(California Climate Change Center 2006), that while not adequate for a CEQA project-specific or cumulative analysis, is generally instructive about the statewide impacts of global warming.

The Climate Scenarios report uses a range of emissions scenarios developed by the Intergovernmental Panel on Climate Change (IPCC) to project a series of potential warming ranges (i.e., temperature increases) that may occur in California during the 21st century: lower warming range (3.0-5.5°F); medium warming range (5.5-8.0°F); and higher warming range (8.0-10.5°F). The Climate Scenarios report then presents an analysis of future climate in California under each warming range, that while uncertain, present a picture of the impacts of global climate change trends in California.

In addition, most recently on August 5, 2009, the State's Natural Resources Agency released a public review draft of its "California Climate Adaptation Strategy" report that details many vulnerabilities arising from climate change with respect to matters such as temperature extremes, sea level rise, wildfires, floods and droughts and precipitation changes. This report responds to the Governor's Executive Order S-13-2008 that called on state agencies to develop California's strategy to identify and prepare for expected climate impacts

According to the reports, substantial temperature increases arising from increased GHG emissions potentially could result in a variety of impacts to the people, economy, and environment of California associated with a projected increase in extreme conditions, with the severity of the impacts depending upon actual future emissions of GHGs and associated warming.

It should be noted, however, that the Second District Court of Appeal recently held that the environment's effects on a proposed project do not have to be analyzed under CEQA in *Ballona Wetlands Land Trust et al. v. City of Los Angeles* (2011) 201 Cal.App.4th 455 (*Ballona Wetlands*). Specifically, the *Ballona Wetlands* court evaluated the issue of whether CEQA required an analysis of the environmental impact of sea level rise on a proposed mixed-use development project. The court held: "[w]e believe that identifying the environmental effects of attracting development and people to an area is consistent with CEQA's legislative purpose and statutory requirements, but identifying the effects on the project and its users of locating the

project in a particular environmental setting is neither consistent with CEQA's legislative purpose nor required by the CEQA statutes." The court also cited three decisions in support of its holding that the purpose of an EIR is to identify the significant effects of a project on the environment and not the significant effects of the environment on a project. The Supreme Court court's denial of the petition for review leaves the opinion intact as controlling appellate law on all superior courts throughout the state.

Under the emissions scenarios of the Climate Scenarios report, the impacts of global warming in California have the potential to include, but are not limited to, the following areas:

Air Quality/General Thermal Effects

According to Cal EPA, higher temperatures may increase the frequency, duration, and intensity of conditions conducive to air pollution formation. For example, days with weather conducive to ozone formation could increase from 25 to 35 percent under the lower warming range to 75 to 85 percent under the medium warming range. In addition, if global background ozone levels increase as predicted in some scenarios, it may become difficult to meet local air quality standards. Air quality could be further compromised by increases in wildfires, which emit fine particulate matter that can travel long distances, depending on wind conditions. The Climate Scenarios report indicates that large wildfires could become more frequent if GHG emissions are not significantly reduced.

In addition, under the higher warming range scenario, there could be up to 100 more days per year with temperatures above 90°F in Los Angeles and 95°F in Sacramento by 2100. This is a large increase over historical patterns and approximately twice the increase projected if temperatures remain within or below the lower warming range. Rising temperatures could increase the risk of death from dehydration, heat stroke/exhaustion, heart attack, stroke, and respiratory distress caused by extreme heat.

Water Resources

A vast network of man-made reservoirs and aqueducts captures and transports water throughout the state from northern California rivers and the Colorado River. The current distribution system relies on Sierra Nevada snowpack to supply water during the dry spring and summer months.

Rising temperatures, potentially compounded by decreases in precipitation, could severely reduce spring snowpack, increasing the risk of summer water shortages.

If temperatures continue to increase, more precipitation could fall as rain instead of snow, and the snow that does fall could melt earlier, reducing the Sierra Nevada spring snowpack by as much as 70 to 90 percent. Under the lower warming range scenario, snowpack losses could be only half as large as those possible if temperatures were to rise to the higher warming range. How much snowpack could be lost depends in part on future precipitation patterns, the projections for which remain uncertain. However, even under the wetter climate projections, the loss of snowpack could pose challenges to water managers and hamper hydropower generation. It could also adversely affect winter tourism. Under the lower warming range, the ski season at lower elevations could be reduced by as much as a month. If temperatures reach the higher warming range and precipitation declines, there might be many years with insufficient snow for skiing and snowboarding.

The State's water supplies are also at risk from rising sea levels. An influx of saltwater could degrade California's estuaries, wetlands, and groundwater aquifers. Saltwater intrusion caused by rising sea levels is a major threat to the quality and reliability of water within the southern edge of the Sacramento/San Joaquin River Delta – a major fresh water supply.

Agriculture

Increased temperatures could cause widespread changes to the agriculture industry reducing the quantity and quality of agricultural products statewide. First, California farmers could possibly lose as much as 25 percent of the water supply they need. Although higher CO_2 levels can stimulate plant production and increase plant water-use efficiency, California's farmers could face greater water demand for crops and a less reliable water supply as temperatures rise. Crop growth and development could change, as could the intensity and frequency of pest and disease outbreaks. Rising temperatures could aggravate O_3 pollution, which makes plants more susceptible to disease and pests and interferes with plant growth.

Plant growth tends to be slow at low temperatures, increasing with rising temperatures up to a threshold. However, faster growth can result in less-than-optimal development for many crops, so

rising temperatures could worsen the quantity and quality of yield for a number of California's agricultural products. Products likely to be most affected include wine grapes, fruits and nuts.

In addition, continued global climate change could shift the ranges of existing invasive plants and weeds and alter competition patterns with native plants. Range expansion could occur in many species while range contractions may be less likely in rapidly evolving species with significant populations already established. Should range contractions occur, new or different weed species could fill the emerging gaps. Continued global climate change could alter the abundance and types of many pests, lengthen pests' breeding season, and increase pathogen growth rates.

Forests and Landscapes

Global climate change has the potential to intensify the current threat to forests and landscapes by increasing the risk of wildfire and altering the distribution and character of natural vegetation. If temperatures rise into the medium warming range, the risk of large wildfires in California could increase by as much as 55 percent, which is almost twice the increase expected if temperatures stay in the lower warming range. However, since wildfire risk is determined by a combination of factors, including precipitation, winds, temperature, and landscape and vegetation conditions, future risks will not be uniform throughout the state. In contrast, wildfires in northern California could increase by up to 90 percent due to decreased precipitation.

Moreover, continued global climate change has the potential to alter natural ecosystems and biological diversity within the state. For example, alpine and subalpine ecosystems could decline by as much as 60 to 80 percent by the end of the century as a result of increasing temperatures. The productivity of the state's forests has the potential to decrease as a result of global climate change.

Rising Sea Levels

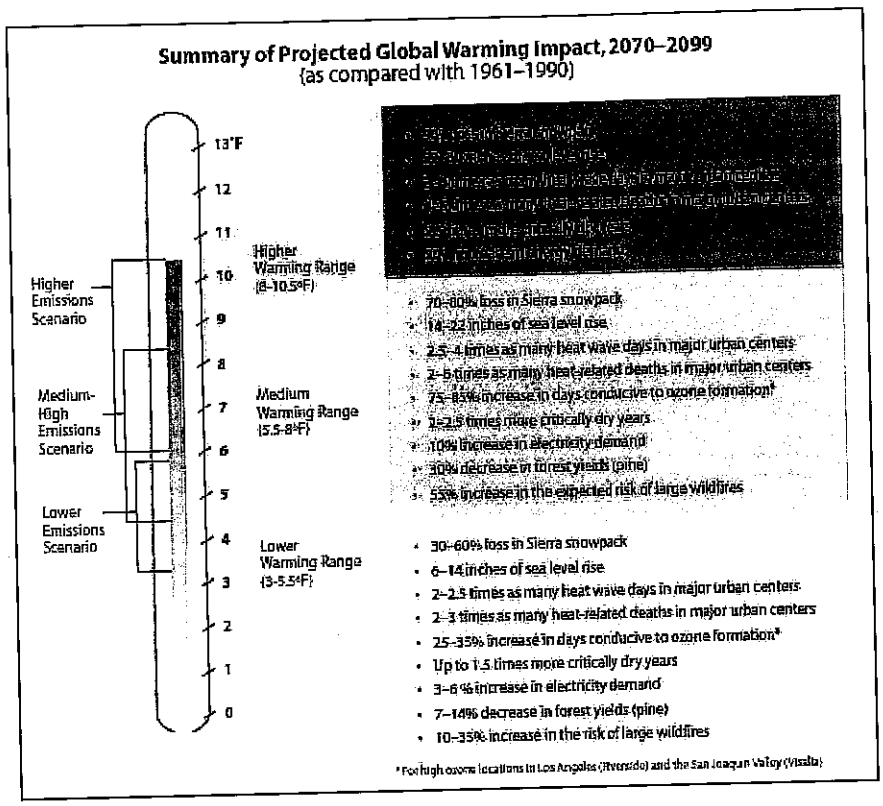
Rising sea levels, more intense coastal storms, and warmer water temperatures could increasingly threaten the state's coastal regions. Under the higher warming range scenario, sea level is anticipated to rise 22 to 35 inches by 2100. Elevations of this magnitude would inundate low-lying coastal areas with salt water, accelerate coastal erosion, threaten vital levees and inland water

systems, and disrupt wetlands and natural habitats. Under the lower warming range scenario, sea level could rise 12-14 inches.

HUMAN HEALTH EFFECTS OF GHG EMISSIONS

The potential health effects related directly to the emissions of carbon dioxide, methane, and nitrous oxide as they relate to development projects such as the proposed Project are still being debated in the scientific community. Their cumulative effects to global climate change have the potential to cause adverse effects to human health. Increases in Earth's ambient temperatures would result in more intense heat waves, causing more heat-related deaths. Scientists also purport that higher ambient temperatures would increase disease survival rates and result in more widespread disease. Climate change will likely cause shifts in weather patterns, potentially resulting in devastating droughts and food shortages in some areas (American Lung Association, 2004). Figure 1 presents the potential impacts of global warming.

Figure 1



Source: California Energy Commission, 2006. Our Changing Climate, Assessing the Risks to California, 2006 Biennial Report.

Specific health effects associated with directly emitted GHG emissions are as follows:

Water Vapor: There are no known direct health effects related to water vapor at this time. It should be noted however that when some pollutants react with water vapor, the reaction forms a transport mechanism for some of these pollutants to enter the human body through water vapor.

Carbon Dioxide: According to the National Institute for Occupational Safety and Health (NIOSH) high concentrations of carbon dioxide can result in health effects such as: headaches, dizziness, restlessness, difficulty breathing, sweating, increased heart rate, increased cardiac output, increased blood pressure, coma, asphyxia, and/or convulsions. It should be noted that current concentrations of carbon dioxide in the earth's atmosphere are estimated to be approximately 370 parts per million (ppm), the actual reference exposure level (level at which adverse health effects

typically occur) is at exposure levels of 5,000 ppm averaged over 10 hours in a 40-hour workweek and short-term reference exposure levels of 30,000 ppm averaged over a 15 minute period (NIOSH 2005).

Methane: Methane is extremely reactive with oxidizers, halogens, and other halogen-containing compounds. Methane is also an asphyxiant and may displace oxygen in an enclosed space (OSHA 2003).

Nitrous Oxide: Nitrous Oxide is often referred to as laughing gas; it is a colorless greenhouse gas. The health effects associated with exposure to elevated concentrations of nitrous oxide include dizziness, euphoria, slight hallucinations, and in extreme cases of elevated concentrations nitrous oxide can also cause brain damage (OSHA 1999).

Fluorinated Gases: High concentrations of fluorinated gases can also result in adverse health effects such as asphyxiation, dizziness, headache, cardiovascular disease, cardiac disorders, and in extreme cases, increased mortality (NIOSH 1989, 1997).

Aerosols: The health effects of aerosols are similar to that of other fine particulate matter. Thus aerosols can cause elevated respiratory and cardiovascular diseases as well as increased mortality (NASA 2002).

REGULATORY SETTING

International Regulation and the Kyoto Protocol:
In 1988, the United Nations established the Intergovernmental Panel on Climate Change to evaluate the impacts of global warming and to develop strategies that nations could implement to curtail global climate change. In 1992, the United States joined other countries around the world in signing the United Nations' Framework Convention on Climate Change (UNFCCC) agreement with the goal of controlling greenhouse gas emissions. As a result, the Climate Change Action Plan was developed to address the reduction of GHGs in the United States. The Plan currently consists of more than 50 voluntary programs for member nations to adopt.

The Kyoto protocol is a treaty made under the UNFCCC and was the first international agreement to regulate GHG emissions. Some have estimated that if the commitments outlined in the Kyoto protocol are met, global GHG emissions could be reduced an estimated five percent from 1990 levels during the first commitment period of 2008-2012. Notably, while the United States is a signatory to the Kyoto protocol, Congress has not ratified the Protocol and the United States is not bound by the Protocol's commitments. In December 2009, international leaders from 192 nations met in Copenhagen to address the future of international climate change commitments post-Kyoto.

The major feature of the Kyoto Protocol is that it sets binding targets for 37 industrialized countries and the European community for reducing GHG emissions. The targets amount to an average of five percent reduction levels against 1990 levels over the five-year period 2008-2012. The major distinction between the Protocol and the Convention is that while the Convention encouraged industrialized countries to stabilize GHG emissions, the Protocol commits them to do so. Recognizing that developed countries are principally responsible for the current high levels of GHG emissions in the atmosphere as a result of more than 150 years of industrial activity, the Protocol places a heavier burden on developed nations under the principle of "common but differentiated responsibilities."

Negotiations after Kyoto have continued in an attempt to address the period after the first "commitment period" of the Kyoto Protocol, which is set to conclude at the end of 2012. In Durban, South Africa, in 2011, parties to the protocol agreed in principle to negotiate a new comprehensive and legally binding climate agreement by 2015 to enter into force for all parties from 2020. However, significant divisions remain in determining the parameters of any such new protocol, including its enforcement mechanisms and the degree to which developing economies will begin to be subject to binding emissions targets.

Federal Regulation and the Clean Air Act:

Although the U.S. is not a party to the Kyoto Protocol, in 2002, President George W. Bush set a national policy goal of reducing the GHG emission intensity (tons of GHG emissions per million

dollars of gross domestic product) of the U.S. economy by 18% by 2012.[18] The goal did not establish any binding reduction mandates. Rather, the United States Environmental Protection Agency (USEPA) began to administer a variety of voluntary programs and partnerships with industries that produce and utilize synthetic gases to reduce emissions of particularly potent GHGs.

Coinciding 2009 meeting in Copenhagen, on December 7, 2009, the U.S. Environmental Protection Agency (EPA) issued an Endangerment Finding under Section 202(a) of the Clean Air Act, opening the door to federal regulation of GHGs. The Endangerment Finding notes that GHGs threaten public health and welfare and are subject to regulation under the Clean Air Act. To date, the EPA has not promulgated regulations on GHG emissions, but it has already begun to develop them.

Previously the EPA had not regulated GHGs under the Clean Air Act because it asserted that the Act did not authorize it to issue mandatory regulations to address global climate change and that such regulation would be unwise without an unequivocally established causal link between GHGs and the increase in global surface air temperatures. In *Massachusetts v. Environmental Protection Agency et al.* (127 S. Ct. 1438 (2007), however, the U.S. Supreme Court held that GHGs are pollutants under the Clean Air Act and directed the EPA to decide whether the gases endangered public health or welfare. The EPA had also not moved aggressively to regulate GHGs because it expected Congress to make progress on GHG legislation, primarily from the standpoint of a cap-and-trade system. However, proposals circulated in both the House of Representative and Senate have been controversial and it may be some time before the U.S. Congress adopts major climate change legislation. The EPA's Endangerment Finding paves the way for federal regulation of GHGs with or without Congress.

Although global climate change did not become an international concern until the 1980s, efforts to reduce energy consumption began in California in response to the oil crisis in the 1970s, resulting in the incidental reduction of greenhouse gas emissions. In order to manage the

[18] National Oceanic and Atmospheric Administration. 2002. President Announces Clear Skies & Global Climate Change Initiative [online]. February. Available: http://georgewbushwhitehouse.archives.gov/news/releases/2002/02/20020214-5.html.

state's energy needs and promote energy efficiency, AB 1575 created the California Energy Commission (CEC) in 1975.

Title 24 Energy Standards:

The California Energy Commission (CEC) first adopted Energy Efficiency Standards for Residential and Nonresidential Buildings (California Code of Regulations, Title 24, Part 6) in 1978 in response to a legislative mandate to reduce energy consumption in the state. Although not originally intended to reduce GHG emissions, increased energy efficiency, and reduced consumption of electricity, natural gas, and other fuels would result in fewer GHG emissions from residential and nonresidential buildings subject to the standard. The standards are updated periodically to allow for the consideration and inclusion of new energy efficiency technologies and methods. The latest revisions were adopted in 2008 and became effective on January 1, 2010.

Part 11 of the Title 24 Building Standards Code is referred to as the California Green Building Standards Code (CALGreen Code). The purpose of the CALGreen Code is to "improve public health, safety and general welfare by enhancing the design and construction of buildings through the use of building concepts having a positive environmental impact and encouraging sustainable construction practices in the following categories: (1) Planning and design; (2) Energy efficiency; (3) Water efficiency and conservation; (4) Material conservation and resource efficiency; and (5) Environmental air quality."[19] The CALGreen Code is not intended to substitute or be identified as meeting the certification requirements of any green building program that is not established and adopted by the California Building Standards Commission (CBSC). The CBSC has released the *2010 California Green Building Standards Code* on its Web site.[20] Unless otherwise noted in the regulation, all newly constructed buildings in California are subject of the requirements of the CALGreen Code.

Vehicle Standards

Other regulations have been adopted to address vehicle standards including the USEPA and NHTSA joint rulemaking for vehicle standards:

[19] California Building Standards Commission, 2008 California Green Building Standards Code, (2009).
[20] "CALGreen," http://www.bsc.ca.gov/CALGreen/default.htm. 2010

- On March 30, 2009, the NHTSA issued a final rule for model year 2011.[21]
- On May 7, 2010, the USEPA and the NHTSA issued a final rule regulating fuel efficiency and GHG pollution from motor vehicles for cars and light-duty trucks for model years 2012–2016.[22]
- On August 9, 2011, USEPA and NHTSA issued a Supplemental Notice of Intent announcing plans to propose stringent, coordinated federal greenhouse gas and fuel economy standards for model year 2017-2025 light-duty vehicles.[23]
- NHSTA intends to set standards for model years 2022-2025 in a future rulemaking.[24]
- In addition to the regulations applicable to cars and light-duty trucks, on August 9, 2011, the USEPA and the NHTSA announced fuel economy and GHG standards for medium- and heavy-duty trucks, which applies to vehicles from model year 2014–2018.[25]

Energy Independence and Security Act

On December 19, 2007, the Energy Independence and Security Act of 2007 (EISA) was signed into law.[26] Among other key measures, the Act would do the following, which would aid in the reduction of national GHG emissions, both mobile and non-mobile.

CEQ NEPA Guidelines on GHG

On February 18, 2010, the White House Council on Environmental Quality published draft guidance on the consideration of greenhouse gases and climate change for NEPA analyses.[27] It recommends that proposed federal actions that are reasonably expected to directly emit 25,000 metric tons of CO2e/year should prepare a quantitative and qualitative NEPA analysis of direct and indirect greenhouse gas emissions.

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[21] NHSTA. 2009. *Average Fuel Economy Standards Passenger Cars and Light Trucks Model Year 2011, Final Rule.* 75 Fed. Reg. 25324.
[22] USEPA. 2010. Light Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards, Final Rule. 75 Fed. Reg. 25324.
[23] Available: http://www.gpo.gov/fdsys/pkg/FR-2011-08-09/pdf/2011-19905.pdf. Accessed November 2011.
[24] NHSTA. 2012. *2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards*. 77 Fed. Reg. 62624.
[25] USEPA Office of Transportation and Air Quality. 2011. EPA and NHTSA Adopt First-Ever Program to Reduce Greenhouse Gas Emissions and Improve Fuel Efficiency of Medium-and Heavy-Duty Vehicles. Available: http://www.epa.gov/otaq/climate/documents/420f11031.pdf. Accessed November 2011.
[26] EISA. 2007. Pub.L. 110-140. 110th U.S Congress. Washington D.C. (January 4).
[27] Sutley, Nancy H. (Council on Environmental Quality). Memorandum for Heads of Federal Departments and Agencies: Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions. February 2010. Available: http://www.whitehouse.gov/sites/default/files/microsites/ceq/20100218-nepa-consideration-effects-ghg-draft-guidance.pdf

The draft guidance provides reporting tools and instructions on how to assess the effects of climate change. The draft guidance does not apply to land and resource management actions, nor does it propose to regulate greenhouse gases. Although CEQ has not yet issued final guidance, various NEPA documents are beginning to incorporate the approach recommended in the draft guidance.[28]

Other Applicable Regulations and Policies

In addition to the federal regulations and programs described above, there are still more policies and programs to address climate change. A database compiled by the International Energy Agency lists more than 300 policies and measures addressing climate change in the United States.[29]

The Western Regional Climate Action Initiative (WCI)

The Western Regional Climate Action Initiative (WCI) is a partnership among seven states, including California, and four Canadian provinces to implement a regional, economy-wide cap-and-trade system to reduce global warming pollution. The WCI will cap GHG emissions from the region's electricity, industrial, and transportation sectors with the goal to reduce the heat trapping emissions that cause global warming to 15% below 2005 levels by 2020. When the WCI adopted this goal in 2007, it estimated that this would require 2007 levels to be reduced worldwide between 50% and 85% by 2050. California is working closely with the other states and provinces to design a regional GHG reduction program that includes a cap-and-trade approach. ARB's planned cap and-trade program, discussed below, is also intended to link California and the other member states and provinces.

California Assembly Bill No. 1493 (AB 1493):

AB 1493 requires CARB to develop and adopt the nation's first greenhouse gas emission standards for automobiles. The Legislature declared in AB 1493 that global warming was a matter of increasing concern for public health and environment in California. Further, the legislature stated that technological solutions to reduce greenhouse gas emissions would stimulate the California economy and provide jobs.

[28] See, e.g., National Highway Traffic Safety Administration, Corporate Average Fuel Economy Standards, Passenger Cars and Light Trucks, Model Years 2017–2025, Final Environmental Impact Statement, 5-1, 9-62 (July 2012) available at http://www.nhtsa.gov/staticfiles/rulemaking/pdf/cafe/FINAL_EIS.pdf.

[29] International Energy Agency, Addressing Climate Change: Policies and Measures Database. Available: http://www.iea.org/policiesandmeasures/climatechange/. Accessed October 2012.

To meet the requirements of AB 1493, ARB approved amendments to the California Code of Regulations (CCR) adding GHG emission standards to California's existing motor vehicle emission standards in 2004. Amendments to CCR Title 13 Sections 1900 (CCR 13 1900) and 1961 (CCR 13 1961) and adoption of Section 1961.1 (CCR 13 1961.1) require automobile manufacturers to meet fleet average GHG emission limits for all passenger cars, light-duty trucks within various weight criteria, and medium-duty passenger vehicle weight classes beginning with the 2009 model year. Emission limits are further reduced each model year through 2016.

In December 2004 a group of car dealerships, automobile manufacturers, and trade groups representing automobile manufacturers filed suit against ARB to prevent enforcement of CCR 13 1900 and CCR 13 1961 as amended by AB 1493 and CCR 13 1961.1 (*Central Valley Chrysler-Jeep et al. v. Catherine E. Witherspoon*, in her official capacity as Executive Director of the California Air Resources Board, et al.). The suit, heard in the U.S. District Court for the Eastern District of California, contended that California's implementation of regulations that in effect regulate vehicle fuel economy violates various federal laws, regulations, and policies. In January 2007, the judge hearing the case accepted a request from the State Attorney General's office that the trial be postponed until a decision is reached by the U.S. Supreme Court on a separate case addressing GHGs. In the Supreme Court Case, *Massachusetts vs. EPA*, the primary issue in question is whether the federal CAA provides authority for USEPA to regulate CO_2 emissions. In April 2007, the U.S. Supreme Court ruled in Massachusetts' favor, holding that GHGs are air pollutants under the CAA. On December 11, 2007, the judge in the *Central Valley Chrysler-Jeep* case rejected each plaintiff's arguments and ruled in California's favor. On December 19, 2007, the USEPA denied California's waiver request. California filed a petition with the Ninth Circuit Court of Appeals challenging USEPA's denial on January 2, 2008.

The Obama administration subsequently directed the USEPA to re-examine their decision. On May 19, 2009, challenging parties, automakers, the State of California, and the federal government reached an agreement on a series of actions that would resolve these current and potential future disputes over the standards through model year 2016. In summary, the USEPA and the U.S. Department of Transportation agreed to adopt a federal program to reduce GHGs and improve fuel economy, respectively, from passenger vehicles in order to achieve equivalent

or greater greenhouse gas benefits as the AB 1493 regulations for the 2012–2016 model years. Manufacturers agreed to ultimately drop current and forego similar future legal challenges, including challenging a waiver grant, which occurred on June 30, 2009. The State of California committed to (1) revise its standards to allow manufacturers to demonstrate compliance with the fleet-average GHG emission standard by "pooling" California and specified State vehicle sales; (2) revise its standards for 2012–2016 model year vehicles so that compliance with USEPA-adopted GHG standards would also comply with California's standards; and (3) revise its standards, as necessary, to allow manufacturers to use emissions data from the federal CAFE program to demonstrate compliance with the AB 1493 regulations (CARB 2009, http://www.arb.ca.gov/regact/2009/ghgpv09/ghgpvisor.pdf) both of these programs are aimed at light-duty auto and light-duty trucks.

Executive Order S-3-05:

Executive Order S-3-05, which was signed by Governor Schwarzenegger in 2005, proclaims that California is vulnerable to the impacts of climate change. It declares that increased temperatures could reduce the Sierra's snowpack, further exacerbate California's air quality problems, and potentially cause a rise in sea levels. To combat those concerns, the Executive Order established total greenhouse gas emission targets. Specifically, emissions are to be reduced to the 1990 level by 2020, and to 80% below the 1990 level by 2050. The Executive Order directed the Secretary of the California Environmental Protection Agency (CalEPA) to coordinate a multi-agency effort to reduce greenhouse gas emissions to the target levels. The Secretary also is required to submit biannual reports to the Governor and state Legislature describing: (1) progress made toward reaching the emission targets; (2) impacts of global warming on California's resources; and (3) mitigation and adaptation plans to combat these impacts. To comply with the Executive Order, the Secretary of the CalEPA created a Climate Action Team (CAT) made up of members from various state agencies and commission. CAT released its first report in March 2006. The report proposed to achieve the targets by building on voluntary actions of California businesses, local government and community actions, as well as through state incentive and regulatory programs.

California Assembly Bill 32 (AB 32):

In September 2006, Governor Arnold Schwarzenegger signed AB 32, the California Climate Solutions Act of 2006. AB 32 requires that statewide GHG emissions be reduced to 1990 levels

by the year 2020. This reduction will be accomplished through an enforceable statewide cap on GHG emissions that will be phased in starting in 2012. To effectively implement the cap, AB 32 directs CARB to develop and implement regulations to reduce statewide GHG emissions from stationary sources. AB 32 specifies that regulations adopted in response to AB 1493 should be used to address GHG emissions from vehicles. However, AB 32 also includes language stating that if the AB 1493 regulations cannot be implemented, then CARB should develop new regulations to control vehicle GHG emissions under the authorization of AB 32.

AB 32 requires that CARB adopt a quantified cap on GHG emissions representing 1990 emissions levels and disclose how it arrives at the cap; institute a schedule to meet the emissions cap; and develop tracking, reporting, and enforcement mechanisms to ensure that the state achieves reductions in GHG emissions necessary to meet the cap. AB 32 also includes guidance to institute emissions reductions in an economically efficient manner and conditions to ensure that businesses and consumers are not unfairly affected by the reductions.

In November 2007, CARB completed its estimates of 1990 GHG levels. Net emission 1990 levels were estimated at 427 MMTs (emission sources by sector were: transportation – 35 percent; electricity generation – 26 percent; industrial – 24 percent; residential – 7 percent; agriculture – 5 percent; and commercial – 3 percent)[30]. Accordingly, 427 MMTs of CO_2 equivalent was established as the emissions limit for 2020. For comparison, CARB's estimate for baseline GHG emissions was 473 MMT for 2000 and 532 MMT for 2010. "Business as usual" conditions (without the 30 percent reduction to be implemented by CARB regulations) for 2020 were projected to be 596 MMTs.

In December 2007, CARB approved a regulation for mandatory reporting and verification of GHG emissions for major sources. This regulation covered major stationary sources such as cement plans, oil refineries, electric generating facilities/providers, and co-generation facilities, which comprise 94 percent of the point source CO_2 emissions in the State.

[30] On a national level, the EPA's Endangerment Finding stated that electricity generation is the largest emitting sector (34%), followed by transportation (28%), and industry (19%).

On December 11, 2008, CARB adopted a scoping plan to reduce GHG emissions to 1990 levels. The Scoping Plan's recommendations for reducing GHG emissions to 1990 levels by 2020 include emission reduction measures, including a cap-and-trade program linked to Western Climate Initiative partner jurisdictions, green building strategies, recycling and waste-related measures, as well as Voluntary Early Actions and Reductions. Implementation of individual measures must begin no later than January 1, 2012, so that the emissions reduction target can be fully achieved by 2020.

Table 11 shows the proposed reductions from regulations and programs outlined in the Scoping Plan. While local government operations were not accounted for in achieving the 2020 emissions reduction, local land use changes are estimated to result in a reduction of 5 MMTons of CO2e, which is approximately 3 percent of the 2020 GHG emissions reduction goal. In recognition of the critical role local governments will play in successful implementation of AB 32, CARB is recommending GHG reduction goals of 15 percent of 2006 levels by 2020 to ensure that municipal and community-wide emissions match the state's reduction target. According to the Measure Documentation Supplement to the Scoping Plan, local government actions and targets are anticipated to reduce vehicle miles by approximately 2 percent through land use planning, resulting in a potential GHG reduction of 2 MMTons tons of CO_2e (or approximately 1.2 percent of the GHG reduction target).

California Senate Bill No. 1368 (SB 1368):

In 2006, the State Legislature adopted Senate Bill 1368 ("SB 1368"), which was subsequently signed into law by the Governor. SB 1368 directs the California Public Utilities Commission ("CPUC") to adopt a greenhouse gas emission performance standard ("EPS") for the future power purchases of California utilities. SB 1368 seeks to limit carbon emissions associated with electrical energy consumed in California by forbidding procurement arrangements for energy longer than five years from resources that exceed the emissions of a relatively clean, combined cycle natural gas power plant. Due to the carbon content of its fuel source, a coal-fired plant cannot meet this standard because such plants emit roughly twice as much carbon as natural gas, combined cycle plants. Accordingly, the new law will effectively prevent California's utilities from investing in, otherwise financially supporting, or purchasing power from new coal plants located in or out of the State. Thus, SB 1368 will lead to dramatically lower greenhouse gas

emissions associated with California energy demand, as SB 1368 will effectively prohibit California utilities from purchasing power from out of state producers that cannot satisfy the EPS standard required by SB 1368.

Senate Bill 97 (SB 97):

Pursuant to the direction of SB 97, OPR released preliminary draft CEQA Guideline amendments for greenhouse gas emissions on January 8, 2009, and submitted its final proposed guidelines to the Secretary for Natural Resources on April 13, 2009. The Natural Resources Agency adopted the Guideline amendments and they became effective on March 18, 2010.

Of note, the new guidelines state that a lead agency shall have discretion to determine whether to use a quantitative model or methodology, or in the alternative, rely on a qualitative analysis or performance based standards. CEQA Guideline § 15064.4(a)"A lead agency shall have discretion to determine, in the context of a particular project, whether to: (1) Use a model or methodology to

TABLE 11

SCOPING PLAN GHG REDUCTION MEASURES TOWARD 2020 TARGET

Recommended Reduction Measures	*Reductions Counted toward 2020 Target of 169 MMT CO2e*	*Percentage of Statewide 2020 Target*
[illegible]		
California Light-Duty Vehicle GHG Standards	**31.7**	**19%**
Energy Efficiency	**26.3**	**16%**
Renewable Portfolio Standard (33 percent by 2020)	**21.3**	**13%**
Low Carbon Fuel Standard	**15**	**9%**
Regional Transportation-Related GHG Targets1	**5**	**3%**
Vehicle Efficiency Measures	**4.5**	**3%**
Goods Movement	**3.7**	**2%**
Million Solar Roofs	**2.1**	**1%**
Medium/Heavy Duty Vehicles	**1.4**	**1%**
High Speed Rail	**1.0**	**1%**
Industrial Measures	**0.3**	**0%**
Additional Reduction Necessary to Achieve Cap	**34.4**	**20%**
Total Cap and Trade Program Reductions	**146.7**	**87%**
[illegible]		
High Global Warming Potential Gas Measures	**20.2**	**12%**
Sustainable Forests	**5**	**3%**
Industrial Measures (for sources not covered under cap and trade program)	**1.1**	**1%**
Recycling and Waste (landfill methane capture)	**1**	**1%**
Total Uncapped Sources/Sectors Reductions	**27.3**	**16%**
Total Reductions Counted toward 2020 Target	**174**	**100%**
[illegible]		
State Government Operations	**1.0 to 2.0**	**1%**
Local Government Operations	**To Be Determined2**	**NA**
Green Buildings	**26**	**15%**
Recycling and Waste	**9**	**5%**
Water Sector Measures	**4.8**	**3%**
Methane Capture at Large Dairies	**1**	**1%**
Total Other Recommended Measures – Not Counted toward 2020 Target	**42.8**	**NA**

Source: CARB. 2008, MMTons CO2e: million metric tons of CO2e 1 Reductions represent an estimate of what may be achieved from local land use changes. It is not the SB 375 regional target. 2 According to the Measure Documentation Supplement to the Scoping Plan, local government actions and targets are anticipated to reduce vehicle miles by approximately 2 percent through land use planning, resulting in a potential GHG reduction of 2 million metric tons of CO2e (or approximately 1.2 percent of the GHG reduction target). However, these reductions were not included in the Scoping Plan reductions to achieve the 2020 Target

quantify greenhouse gas emissions resulting from a project, and which model or methodology to use . . .; or (2) Rely on a qualitative analysis or performance based standards."

CEQA emphasizes that the effects of greenhouse gas emissions are cumulative, and should be analyzed in the context of CEQA's requirements for cumulative impacts analysis. (See CEQA Guidelines Section 15130(f)).

Section 15064.4(b) of the CEQA Guidelines provides direction for lead agencies for assessing the significance of impacts of greenhouse gas emissions:

1. The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting;

2. Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project; or

3. The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. Such regulations or requirements must be adopted by the relevant public agency through a public review process and must include specific requirements that reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project.

The CEQA Guideline amendments do not identify a threshold of significance for greenhouse gas emissions, nor do they prescribe assessment methodologies or specific mitigation measures. Instead, they call for a "good-faith effort, based on available information, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project." The amendments encourage lead agencies to consider many factors in performing a CEQA analysis and preserve lead agencies' discretion to make their own determinations based upon substantial evidence. The

amendments also encourage public agencies to make use of programmatic mitigation plans and programs from which to tier when they perform individual project analyses. Specific GHG language incorporated in the Guidelines' suggested Environmental Checklist (Guidelines Appendix G) is as follows:

VII. GREENHOUSE GAS EMISSIONS

Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Executive Order S-01-07:

On January 18, 2007 California Governor Arnold Schwarzenegger, through Executive Order S-01-07, mandated a statewide goal to reduce the carbon intensity of California's transportation fuel by at least ten percent by 2020. The order also requires that a California specific Low Carbon Fuel Standard be established for transportation fuels.

Senate Bills 1078 and 107 and Executive Order S-14-08:

SB 1078 (Chapter 516, Statutes of 2002) requires retail sellers of electricity, including investor-owned utilities and community choice aggregators, to provide at least 20% of their supply from renewable sources by 2017. SB 107 (Chapter 464, Statutes of 2006) changed the target date to 2010. In November 2008 Governor Schwarzenegger signed Executive Order S-14-08, which expands the state's Renewable Energy Standard to 33% renewable power by 2020.

Senate Bill 375:

SB 375, signed in September 2008 (Chapter 728, Statutes of 2008), aligns regional transportation planning efforts, regional GHG reduction targets, and land use and housing allocation. SB 375 requires metropolitan planning organizations (MPOs) to adopt a sustainable communities strategy (SCS) or alternative planning strategy (APS) that will prescribe land use allocation in that MPO's regional transportation plan. ARB, in consultation with MPOs, will

provide each affected region with reduction targets for GHGs emitted by passenger cars and light trucks in the region for the years 2020 and 2035. These reduction targets will be updated every 8 years but can be updated every 4 years if advancements in emissions technologies affect the reduction strategies to achieve the targets. ARB is also charged with reviewing each MPO's SCS or APS for consistency with its assigned targets. If MPOs do not meet the GHG reduction targets, transportation projects will not be eligible for funding programmed after January 1, 2012.

On September 23, 2010, ARB adopted Regional Targets for the reduction of GHG applying to the years 2020 and 2035.[31] For the area under SCAG's jurisdiction—including the project area—ARB adopted Regional Targets for reduction of GHG emissions by 8 percent for 2020 and by 13 percent for 2035. On February 15, 2011, the ARB's Executive Officer approved the final targets.[32]

SCAG's SCS is included in the SCAG 2012-2035 Regional Transportation Plan Sustainable Communities Strategy (RTP/SCS) (SCAG 2012). The document was adopted by SCAG in April 2012. The goals and policies of the RTP/SCS that reduce VMT focus on transportation and land use planning that include building infill projects, locating residents closer to where they work and play and designing communities so there is access to high quality transit service. The RTP/SCS adopts land use patterns at the jurisdictional level.[33]

The RTP/SCS also includes an appendix listing examples of measures that could reduce impacts from planning, development and transportation.[34] It notes, however, that the example measures are "not intended to serve as any kind of checklist to be used on a project-specific

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[31] ARB. 2010. *Notice of Decision: Regional Greenhouse Gas Emissions Reduction Targets for Automobiles and Light Trucks Pursuant to Senate Bill 375.* Sacramento, CA: ARB. http://www.arb.ca.gov/cc/sb375/notice%20of%20decision.pdf

[32] ARB. 2011. *Executive Order No. G-11-024: Relating to Adoption of Regional Greenhouse Gas Emission Reduction Targets for Automobiles and Light Trucks Pursuant to Senate Bill 375.* Sacramento, CA: ARB. (February)

[33] SCAG 2012-2035 Regional Transportation Plan Sustainable Communities Strategy, Table 18, Growth Forecast Appendix.

[34] SCAG, Final PEIR for the 2012-2035 RTP/SCS, Appendix G, available here: http://rtpscs.scag.ca.gov/Documents/peir/2012/final/2012fPEIR_AppendixG_ExampleMeasures.pdf.

basis." Since every project and project setting is different, project specific analysis is needed to identify applicable and feasible mitigation. The GHG example measures include the following:

- **GHG1**: SCAG member cities and the county governments may adopt and implement Climate Actions Plans (CAPS, also known as Plans for the Reduction of Greenhouse Gas Emissions as described in CEQA Guidelines Section 15183.5 Tiering and Streamlining the Analysis of Greenhouse Gas Emissions).
- **GHG2**: Project sponsors may require Best Available Control Technology (BACT) during construction and operation of projects, including:

  a) Solicit bids that include use of energy and fuel efficient fleets;

  b) Solicit preference construction bids that use BACT, particularly those seeking to deploy zero- and/or near zero emission technologies;

  c) Employ use of alternative fueled vehicles;

  d) Use lighting systems that are energy efficient, such as LED technology;

  e) Use CEQA Guidelines Appendix F, Energy Conservation, to create an energy conservation plan;

  f) Streamline permitting process to infill, redevelopment, and energy-efficient projects;

  g) Use an adopted emissions calculator to estimate construction-related emissions;

  h) Use the minimum feasible amount of GHG-emitting construction materials that is feasible;

  i) Use of cement blended with the maximum feasible amount of flash or other materials that reduce GHG emissions from cement production;

  j) Use of lighter-colored pavement where feasible;

  k) Recycle construction debris to maximum extent feasible; and

  l) Plant shade trees in or near construction projects where feasible.
- **GHG3**: Local jurisdictions can and may establish a coordinated, creative public outreach activities, including publicizing the importance of reducing GHG emissions and steps community members may take to reduce their individual impacts.
- **GHG4**: Pedestrian and Bicycle Promotion: Local jurisdictions may work with local community groups and business associations to organize and publicize walking tours and bicycle events, and to encourage pedestrian and bicycle modes of transportation.

- **GHG5**: Waste Reduction: Local jurisdictions can and should may organize workshops on waste reduction activities for the home or business, such as backyard composting, or office paper recycling, and may schedule recycling drop-off events and neighborhood chipping/mulching days.
- **GHG6**: Water Conservation: Local jurisdictions may organize support and/or sponsor workshops on water conservation activities, such as selecting and planting drought tolerant, native plants in landscaping, and installing advanced irrigation systems.
- **GHG7**: Energy Efficiency: Local jurisdictions may organize workshops on steps to increase energy efficiency in the home or business, such as weatherizing the home or building envelope, installing smart lighting systems, and how to conduct a self-audit for energy use and efficiency.
- **GHG8**: Schools Programs: Local jurisdictions may develop and implement a program to present information to school children about climate change and ways to reduce GHG emissions, and may support school-based programs for GHG reduction, such as school based trip reduction and the importance of recycling.

This law also extends the minimum time period for the regional housing needs allocation cycle from 5 years to 8 years for local governments located within an MPO that meets certain requirements. City or county land use policies (including general plans) are not required being consistent with the regional transportation plan (and associated SCS or APS). However, new provisions of CEQA would incentivize (through streamlining and other provisions) qualified projects that are consistent with an approved SCS or APS, categorized as "transit priority projects."

CARB's Preliminary Draft Staff Proposal for Interim Significance Thresholds:

Separate from its Scoping Plan approved in December of 2008, CARB issued a Staff Proposal in October 2008, as its first step toward developing recommended statewide interim thresholds of significance for GHGs that may be adopted by local agencies for their own use. CARB staff's objective in this proposal is to develop a threshold of significance that will result in the vast majority (approximately 90 percent statewide) of GHG emissions from new industrial projects being subject to CEQA's requirement to impose feasible mitigation. The proposal does not attempt to address every type of project that may be subject to CEQA, but instead focuses on common project types that, collectively, are responsible for substantial GHG emissions – specifically, industrial,

residential, and commercial projects. CARB is developing these thresholds in these sectors to advance climate objectives, streamline project review, and encourage consistency and uniformity in the CEQA analysis of GHG emissions throughout the state. These draft thresholds are under revision in response to comments. There is currently no timetable for finalized thresholds at this time.

As currently proposed by CARB, the threshold consists of a quantitative threshold of 7,000 metric tons (MT) of CO_2e per year for operational emissions (excluding transportation), and performance standards for construction and transportation emissions. These performance standards have not yet been adopted.

However, CARB's proposal is not yet final, and thus is not applied to the Project. Further, CARB's proposal sets forth draft thresholds for industrial projects that have high operational stationary GHG emissions, such as manufacturing plants, or uses that utilize combustion engines. The Project does not propose or requires these types of uses, and therefore, if the CARB threshold were applied to the Project, such an application could be either misleading, or irrelevant. This Project's GHG emissions are mostly from mobile sources, and as such, the CARB proposal is not germane to the Project.[35]

South Coast Air Quality Management District Recommendations for Significance Thresholds:
In April 2008, the South Coast Air Quality Management District (SCAQMD), in order to provide guidance to local lead agencies on determining the significance of GHG emissions identified in CEQA documents, convened a "GHG CEQA Significance Threshold Working Group."[36] The goal of the working group is to develop and reach consensus on an acceptable CEQA significance threshold for GHG emissions that would be utilized on an interim basis until CARB (or some other state agency) develops statewide guidance on assessing the significance of GHG emissions under CEQA.

Initially, SCAQMD staff presented the working group with a significance threshold that could be applied to various types of projects—residential; non-residential; industrial; etc. However, the threshold is still under development. In December 2008, staff presented the SCAQMD Governing

[35] http://www.arb.ca.gov/cc/localgov/ceqa/meetings/102708/prelimdraftproposal102408.pdf
[36] For more information visit: http://www.aqmd.gov/ceqa/handbook/GHG/GHG.html.

Board with a significance threshold for stationary source projects where it is the lead agency. This threshold uses a tiered approach to determine a project's significance, with 10,000 metric tons of carbon dioxide equivalent ($MTCO_2e$) as a screening numerical threshold for stationary sources.

In September 2010, the Working Group released additional revisions which recommended a threshold of 3,500 $MTCO_2e$ for residential projects, 1,400 $MTCO_2e$ for commercial projects, and 3,000 $MTCO_2e$ for mixed use projects, additionally the working group identified project-level efficiency target of 4.8 $MTCO_2e$ per service population as a 2020 target and 3.0 $MTCO_2e$ per service population as a 2035 target. The recommended areawide or plan-level target for 2020 was 6.6 $MTCO_2e$ and the plan-level target for 2035 was 4.1 $MTCO_2e$. The SCAQMD has not established a timeline for formal consideration of these thresholds.

The SCAQMD has also adopted Rules 2700, 2701, and 2702 that address GHG reductions. However, these rules address boilers and process heaters, forestry, and manure management projects, none of which are proposed or required by the Project.

DISCUSSION ON ESTABLISHMENT OF SIGNIFICANCE THRESHOLDS

In order to assess the significance of a proposed Project's environmental impacts it is necessary to identify quantitative or qualitative thresholds which, if exceeded, would constitute a finding of significance. As discussed above, while Project-related GHG emissions can be estimated, the direct impacts of such emissions on climate change and global warming cannot be determined on the basis of available science. There is no evidence at this time that would indicate that the emissions from a project the size of the proposed Project would directly affect global climate change.

AB 32 states, in part, that "[g]lobal warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California." Because global warming is the result of GHG emissions, and GHGs are emitted by innumerable sources worldwide, global climate change is considered to be a significant cumulative impact. GHG emissions from the project would contribute to cumulative GHG emissions in California and to the potential adverse environmental impacts of climate change.