relying on SB 375 per capita emission reduction targets, SANDAG developed a Regional Transportation Plan which includes the Sustainable Communities Strategy (“SCS”). The SCS lays out how the region will meet GHG reduction targets set by CARB. SANDAG’s Regional Transportation Plan (incorporating the SCS) was accepted by CARB, which found the SCS would achieve the GHG emission reduction targets it had established for 2020 and 2035.<sup>4</sup> Nonetheless, SANDAG’s CEQA analysis for the Plan revealed the “Plan’s 2035 GHG emissions would be **inconsistent** with the state’s ability to achieve the Executive Orders’

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<sup>1</sup> Even a 1/10<sup>th</sup> rounding discrepancy, multiplied by a population of 44 million and 49 million (in 2030 and 2050 respectively) results in millions of additional metric tons of GHGs emitted annually.

<sup>2</sup> SANDAG is the region’s Metropolitan Planning Organization under SB 375.

<sup>3</sup> (Compare [http://www.sdforward.com/pdfs/RP\\_final/AppendixA\\_B\\_C.pdf](http://www.sdforward.com/pdfs/RP_final/AppendixA_B_C.pdf) (Appendix B) and [http://www.dof.ca.gov/Forecasting/Demographics/Projections/documents/P1\\_County\\_1yr.xlsx](http://www.dof.ca.gov/Forecasting/Demographics/Projections/documents/P1_County_1yr.xlsx)).

<sup>4</sup> [https://www.arb.ca.gov/cc/sb375/sandag\\_eo\\_15\\_075.pdf](https://www.arb.ca.gov/cc/sb375/sandag_eo_15_075.pdf)

GHG reduction goals” in 2035 and 2050.<sup>5</sup> (EIR, pp. 4.8-33-36, emphasis added). SANDAG’s reliance on per capita emission reduction targets, as well as the inherent speculation associated with population projection 18 to 33 years out, resulted in a Regional Transportation Plan that will frustrate the State’s GHG emission reduction goals. The same fate may befall all other local jurisdictions relying on a statewide per capita reduction target.

In that regard, the Scoping Plan Update acknowledges the significant role local jurisdictions will need to play to help achieve statewide reduction targets. Local land use and public transit decisions, partly through implementation of more stringent SB 375 goals, are integral to achieving transportation-related GHG reductions. (Scoping Plan Update, pp. 27, 31, 101-102). A one-size-fits-all per capita statewide goal will only serve to frustrate local action to achieve alternate reduction targets in specific sectors – including transportation.

Lastly, because the goals are based on “all emissions sectors in the State” and local jurisdictions routinely fail to take all sectors into account in developing climate action plans and regulating local GHG emissions, the per capita targets will lead to further underperformance at the local level.<sup>6</sup> (Scoping Plan Update, p. 133 [“This is a statewide goal based on all emissions sectors in the State, and local jurisdictions may choose to derive region-specific evidenced based on per capita or per service population GHG emissions goals tied to these statewide goals.”]).

CAC therefore urges CARB to replace the per capita reduction targets with goals commensurate with statewide targets, leaving the GHG emission modelling, inventory and development of specific jurisdictional reduction targets to the local municipalities.

Thank you in advance for your consideration of our comments.

Sincerely,

**COAST LAW GROUP LLP**



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