

O.P.E.N.

Open-space Preservation Education Network
A project of the Environmental Defense Center

September 3, 2010

Lompoc City Council
City of Lompoc Planning Department
100 Civic Center Plaza
Lompoc, California 93438-8001

**Re: City of Lompoc General Plan – Comprehensive Update, Phase I
Environmental Impact Report – EIR 09-01
General Plan Amendment – GP 07-04
Zone Change – ZC 10-01**

Honorable Council Members:

The following comments are submitted by the Environmental Defense Center (EDC) in response to the City's proposed final EIR, GPA and Zone Change for the General Plan (GP) Phase I Comprehensive Update as it relates to the Bailey Avenue Specific Plan (BASP) project. The BASP project is being considered as a potential expansion area for the City. This letter has been prepared as part of the Open-Space Preservation Educational Network (OPEN) program, which provides a proactive approach to assessing General Plans and the planning process throughout Santa Barbara County. The purpose of the OPEN project is to engage all interested sectors of our communities in a dialog about developing policies and programs to protect agricultural, open space lands, and the urban-rural interface.

This letter is a follow-up to the City of Lompoc Planning Commission (PC) hearing on July 14, 2010, during which time the PC discussed various aspects of the GP update for the City. The GP update for the City of Lompoc presents both an opportunity and a responsibility for the City Council. Since the City's downtown has been suffering from the recent economic downturn, the GP update is the time to focus needed energy on revitalizing the *existing downtown and maintaining the current City boundaries and the Urban Limit Line (ULL), rather than considering expansion of the City where it is not needed.* This is particularly true for the BASP property, which contains prime agricultural land currently not within the City's Sphere of Influence (SOI).

The BASP project should be eliminated from the Phase I GP update because it violates applicable State and County (and proposed 2030 City of Lompoc) policies, and would result in an unnecessary significant and unavoidable loss of valuable agricultural resources. We describe the numerous reasons for this assertion in the following text.

The future growth of the City (via the GP update) can help to address the economic blight of the downtown area by revitalizing existing business infill opportunities in the core area of Lompoc, instead of encouraging further growth and annexation into unincorporated areas of Santa Barbara County. Such growth is consistent with State and local goals, including protecting the public health and welfare of City inhabitants and protecting the environment and economy, particularly as it relates to the protection of extremely productive agricultural land, which has historically characterized the Lompoc area.

We have reviewed the draft minutes of the July PC hearing prepared by City staff, and note that the public testimony regarding the BASP unanimously opposed the City considering Expansion area A as part of the GP update. EDC and OPEN have commented extensively on the folly of including the BASP as a potential expansion area, and we support the PC's **unanimous** recommendation and vote *NOT to include the BASP as a potential expansion area in their recommendation to your Council*. Organizations such as the County's Agricultural Advisory Committee and the Santa Barbara Farm Bureau oppose the project, as do SBCAN and the Citizens Planning Association. Various Commissioners noted the following points, which EDC and OPEN support:

- Commissioner Griffith indicated that the City has adequate housing opportunities (to meet RHNA numbers), that development should be focused on infill projects, and there is no reason to expand into prime agricultural land.
- Commissioner Gonzales agreed with Commissioner Griffith, noting that there has been a recent correction in the housing market and adequate inventory exists at this time. The State recommends that the General Plan be reviewed regularly and if, in the future, there is a need, the area could be considered then.
- Commissioner Rodenhi stated there is little need for housing currently; that Mr. Wineman and Mr. Hibbits outlined well-stated points of Lompoc's prime agricultural land; and there is no hurry to expand the General Plan into this area.

The City Council should support the PC's recommendation regarding the BASP potential expansion area. The BASP project would set a bad precedent for unnecessary conversion of prime agricultural land to urban uses, when it is clear from the GP process that the City has more than adequate housing and vacant commercial space available for the foreseeable future.

The GP update offers the City the opportunity to evaluate what the next twenty years of growth should look like, as well as to determine what, if any, expansion of the City would assist the community of Lompoc in creating a vibrant and healthy economy and community. The City Council inherently recognizes the importance of keeping and directing growth and development in a manner that will preserve the special agricultural and rural nature of Lompoc, as is evidenced in the proposed policies for the 2030 GP update, described later in this letter. Balancing the need for revitalizing the existing downtown area against the equally important need to preserve agriculture and the natural

environment requires significant vision and leadership on the part of the City, and the GP update provides the City with the tools to ensure this occurs.

The choice before the City Council should be a simple one; it is clear that the BASP project is not appropriate for consideration as an Expansion area at this time. ***We urge you to uphold the PC's unanimous motion/recommendation to the City Council: to adopt Alternate 1, which would move the Urban Limit Line to be consistent with the current City limit line, indicating no City interest to develop in this area in the future.*** Adoption of this option would establish clear boundaries for this portion of the City and would protect the important agricultural resources of the BASP area, which consists of 270 acres of incredibly productive *prime agricultural land*. This alternative would also eliminate the stated "Class I" impacts to agricultural resources, and would significantly lower other environmental impacts, including impacts of greenhouse (GHG) emissions from increased traffic. (It should be noted that the analysis of GHG emissions in the EIR is inadequate, as described in detail in Exhibit 1 of this letter. Exhibit 2 provides a FAQ sheet on climate change and GP updates for your review.)

The threat of agricultural and rural land conversion is an issue that is prevalent throughout much of California. Without a view to the future, our agricultural land will suffer the fate of so many other jurisdictions in the State, which have converted fertile and productive agricultural lands to urban sprawl. Since the agricultural economy is an integral part of Santa Barbara County's fiscal health, we must take every step to prevent the unneeded conversion of agricultural land to urban uses. Agriculture continues to be the County's major producing industry with a gross production value of \$1,241,400,501 in 2009 (Santa Barbara County Agricultural Commissioner's Report, 2009).

Overarching Project Issues

The BASP project would permanently convert approximately 270 acres of prime soils in active agricultural production in unincorporated Santa Barbara County, a portion of which is still under active Williamson Act contract[s], to urban uses. The BASP site has been historically used for agricultural purposes, primarily as irrigated croplands (row crop and flower seed production). The BASP site is within Santa Barbara County's unincorporated area, and is zoned for agricultural uses ranging from AG-II-100 to AG-40 under the County's General Plan. The BASP site is currently used for agricultural production, with approximately 260 acres of prime farmland and 12 acres of unique farmland. The Bodger seed facility is located in the southern portion of the site, south of Ocean Avenue. The northern half of this site is currently under Williamson Act Contract (although this contract is proposed for non-renewal). The BASP project, if approved as a potential Expansion area by the City Council, would create an improper and incompatible land use pattern and example of potential City expansion and annexation. The following pictures show the BASP in its current state: as a productive farmland operation that characterizes the historic agricultural land of the Lompoc Valley (Photos 1-3 below).

Photos 1-3: The BASP site



Source: BASP 2008. RRM Design Group.

Current Land Use Designations for the BASP site are shown in Table 1 below.

Table 1
Land Use Designations on the Proposed Specific Plan Area

APN	Acreage	City Land Use Element	City Zoning	County Zoning
093-070-033	39.55	VLDR	N/A	AG-II-100 ¹
093-070-032	19.77	VLDR	N/A	AG-II-40 ²
093-070-039	51.93	LDR ⁶	N/A	AG-I-20 ³
093-070-031		VLDR	N/A	AG-II-40
093-070-030		VLDR	N/A	40-AL-O ⁴
093-090-026	60.10	VLDR	N/A	AG-II-40
093-111-007	98.39	VLDR	N/A	40-AG ⁵
093-111-010		LDR	N/A	40-AG
093-111-008		LDR	N/A	40-AG
093-111-011		LDR	N/A	40-AG
093-111-009		LDR	N/A	40-AG
093-111-012		LDR	N/A	40-AG

¹ Class II agricultural lands with a minimum parcel size of 100 acres

² Class II agricultural lands with a minimum parcel size of 40 acres

³ Class I agricultural lands with a minimum parcel size of 20 acres

⁴ Limited agriculture district and oil drilling, minimum of 40 acres

⁵ Non-prime agricultural lands with a minimum parcel size of 40 acres

⁶ Park Overlay

Source: Rincon Consultants, 2007.

Table 2 below provides an overview of proposed land uses for the BASP.

Table 2: BASP Proposed Land Use Summary

Land Use Summary						
Bailey Avenue Specific Plan Area						
Land Use	Gross Acreage	%of Site	DU / Net Acre ¹	Maximum Dwelling Units ²	Total Population ³	Com SF ⁴
Low Density Residential (LDR)	38	14%	2.3 - 6.2	237	705	
Medium Density Residential (MDR)	126	46%	6.2 - 14.5	1,821	5,409	
High Density Residential (HDR)	25	9%	14.5 - 21.8	534	1,586	
Mixed-Use	11	4%	8 - 12	126	374	228,690
Public Facilities	.2	1%				
Parks	24	9%				
Open Space (OS)	37	14%				
Major Circulation	8	3%				
Total	271	100%		2,718	8,074	

1. DU net acre describes the number of Dwelling Units permitted on an acre of land less the area required for streets and public right-of-way.
 2. Maximum dwelling units are based on gross acreage. The actual number of units will be based on net acreage as described in footnote # 1.
 3. Total Population is estimated at 2.97 people per household, as indicated by Table 6 in the Lompoc General Plan.
 4. The FAR indicates the maximum intensity of development on a parcel. The FAR is expressed as a ratio of building space to land area. A FAR of .50 was used to determine potential Floor Area or Commercial SF.

Source: BASP, RRM Design Group, 2008.

The primary issues of concern related to the BASP project and the City's Phase I General Plan update include the following:

- The precedent that would be set by the BASP project for unnecessary conversion of prime agricultural land is of major concern, and would conflict with the Local Agency Formation Commission's (LAFCO) own policies for agricultural protection and the need to plan for orderly expansion of cities. It also conflicts with the County's agricultural protection policies, and the **City's own proposed policies for the GP update.**

- The BASP project would create Class I, Significant and Unavoidable Impacts to Agriculture and Land Use. These impacts should not qualify for a Statement of Overriding Consideration because the project is entirely unnecessary to meet RHNA numbers or to serve the public good. Further, the BASP project has been incorporated into the GP update without proper analysis of the potential environmental impacts of the project.
- The draft EIR notice was not received by EDC or OPEN staff, although scoping comments were submitted on October 17, 2008 to the City of Lompoc. We were advised by City Staff regarding the draft EIR that we were “inadvertently” omitted from the Draft EIR mailing list and notice, thus there was no opportunity to comment on the draft document. As noted above, the analysis of GHG emissions is entirely inadequate. The City must respond to significant substantive issues in the final EIR that were not addressed in the draft EIR.

In order for the project to move forward, all land within the BASP area would ultimately require annexation and associated approval from LAFCO. Proposed land use changes under the Specific Plan’s buildout scenario would potentially affect agricultural areas *outside* of the City’s GP and Sphere of Influence (SOI) area by introducing new higher-density residential and commercial uses likely to conflict with other agricultural activities abutting the Specific Plan area.

The EIR for the Phase I General Plan update incorporates land use changes for the BASP area (“Expansion Area A”), and partially analyzes the impacts of potential annexation into the City for the area. However, the analysis and mitigation proposed in the EIR do not adequately assess all of the potential impacts of the conversion of Expansion Area A into intensive urbanized uses. While it is acknowledged that cities must plan for future growth during General Plan updates, this must be done while carefully considering the implications of expansion and annexation proposals.

The BASP Project Must Be Excluded From The General Plan Update.

- I. The proposal to annex the BASP must be denied because it violates LAFCO, County and City policies protecting agricultural land

The precedent for unnecessary conversion of prime agricultural land is of major concern, and would conflict with LAFCO’s own policies for agricultural protection and the need to plan for orderly expansion of cities. It also conflicts with the County’s agricultural protection policies, and the *City’s own proposed policies for agricultural protection in the GP update*.

The BASP’s proposed residential and commercial land uses are not consistent or compatible with existing or surrounding County zoning designations, violate the Agricultural Element’s goals and policies of the County’s General Plan, and would be

incompatible with surrounding land use upon buildout. The following discussion of individual policy violations illuminates inconsistencies with existing Santa Barbara County General Plan and LAFCO policies, as well as the City's own proposed policies for the 2030 GP update.

Santa Barbara County Agricultural Element

The policies listed in the Santa Barbara County Agricultural Element do not support the conversion of prime agricultural land (particularly for AG-II land) into urbanized uses, nor do they allow for the introduction of conflicting land uses. LAFCO must take the County's agricultural protection policies into consideration when reviewing annexation proposals. Each of the following Agricultural Element policies would be violated if LAFCO and the County move forward with the BASP Specific Plan, and allow the land to be annexed into the City.

Policy I.A. of the County's Agricultural Element states that the integrity of agricultural operations shall not be violated by non-compatible uses. The BASP project would violate this policy by expanding non-compatible urban development into and adjacent to active agricultural areas.

Policy I.F. requires that the quality and availability of water, air and soil resources shall be protected through provisions including, but not limited to, the stability of Urban/Rural Boundary lines, maintenance of buffer areas around agricultural areas, and the promotion of conservation practices. The unnecessary expansion of the urban boundary line via proposed expansion area "A" (BASP) would destabilize the Urban Limit Line [ULL] and would also conflict with adjacent agricultural operations.

Most importantly, Goal II requires that agricultural lands shall be protected from adverse urban influences. The permanent conversion of prime agricultural land and the introduction of adverse urban influences would be in violation of this goal since the BASP would convert existing agricultural land into urban uses and would be located adjacent to agricultural land (after buildout).

Policy II.C requires that Santa Barbara County discourage the extension by the LAFCO of urban spheres of influence into productive agricultural lands designated Agriculture II (A-II) or Commercial Agriculture (AC) under the Comprehensive Plan. The proposed project must be discouraged to proceed as part of the City's General Plan update because it would introduce an urban sphere of influence into productive agricultural lands designated A-II.

Policy II.D. of the Agricultural Element states that the conversion of highly productive agricultural lands, whether urban or rural, shall be discouraged. The economic value of the highly productive prime agricultural land that would be converted by the BASP land is apparent based on the returns reaped from current farming operations. An article in the Lompoc Record (Tayllor, July 2008) states the importance of the of the soils located on the site, noting that Mr. Wineman, a farmer of the land and

landowner within the Specific Plan area, reported per acre total yields of about 57,000 pounds of broccoli and lettuce for this land. The article further quotes Mr. Wineman: “These favorable growing conditions do not exist throughout California or even the Lompoc Valley” (due to different microclimates). Mr. Wineman could not recall a crop failure due to weather, lack of water, disease or any other natural cause.

Goal III requires that where it is necessary for agricultural lands to be converted to other uses, this use shall not interfere with remaining agricultural operations. The introduction of medium-density residential uses would interfere with remaining agricultural operations located adjacent to the BASP site.

Policy III.A. *discourages the expansion of urban development into active agricultural areas outside of urban limits as long as infill is available.* *The Phase I General Plan update and associated EIR for the City of Lompoc conclude that adequate housing sites are currently available to meet RHNA fair share requirements and that no Land Use Changes would be necessary as part of the update. The proposed BASP would be in direct violation of Policy III.A, since infill is available to meet necessary requirements for future growth of the City.*

Removing prime soils from agricultural production would conflict with County policies set forth in the Comprehensive Plan’s Agriculture Element. Therefore, from a policy perspective, the current BASP violates Santa Barbara County General Plan goals and policies and the project should not move forward as it is currently proposed, nor should it be incorporated into the General Plan update for a rezone. The BASP would permanently convert prime agricultural land into urbanized uses, and create a precedent for additional agricultural lands to be annexed into the City, fostering unneeded urban sprawl. A discussion of LAFCO and City of Lompoc policies follows.

LAFCO Policies and Standards

The Santa Barbara County LAFCO is a state-mandated regulatory agency that provides assistance to citizens, cities, counties, and special districts regarding jurisdictional boundary changes. LAFCO provides policies to encourage urban growth and *protect agricultural and open space areas from sprawl*. In addition to its considerations of applicable Santa Barbara County policies and goals, LAFCO also has agricultural protection and annexation/SOI policies to which it must adhere. For example, LAFCO policies encourage the conservation of prime agricultural lands and open space areas, and discourage proposals which would conflict with the goals of maintaining the physical and economic integrity of open space lands, agricultural lands, or agricultural preserve areas in open space uses, as indicated on the city or county general plan. LAFCO policies also require that development shall be guided towards areas containing nonprime agricultural lands [<http://www.sblafco.org/pol5.html>]. The proposed BASP expansion/annexation conflicts with these policies because it would permanently convert prime and important farmland.

The BASP proposal would also result in a premature intrusion of urbanization into a predominantly agricultural or rural area, which is listed as a “factor unfavorable to approval” on the LAFCO website [<http://www.sblafco.org/pol5.html>]. LAFCO previously denied an application to annex the BASP area into the City’s SOI (Pers. Comm., Bess Christensen, 2009). Further, the BASP area is not currently within the City’s SOI. The BASP proposal is inconsistent with LAFCO’s adopted SOI and proposed/adopted GP policies (note: LAFCO’s “Standards for Annexation to Cities” state that annexations should be consistent with adopted SOIs and the GP). Other factors “unfavorable to approval” listed by LAFCO state that if “annexation would encourage a type of development in an area which due to terrain, isolation, or other economic or social reason, such development is not in the public interest (emphasis added) [<http://www.sblafco.org/pol5.html>].” The BASP would clearly result in economic hardship for the City of Lompoc, since it would draw potential core downtown visitors to the outer limits of the City, which would further debilitate downtown business and home owners.

One additional LAFCO “unfavorable to approval” criteria applies (if) “[t]he proposal appears to be motivated by inter-agency rivalry, land speculation, or other motives not in the public interest.” Clearly, the BASP proposal is motivated by agricultural landowners seeking to change the zoning in order to reap financial benefits from a project that would create unneeded urban sprawl into prime agricultural land.

A characteristic listed on the LAFCO website as “favorable to approval” is whether (the) “proposed area is urban in character or urban development is imminent, requiring municipal or urban-type services.” The BASP site is not urban in character, and development on the site is not imminent, nor is it needed to further the growth of the City. The draft BASP acknowledges that: “As with most large planning areas with multiple property ownerships, the timing of the development of the Specific Plan is uncertain and will respond to market conditions as well as landowner and developer interest (2008, RRM Design Group).”

This information, together with the policy violations listed above, should result in denial of a SOI extension and concurrent annexation by LAFCO.

City of Lompoc proposed GP policies

The following proposed goal and policies in the City’s 2030 Land Use Element are counter to the annexation of the BASP Expansion Area A. Proposed Goal 7, which states: “Preserve and protect the highest quality agricultural soils” would clearly be violated if the BASP is approved as an expansion area. Proposed policies in the Land Use Element specifically name Bailey Avenue as the stopping point for urbanization, and encourage the utilization of “under-developed and vacant land within its boundaries, and direct [that the City] shall oppose urbanization of agricultural lands”.

The proposed relevant policies from the 2030 GP update, in full text, are provided below:

- ❖ Policy 1.3 The City shall *encourage development of **under-developed and vacant land within its boundaries**, and shall oppose urbanization of agricultural lands east of the City and west of Bailey Avenue (emphasis added).*
- ❖ Policy 1.4 *The City shall encourage Santa Barbara County and the Local Agency Formation Commission to **plan urbanization within municipalities in order to protect prime agricultural land outside the Urban Limit Line** and to efficiently utilize public infrastructure (emphasis added).*
- ❖ Policy 1.7 *The City shall **encourage infill development to meet City residential and commercial growth needs...***
- ❖ Policy 5.2 *The City shall **protect prime agricultural lands east of the City and west of Bailey Avenue.***
- ❖ Policy 5.3 *To help preserve agriculture on a regional basis, the City shall **encourage Santa Barbara County to protect the most productive agricultural soils.***
- ❖ Policy 7.5 *The City should **protect and enhance the agricultural industry, as well as other specialty crops that are unique to the region.***

It is apparent from the proposed policies listed above that the City values and desires to protect its agricultural land and heritage, thus, the approval of the BASP Expansion area is counter to the intent of the proposed GP policy directives and must be denied in order to maintain internal consistency within the GP.

The vision for the City as set forth in the GP update follows:

Lompoc is committed to protecting the unique and positive existing aspects of the community for future generations while accepting the challenges associated with seeking improvement in areas of current concern. Lompoc's vision is of an economically prosperous, compact urban place nestled among natural hillsides with undisturbed ridgelines, *adjacent to wide expanses of fertile agricultural land*, and straddling the biologically-rich Santa Ynez River. The community protects its rural setting by promoting sustainable use of resources [emphasis added, statement abridged].

The 2030 General Plan should exclusively facilitate the development and *redevelopment of lands* within the Lompoc plan area including reuse of existing urbanized lands and infill development on vacant parcels, while eliminating unnecessary and potential new development on the urban fringe, as with the BASP Expansion Area "A". As discussed in Section 4.1 of the EIR (Aesthetics), *the reuse and intensification of*

already developed areas would reduce the pressure for development at the City's periphery. This reuse and intensification would similarly reduce potential land use conflicts, as relatively few land use changes are proposed within the City. Further, it would be in alignment with the planning vision set forth above.

II. Approval of the BASP Project would violate the CEQA requirement that agencies must adopt feasible alternatives and mitigation measures.

CEQA sets forth both procedural and substantive components. As a matter of procedure, CEQA requires that the environmental impacts of a project be examined and disclosed prior to approval of a project. As a matter of substance, CEQA precludes agencies from approving projects "if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant effects of such projects." (Pub.Res.Code §21002.)

According to the EIR, the project would create Class I, Significant and Unavoidable Impacts to Agriculture and Land Use, and therefore require adoption of a Statement of Overriding Considerations. The City may not approve the project, however, because it is entirely unnecessary to meet RHNA numbers or to serve the public good, and there is a feasible alternative that would avoid or substantially lessen such impacts.

The EIR discloses that potential impacts from the buildout of the GP could:

- Result in incompatibilities with adjacent existing and planned land uses, particularly where urban and agricultural uses would directly abut each other;
- Conflict with some provisions of the County's Standards for Annexation to Cities, and
- Result in Class I, significant and unavoidable impacts related to agricultural conversion.

Fortunately, these impacts can be avoided because the project is entirely unnecessary to meet RHNA numbers or to serve the public good. The City of Lompoc's Planning Commission Staff Report for the General Update prepared by Lucille Breese, Planning Manager for the City, and Richard Daulton of Rincon Consultants (September 30, 2008), states: "**Based on a review of vacant and underutilized residential parcels in the City, the [Housing Element] report determines that the City maintains a sufficient current land inventory to address its RHNA goals *without changes to existing General Plan and zoning designations (emphasis added).***" It also states: "land use strategies such as rezoning residential sites to higher densities are *not necessary to demonstrate the City's ability to meet its assigned share of regional housing needs due to the sufficient supply of existing residential land*" (emphasis added). The BASP is a project that is not required for City growth, and clearly violates County General Plan and LAFCO policies with its inappropriate and unnecessary land use densities/designations and conversion of prime agricultural land, as described in Item I above.

Alternative 1 does not include the BASP project, and meets the basic objectives of the GP update proposal. Therefore, the City should adopt Alternative 1 and avoid the significant impacts associated with the BASP project.

This alternative is preferable to the single proposed mitigation (LU-3) in the General Plan EIR designed to address impacts to the loss of agricultural land. This measure would not reduce the identified significant impacts and would be entirely unenforceable, as well as unfunded. The proposed mitigation is as follows:

LU-3 Purchase of Agricultural Conservation Easements (PACE) Program.

The City shall implement a program that facilitates the establishment and purchase of on- or off-site Agricultural Conservation Easements for prime farmland and/or important farmland converted within the expansion areas, at a ratio of 1:1 (acreage conserved: acreage impacted). A coordinator at the City shall oversee and monitor the program, which will involve property owners, developers, the City, and potentially a conservation organization such as The Land Trust for Santa Barbara County. Implementation of a PACE program shall be coordinated with similar efforts of Santa Barbara County.

While the purchase of Agricultural Conservation Easements is a laudable goal, mitigation must be implementable and required on a project-specific basis. Mitigation measures must be known, specific, feasible, effective and enforceable.¹ Further, even if this mitigation was applied on a site-specific basis to the BASP project, it would not avoid a net impact of loss to the agricultural lands of the region. As Mr. Wineman points out, this land is unique and particularly fertile, and should be preserved. Alternative 1, on the other hand, would simply avoid significant impacts to agricultural lands and should be adopted by the City.

The EIR Cannot Be Certified Because It Fails To Adequately Address Project Impacts.

I. The EIR is defective because it fails to adequately address impacts related to traffic and GHG emissions.

The EIR fails to adequately address all of the potential impacts that would result from the BASP project. The staff report presented to your Council states that “environmental review and public hearings will be held to evaluate the proposed Specific Plan after adoption of the General Plan Update but prior to City Council direction to proceed with the proposed Annexation”. While CEQA permits large, multi-part projects such as General Plans to “tier” environmental analysis, wholesale deferral of review

¹ Pub. Res. Code § 21081.6(b); CEQA Guidelines, §§ 15091(d), 15126.4(a)(2); *Federation of Hillside and Canyon Assns v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261 (agency must ensure that mitigation measures identified in the EIR will actually be implemented); *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645; *Napa Citizens*, supra, 91 Cal.App.4th 342.

violates CEQA. CEQA Guidelines § 15152 (b) (“Tiering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant environmental impacts of the project and does not justify deferring such analysis to later tier EIR or negative declaration”); *Stanislaus Nat. Heritage Project v. County of Stanislaus*, 48 Cal. 4th 182, 199-200 (1996) (“No matter what subsequent environmental review might take place, and no matter what additional mitigation measures might be adopted to ameliorate adverse environmental impacts . . . [t]o defer any analysis whatsoever of the impacts of supplying water to the project until after the adoption of the specific plan calling for the project to be built would appear to be putting the cart before the horse.”)

An example of an impact that is not fully analyzed in the EIR relates to traffic that would be generated by the proposed project. As stated in a CALTRANS comment letter on the BASP component of the General Plan:

“This project alone [BASP] will increase the City's housing stock by 19.2% and population by 18.2%. As indicated in the General Plan DEIR, there are many intersections on Ocean Ave and H St, which will suffer poor performance in the cumulative period, apparently without Area A included, specifically the left turning movements.”

In addition, as noted in Exhibit 1, attached hereto, the EIR fails to adequately analyze and address GHG emissions from the project. It does not estimate baseline GHG Emissions, and lacks a rational basis for concluding that GHG Emissions will be reduced to a less than significant level. The FEIR also does not properly consider the effects of climate change on the project area.

It is entirely premature for the Council to approve the BASP as an Expansion area for the General Plan update until all of the impacts of the project are understood.

II. The draft EIR notice was not received by EDC or OPEN staff, although comprehensive scoping comments were submitted on October 17, 2008 to the City of Lompoc.

EDC was advised by City Staff that we were “inadvertently” omitted from the Draft EIR mailing list and notice, thus there was no opportunity to comment on the draft document, although extensive scoping comments were submitted on the GP in October of 2008. While we appreciate City staff providing our original scoping letter to the PC during their June 2010 hearing, EDC and OPEN did not have the opportunity to comment on the draft document. Upon subsequent review, it was determined that the analysis of GHG emissions in the draft EIR is inadequate, and must be substantially revised in order to comply with CEQA. An extensive discussion on the lack of GHG impact disclosure and mitigation is appended to this letter as Exhibit 1.

Conclusion

The recommendations contained in this letter are provided for the City's consideration during the Phase I General Plan Update. The City must evaluate the BASP project carefully and determine whether it is appropriate and prudent to proceed with incorporating it into the General Plan as a potential Expansion area. To recap, the following items are suggested:

- The BASP project should not be incorporated into the Phase I General Plan update because it would conflict with LAFCO's policies for agricultural protection and the need to plan for orderly expansion of cities, the County's agricultural protection policies as stated in the Agricultural Element of the General Plan, and the **City of Lompoc's own proposed agricultural policies for the GP update contained in the Land Use Element draft.**
- The project would create Class I, Significant and Unavoidable Impacts to Agriculture and Land Use, which can be avoided by adoption of an alternative that excludes the BASP project and conforms to the City's existing Urban Limit Line (Alternative 1).
- The City Council should uphold the PC's recommendation that indicates no interest exists on the part of the City to develop in this area in the future, given the overarching problematic and precedent-setting issues with the BASP project from a policy and planning perspective.
- The EIR must be revised to fully disclose and evaluate impacts pertaining to traffic increases and GHG emissions.

The General Plan update is the time for the City to create a long-term vision for the community. The conversion of agricultural land for unneeded urbanized uses (such as the BASP Expansion Area A) is not consistent with sound planning practices for the City of Lompoc. The GP update presents a unique opportunity for the City Council to create a vibrant, revitalized downtown by denying the unneeded expansion of portions of the City which would encroach on valuable agricultural land and create unneeded land use conflicts. We look forward to supporting the City's leadership in upholding the vision set forth in the draft GP update that will maintain and support a working agricultural landscape into the foreseeable future. EDC and OPEN appreciate the opportunity to provide comments on the Phase I General Plan update, and look forward to working with interested stakeholders in discussing the recommendations contained in this letter.

Sincerely,
Via e-mail
Christina E. McGinnis, M.U.P., OPEN Project Planner

Exhibit 1

The Analysis of Greenhouse Gas Emissions is Inadequate Under CEQA

As we have made clear in comments and testimony during the General Plan CEQA process, EDC opposes the Bailey Avenue Specific Plan expansion area, and urges the Lompoc City Council to reject the potential future annexation as “Expansion Area A” in its ultimate approval of the 2030 General Plan Update (GPU) and associated certification of the GPU Draft Environmental Impact Report (DEIR). In the event the City nonetheless chooses to approve Bailey Avenue annexation as part of the GPU, EDC offers the following comments on the inadequacy of greenhouse gas (GHG) emissions analysis in the DEIR.

The City has commendably attempted to address GHGs in the DEIR, including a clear discussion of the relationship between GHGs and climate change (pp. 4.2-2-4.2-5), and quantification of estimated GHG emissions resulting from approval of the GPU, including the specific estimated GHG emissions from Bailey Avenue and other proposed annexation areas (pp. 4.2-33-4.2-37). As addressed below, however, the GPU analysis of GHGs is inadequate in several respects.

1. *The EIR Fails to Estimate Baseline GHG Emissions*

Adequately defining the project baseline is a critical component of CEQA implementation. *See Cmtys. for a Better Env't v. S. Coast Air Quality Mgmt. Dist.*, 48 Cal. 4th 310, 315 (2010) (“To decide whether a given project’s environmental effects are likely to be significant, the agency must use some measure of the environment’s state absent the project, a measure sometimes referred to as the ‘baseline’ for environmental analysis.”). As defined by the CEQA Guidelines, the baseline “normally consists of the physical environmental conditions in the vicinity of the project, as they exist at the time ... environmental analysis is commenced.” *Id.* (citing Cal. Code Regs., tit. 14, § 15125(a)) (CEQA Guidelines) (internal quotations omitted). In fulfilling this requirement, the agency must define the baseline based on “the real conditions on the ground, rather than the level of development or activity that *could* or *should* have been present according to a plan or regulation.” *Id.* at 321 (emphases in original) (internal citations and quotations omitted).

The public policy rationale for CEQA’s baseline requirement is clear and compelling: “An approach using hypothetical allowable conditions as the baseline results in illusory comparisons that can only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts, a result at direct odds with CEQA’s intent.” *Id.* at 322 (internal quotations and citations omitted). The importance of a meaningful baseline analysis in relation to GHG emissions was specifically endorsed in the CEQA Guideline amendments, which were recently finalized in accordance with SB 97. *See* CEQA Guidelines, § 15064(b)(1) (directing lead agency to consider “[t]he extent to which the project may increase or reduce greenhouse gas

emissions *as compared to the existing environmental setting*” as key factor in determining significance).²

CEQA’s baseline requirement applies equally to General Plans as it does to specific project proposals. *Env’tl Planning & Info. Council of W. El Dorado County, Inc. v. County of El Dorado*, 131 Cal. App. 350 (1982). As stated in the CAPCOA White Paper, *CEQA & Climate Change: Evaluating and Addressing Greenhouse Gas Emissions Subject to the California Environmental Quality Act* (January 2008), relied upon heavily by the City in its environmental analysis, “[a]t the general plan level, the baseline used for analyzing most environmental impacts of a general plan update is typically no different from the baseline for other projects. The baseline for most impacts represents the existing conditions, normally on the date the Notice of Preparation is prepared.” CAPCOA White Paper, at p. 66. The CAPCOA White Paper states further that, with respect to GHG emissions, such “existing conditions” are the “existing, on-the-ground conditions within the planning area.” *Id.*

The GPU DEIR fails to provide a “real world” assessment of existing GHG emissions within Lompoc city limits. Although the City has attempted to quantify GHG emissions under the GPU, EDC cannot locate any information in the DEIR that addresses *current* levels of such emissions. As discussed in more detail below, this failure fatally undermines key conclusions in the EIR, including the City’s assertions that the GHG emissions mitigations can assure City compliance with AB 32 and reduce impacts to a less than significant level under CEQA, despite the fact that the proposed Bailey Avenue annexation alone would result in nearly 50,000 metric tons of CO₂ (p. 4.2-39).³

2. *The EIR Lacks a Rational Basis for Concluding that GHG Emissions Will Be Reduced to a Less Than Significant Level*

The City acknowledges in the DEIR that the proposed GPU, even when confined to existing city limits, would result in approximately 72,000 metric tons of CO₂ emissions per year. According to the City, this increase would “hinder implementation of AB 32,” and would “therefore be potentially significant” under CEQA (p. 4.2-35). If the Bailey Avenue annexation is included as proposed, the inability to meet AB 32 mandates would be further exacerbated, as it alone would result in almost an additional 50,000 metric tons of CO₂ emissions (p. 4.2-35). Nonetheless, the City asserts that two proposed mitigation measures will be sufficient to reduce these impacts to a less than significant level. As addressed below, this conclusion lacks a rational basis for at least two independent reasons: the City has failed to estimate 1990 GHG emissions despite the fact that AB 32’s

² Importantly, SB 97 did not create a new duty to analyze GHG emissions under CEQA, but provided certainty and clarity as to the scope of existing responsibilities. As stated in its legislative history, “[t]he analysis of GHG impacts under laws like CEQA, and its federal counterpart NEPA, is not new, nor did it commence with the passage of the California Global Warming Solutions Act of 2006.” (SB 97, Senate Floor Analyses at 4 (Aug. 22, 2007)).

³ The City’s omission is especially notable given that it did provide baseline estimates for “traditional” air pollutants including ozone, carbon monoxide, nitrogen dioxide, and particulate matter. (DEIR, p. 4.2-10.)

mandates require GHG reductions from 1990 levels, and the mitigation measures themselves are legally indefensible.

a. To Properly Rely on AB 32 as a Threshold for Significance, the City Must Compare Predicted GHG Emissions Under the GPU With Estimated 1990 Emissions

Under the recently amended CEQA Guidelines, CEQA lead agencies have an explicit duty to determine the significance of impacts from GHG emissions. CEQA Guidelines, § 15064.4. Like all environmental analysis under CEQA, this duty applies whether or not the lead agency has established thresholds for significance. Indeed, the amended Guidelines reference thresholds as one of three specific factors, “among others,” that lead agencies should consider when considering the significance of GHG emissions. CEQA Guidelines, § 15064.4(b).

In the DEIR, the City acknowledges that it has not established thresholds, noting that “this analysis is specific to the proposed 2030 General Plan and does not establish thresholds for the City or set precedence for the type of analysis in a climate change analysis, as the discipline is still evolving and is expected to undergo multiple renditions before standards and thresholds are published.” (p. 4.2-13). It instead relies on the CAPCOA White Paper “Threshold 1.1,” under which significance is determined in relation to the 2020 target mandated under AB 32. Under this threshold, agencies must “achieve a measureable 28% to 33% reduction from projected unmitigated emissions to be considered less than significant.” *Id.*

As an initial matter, EDC does not believe that relying on AB 32 targets is an ideal manner in which to determine thresholds of significance for GHG emissions for several reasons:

- The GHG emission goals of AB 32, while laudable, were based on a global target of 450 parts per million (ppm) of CO₂ in the global atmosphere. More recent science strongly indicates that a limit of 350 ppm is a more accurate estimation of a safe upper limit of CO₂ concentrations, and that levels higher than this risk “tipping points” of irreversible impacts.⁴
- AB 32 mandates reductions by the year 2020, which is 10 years away. The proposed GPU, in contrast, would remain effective for 20 years, or until approximately 2030. Establishing GHG targets

⁴ Matthews H.D., and K. Caldeira (2008), *Stabilizing climate requires near-zero emissions*, Geophys. Res. Lett., 35, L04705, doi:10.1029/2007GL032388; James Hansen, et al., *Target Atmospheric CO₂: Where Should Humanity Aim?* The Open Atmospheric Science Journal, 2008, 2, 217-231; Statements of Dr. Chris Field, Carnegie Institution for Science, *Decisive Action Needed as Warming Predictions Worsen*, Says Carnegie Scientist, available at http://www.ciw.edu/news/decisive_action_needed_warming_predictions_worsen_says_carnegie_scientist

for a 2030 GPU based on a 2020 mandate encompasses only half the life of the GPU, and is therefore a fundamentally flawed approach.

- Relying solely on AB 32 ignores the further mandate contained in Executive Order S-3-05, which requires reduction of emissions after 2020 to 80% below 1990 levels by 2050.

In addition, even presuming the appropriateness of utilizing AB 32 to inform the City's threshold determination, as is the case with estimating current baseline conditions, the FEIR contains no information or estimate of emissions in 1990. *See* CAPCOA White Paper at p. 66 (recommending estimation of 1990 conditions in relation to AB 32 compliance). Without such an estimate, there simply is no rational basis for the City to conclude, as it does, that proposed mitigation measures “would ensure City compliance with regional efforts to meet GHG emissions targets in AB 32.” (p. 4.2-39).

b. The Proposed Mitigation Measures Are Woefully Inadequate Under CEQA

Mitigation is a centrally-important aspect of CEQA compliance, and indeed, has been called “[t]he core of an EIR.” *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal. 3d 553, 564 (1990). The fact that analysis and mitigation of GHG emissions is a relatively new concept in environmental planning does not diminish this importance. To the contrary, “the novelty of greenhouse gas mitigation measures is one of the most important reasons that mitigation measures timely be set forth, that environmental information be complete and relevant, and that environmental decisions be made in an accountable arena.” *Cmtys. for a Better Env't v. City of Richmond*, 184 Cal. App. 4th 70, 96 (2010). Moreover, the California Attorney General has provided specific guidance to lead agencies for addressing climate change and mitigation in General Plan updates. *See* Climate Change, CEQA, and General Plan Updates FAQ (Exh. 2); May 27, 2010 Letter Re: Tulare County General Plan and Recirculated Draft Environmental Impact Report (Exh. 3).

Even if the City had properly addressed thresholds for GHG emissions significance, its proposed measures to mitigate that significance fall far short of existing legal requirements. As estimated in the DEIR, the GPU will result in more than 71,000 metric tons of CO₂ emissions each year. Inclusion of the Bailey Avenue annexation would add nearly 50,000 additional metric tons to this figure annually—an increase of more than 70% from a GPU that confines development to within existing city limits.

Despite the clear significance of these GHG emission levels, the City asserts that two mitigation measures, “GHG Emissions Reduction Planning” and “Consideration of Project GHG Reduction Measures” will somehow “ensure” that the City will be in compliance with AB 32, thus reducing emissions to a less than significant level (p. 4.2-38-39). Even a cursory examination, however, reveals that these proposed measures, as well as the City's further clarifications in its draft Final EIR, fail to pass muster under

CEQA, its implementing regulations, and applicable case law due to their lack of enforceability and vagueness.

For example, the first mitigation measure, “GHG Emissions Reduction Planning” states that the City will amend the Open Space Element to state that it “shall participate in regional planning efforts,” and that these efforts *are anticipated* to include City assistance in a GHG emissions and “identifying reduction measures related to site design, energy conservation, and trip reduction.” (p. 4.2-38) (emphasis added). These type of vague, undefined, and ultimately voluntary measures are not enforceable, and thus, do not constitute lawful mitigation under CEQA. Cal. Pub. Res. Code § 21081.6(b); CEQA Guidelines § 15091(d); *Fed’n of Hillside and Canyon Assocs. v. City of Los Angeles*, 83 Cal. App. 4th 1252, 1261 (2000). This conclusion is underscored by the Attorney General’s Climate Change, CEQA, and General Plan Update FAQ, which expressly states that lead agencies may not rely on policies and measures that “simply encourage” GHG measures, but must be identify measures that are “fully enforceable.” *See also* Tulare County letter (advising County to “re-word its [mitigation] policies and implementation measures to make them mandatory and enforceable, not merely advisory.”).

The second mitigation measure, “Consideration of Project Greenhouse Gas Emissions,” stating that “the City shall consider all feasible GHG emissions reduction measures to reduce direct and indirect emissions associated with project vehicle trip generation and energy consumption,” suffers from similar defects. The City’s pledge to “consider” such measures is neither enforceable nor specific, and it improperly defers identification of specific mitigation measures until some undetermined point in the future.

The Attorney General’s FAQ and Tulare County letter each provide several specific examples of lawful GHG mitigation measures. *See, e.g.* FAQ at p. 6 (“There are many concrete mitigation measures appropriate for inclusion in a general plan and EIR that can be enforced as conditions of approval or through ordinances. Examples are described in a variety of sources, including the CAPCOA’s white paper, OPR’s Technical Advisory, and the mitigation list on the Attorney General’s website. Lead agencies should also consider consulting with other cities and counties that have recently completed general plan updates or are working on Climate Action Plans.”).

3. *The FEIR Does Not Properly Consider the Effects of Climate Change on the Project Area*

As acknowledged in the FEIR, climate change will have substantial and far-reaching effects in California. However, the FEIR improperly fails to consider the specific effect of climate change on the GPU area. *See* Guidelines § 15126.2(a) (EIR “shall also analyze any significant environmental effects the project might cause by bringing development and people into the area affected.”). In the context of the Lompoc GPU, this analysis should include, at a minimum, the effects of climate change on local water supply, fire risk, and air quality.

Exhibit 2: Climate Change FAQ sheet from the California Attorney General's Office

**Climate Change, the California Environmental Quality Act,
and General Plan Updates:
Straightforward Answers to Some Frequently Asked Questions
California Attorney General's Office**

At any given time in this State, well over one hundred California cities and counties are updating their general plans. These are complex, comprehensive, long-term planning documents that can be years in the making. Their preparation requires local governments to balance diverse and sometimes competing interests and, at the same time, comply with the Planning and Zoning Law and the California Environmental Quality Act (CEQA).

Local governments have decades of experience in applying state planning law and excellent resources to assist them – such as the “General Plan Guidelines” issued by The Governor’s Office of Planning and Research (OPR).¹ They are also practiced in assessing whether general plans may have significant localized environmental effects, such as degradation of air quality, reductions in the water supply, or growth inducing impacts. The impact of climate change, however, has only fairly recently shown up on the CEQA radar.

The fact that climate change presents a new challenge under CEQA has not stopped local governments from taking action. A substantial number of cities and counties already are addressing climate change in their general plan updates and accompanying CEQA documents. These agencies understand the substantial environmental and administrative benefits of a programmatic approach to climate change. Addressing the problem at the programmatic level allows local governments to consider the “big picture” and – provided it’s done right – allows for the streamlined review of individual projects.²

Guidance addressing CEQA, climate change, and general planning is emerging, for example, in the pending CEQA Guideline amendments,³ comments and settlements by the Attorney General, and in the public discourse, for example, the 2008 series on CEQA and Global Warming organized by the Local Government Commission and sponsored by the Attorney General. In addition, the Attorney General’s staff has met informally with officials and planners from numerous jurisdictions to discuss CEQA requirements and to learn from those who are leading the fight against global warming at the local level.

Still, local governments and their planners have questions. In this document, we attempt to answer some of the most frequently asked of those questions. We hope this document will be useful, and we encourage cities and counties to contact us with any additional questions, concerns, or comments.

- **Can a lead agency find that a general plan update's climate change-related impacts are too speculative, and therefore avoid determining whether the project's impacts are significant?**

No. There is nothing speculative about climate change. It's well understood that (1) greenhouse gas (GHG) emissions increase atmospheric concentrations of GHGs; (2) increased GHG concentrations in the atmosphere exacerbate global warming; (3) a project that adds to the atmospheric load of GHGs adds to the problem.

Making the significance determination plays a critical role in the CEQA process.⁴ Where a project may have a significant effect on the environment, the lead agency must prepare an Environmental Impact Report (EIR).⁵ Moreover, a finding of significance triggers the obligation to consider alternatives and to impose feasible mitigation.⁶ For any project under CEQA, including a general plan update, a lead agency therefore has a fundamental obligation to determine whether the environmental effects of the project, including the project's contribution to global warming, are significant.

- **In determining the significance of a general plan's climate change-related effects, must a lead agency estimate GHG emissions?**

Yes. As OPR's Technical Advisory states:

Lead agencies should make a good-faith effort, based on available information, to calculate, model, or estimate the amount of CO₂ and other GHG emissions from a project, including the emissions associated with vehicular traffic, energy consumption, water usage and construction activities.⁷

In the context of a general plan update, relevant emissions include those from government operations, as well as from the local community as a whole. Emissions sources include, for example, transportation, industrial facilities and equipment, residential and commercial development, agriculture, and land conversion.

There are a number of resources available to assist local agencies in estimating their current and projected GHG emissions. For example, the California Air Resources Board (ARB) recently issued protocols for estimating emissions from local government operations, and the agency's protocol for estimating community-wide emissions is forthcoming.⁸ OPR's Technical Advisory contains a list of modeling tools to estimate GHG emissions. Other sources of helpful information include the white paper issued by the California Air Pollution Control Officers Association (CAPCOA), "CEQA and Climate Change"⁹ and the Attorney General's website,¹⁰ both of which provide information on currently available models for calculating emissions. In addition, many cities and counties are working with the International Council for Local Environmental Initiatives (ICLEI)¹¹ and tapping into the expertise of this State's many colleges and universities.¹²

- **For climate change, what are the relevant “existing environmental conditions”?**

The CEQA Guidelines define a significant effect on the environment as “a substantial adverse change in the physical conditions which exist in the area affected by the proposed project.”¹³

For local or regional air pollutants, existing physical conditions are often described in terms of air quality (how much pollutant is in the ambient air averaged over a given period of time), which is fairly directly tied to current emission levels in the relevant “area affected.” The “area affected,” in turn, often is defined by natural features that hold or trap the pollutant until it escapes or breaks down. So, for example, for particulate matter, a lead agency may describe existing physical conditions by discussing annual average PM10 levels, and high PM10 levels averaged over a 24-hour period, detected at various points in the air basin in the preceding years.

With GHGs, we’re dealing with a global pollutant. The “area affected” is both the atmosphere and every place that is affected by climate change, including not just the area immediately around the project, but the region and the State (and indeed the planet). The existing “physical conditions” that we care about are the current atmospheric concentrations of GHGs and the existing climate that reflects those concentrations.

Unlike more localized, ambient air pollutants which dissipate or break down over a relatively short period of time (hours, days or weeks), GHGs accumulate in the atmosphere, persisting for decades and in some cases millennia. The overwhelming scientific consensus is that in order to avoid disruptive and potentially catastrophic climate change, then it’s not enough simply to stabilize our annual GHG emissions. The science tells us that we must immediately and substantially reduce these emissions.

- **If a lead agency agrees to comply with AB 32 regulations when they become operative (in 2012), can the agency determine that the GHG-related impacts of its general plan will be less than significant?**

No. CEQA is not a mechanism merely to ensure compliance with other laws, and, in addition, it does not allow agencies to defer mitigation to a later date. CEQA requires lead agencies to consider the significant environmental effects of their actions and to mitigate them today, if feasible.

The decisions that we make today do matter. Putting off the problem will only increase the costs of any solution. Moreover, delay may put a solution out of reach at any price. The experts tell us that the later we put off taking real action to reduce our GHG emissions, the less likely we will be able to stabilize atmospheric concentrations at a level that will avoid dangerous climate change.

- **Since climate change is a global phenomenon, how can a lead agency determine whether the GHG emissions associated with its general plan are significant?**

The question for the lead agency is whether the GHG emissions from the project – the general plan update – are considerable when viewed in connection with the GHG emissions from past projects, other current projects, and probable future projects.¹⁴ The effects of GHG emissions from past projects and from current projects to date are reflected in current atmospheric concentrations of GHGs and current climate, and the effects of future emissions of GHGs, whether from current projects or existing projects, can be predicted based on models showing future atmospheric GHG concentrations under different emissions scenarios, and different resulting climate effects.

A single local agency can't, of course, solve the climate problem. But that agency can do its fair share, making sure that the GHG emissions from projects in its jurisdiction and subject to its general plan are on an emissions trajectory that, if adopted on a larger scale, is consistent with avoiding dangerous climate change.

Governor Schwarzenegger's Executive Order S-3-05, which commits California to reducing its GHG emissions to 1990 levels by 2020 and to eighty percent below 1990 levels by 2050, is grounded in the science that tells us what we must do to achieve our long-term climate stabilization objective. The Global Warming Solutions Act of 2006 (AB 32), which codifies the 2020 target and tasks ARB with developing a plan to achieve this target, is a necessary step toward stabilization.¹⁵ Accordingly, the targets set in AB 32 and Executive Order S-3-05 can inform the CEQA analysis .

One reasonable option for the lead agency is to create community-wide GHG emissions targets for the years governed by the general plan. The community-wide targets should align with an emissions trajectory that reflects aggressive GHG mitigation in the near term and California's interim (2020)¹⁶ and long-term (2050) GHG emissions limits set forth in AB 32 and the Executive Order.

To illustrate, we can imagine a hypothetical city that has grown in a manner roughly proportional to the state and is updating its general plan through 2035. The city had emissions of 1,000,000 million metric tons (MMT) in 1990 and 1,150,000 MMT in 2008. The city could set an emission reduction target for 2014 of 1,075,000 MMT, for 2020 of 1,000,000 MMT, and for 2035 of 600,000 MMT, with appropriate emission benchmarks in between. Under these circumstances, the city could in its discretion determine that an alternative that achieves these targets would have less than significant climate change impacts.

- **Is a lead agency required to disclose and analyze the full development allowed under the general plan?**

Yes. The lead agency must disclose and analyze the full extent of the development allowed by the proposed amended general plan,¹⁷ including associated GHG emissions.

This doesn't mean that the lead agency shouldn't discuss the range of development that is likely to occur as a practical matter, noting, for example, the probable effect of market forces. But the lead agency can't rely on the fact that full build out may not occur, or that its timing is uncertain, to avoid its obligation to disclose the impacts of the development that the general plan would permit. Any other approach would seriously underestimate the potential impact of the general plan update and is inconsistent with CEQA's purposes.

- **What types of alternatives should the lead agency consider?**

A city or county should, if feasible, evaluate at least one alternative that would ensure that the community contributes to a lower-carbon future. Such an alternative might include one or more of the following options:

- higher density development that focuses growth within existing urban areas;
- policies and programs to facilitate and increase biking, walking, and public transportation and reduce vehicle miles traveled;
- the creation of "complete neighborhoods" where local services, schools, and parks are within walking distance of residences;
- incentives for mixed-use development;
- in rural communities, creation of regional service centers to reduce vehicle miles traveled;
- energy efficiency and renewable energy financing (see, e.g., AB 811)¹⁸
- policies for preservation of agricultural and forested land serving as carbon sinks;
- requirements and ordinances that mandate energy and water conservation and green building practices; and
- requirements for carbon and nitrogen-efficient agricultural practices.

Each local government must use its own good judgment to select the suite of measures that best serves that community.

- **Can a lead agency rely on policies and measures that simply "encourage" GHG efficiency and emissions reductions?**

No. Mitigation measures must be "fully enforceable."¹⁹ Adequate mitigation does not, for example, merely "encourage" or "support" carpools and transit options, green building practices, and development in urban centers. While a menu of hortatory GHG policies is positive, it does not count as adequate mitigation because there is no certainty that the policies will be implemented.

There are many concrete mitigation measures appropriate for inclusion in a general plan and EIR that can be enforced as conditions of approval or through ordinances. Examples are described in a variety of sources, including the CAPCOA's white paper,²⁰ OPR's Technical Advisory,²¹ and the mitigation list on the Attorney General's website.²² Lead agencies should also consider consulting with other cities and counties that have recently completed general plan updates or are working on Climate Action Plans.²³

- **Is a “Climate Action Plan” reasonable mitigation?**

Yes. To allow for streamlined review of subsequent individual projects, we recommend that the Climate Action Plan include the following elements: an emissions inventory (to assist in developing appropriate emission targets and mitigation measures); emission targets that apply at reasonable intervals through the life of the plan; enforceable GHG control measures; monitoring and reporting (to ensure that targets are met); and mechanisms to allow for the revision of the plan, if necessary, to stay on target.²⁴

If a city or county intends to rely on a Climate Action Plan as a centerpiece of its mitigation strategy, it should prepare the Climate Action Plan at the same time as its general plan update and EIR. This is consistent with CEQA’s mandate that a lead agency must conduct environmental review at the earliest stages in the planning process and that it not defer mitigation. In addition, we strongly urge agencies to incorporate any Climate Action Plans into their general plans to ensure that their provisions are applied to every relevant project.

- **Is a lead agency also required to analyze how future climate change may affect development under the general plan?**

Yes. CEQA requires a lead agency to consider the effects of bringing people and development into an area that may present hazards. The CEQA Guidelines note the very relevant example that “an EIR on a subdivision astride an active fault line should identify as a significant effect the seismic hazard to future occupants of the subdivision.”²⁵

Lead agencies should disclose any areas governed by the general plan that may be particularly affected by global warming, e.g.: coastal areas that may be subject to increased erosion, sea level rise, or flooding; areas adjacent to forested lands that may be at increased risk from wildfire; or communities that may suffer public health impacts caused or exacerbated by projected extreme heat events and increased temperatures. General plan policies should reflect these risks and minimize the hazards for current and future development.

Endnotes

¹For a discussion of requirements under general planning law, see OPR’s General Plan Guidelines (2003). OPR is in the process of updating these Guidelines. For more information, visit OPR’s website at <http://www.opr.ca.gov/index.php?a=planning/gpg.html>.

²OPR has noted the environmental and administrative advantages of addressing GHG emissions at the plan level, rather than leaving the analysis to be done project-by-project. See OPR, Preliminary Draft CEQA Guideline Amendments, Introduction at p. 2

(Jan. 8, 2009), available at
http://opr.ca.gov/download.php?dl=Workshop_Announcement.pdf.

³ OPR issued its Preliminary Draft CEQA Guidelines Amendments on January 8, 2009. Pursuant to Health and Safety Code, § 21083.05 (SB 97), OPR must prepare its final proposed guidelines by July 1, 2009, and the Resources Agency must certify and adopt those guidelines by January 1, 2010.

⁴ Cal. Code Regs., tit. 14 (hereinafter “CEQA Guidelines”), § 15064, subd. (a).

⁵ CEQA Guidelines, § 15064, subd. (f)(1).

⁶ CEQA Guidelines, § 15021, subd. (a).

⁷ OPR, CEQA and Climate Change: Addressing Climate Change Through California Environmental Quality Act (CEQA) Review (June 2008), available at
<http://opr.ca.gov/ceqa/pdfs/june08-ceqa.pdf>.

⁸ ARB’s protocols for estimating the emissions from local government operations are available at <http://www.arb.ca.gov/cc/protocols/localgov/localgov.htm>.

⁹ CAPCOA, CEQA and Climate Change, Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act (January 2008) (hereinafter, “CAPCOA white paper”), available at <http://www.capcoa.org/>.

¹⁰ http://ag.ca.gov/globalwarming/ceqa/modeling_tools.php

¹¹ <http://www.iclei-usa.org>

¹² For example, U.C. Davis has made its modeling tool, UPlan, available at <http://ice.ucdavis.edu/doc/uplan>; San Diego School of Law’s Energy Policy Initiatives Center has prepared a GHG emissions inventory report for San Diego County <http://www.sandiego.edu/EPIC/news/frontnews.php?id=31>; and Cal Poly, San Luis Obispo City and Regional Planning Department is in the process of preparing a Climate Action Plan for the City of Benicia, see <http://www.beniciaclimateactionplan.com/files/about.html>.

¹³ CEQA Guidelines, § 15002, subd. (g).

¹⁴ CEQA Guidelines, § 15064(h)(1).

¹⁵ See ARB, Scoping Plan at pp. 117-120, available at <http://www.arb.ca.gov/cc/scopingplan/document/psp.pdf>. (ARB approved the Proposed Scoping Plan on December 11, 2008.)

¹⁶ In the Scoping Plan, ARB encourages local governments to adopt emissions reduction goals for 2020 “that parallel the State commitment to reduce greenhouse gas emissions by approximately 15 percent from current levels” Scoping Plan at p. 27; see *id.* at Appendix C, p. C-50. For the State, 15 percent below current levels is approximately equivalent to 1990 levels. *Id.* at p. ES-1. Where a city or county has grown roughly at

the same rate as the State, its own 1990 emissions may be an appropriate 2020 benchmark. Moreover, since AB 32's 2020 target represents the State's *maximum* GHG emissions for 2020 (see Health & Safety Code, § 38505, subd. (n)), and since the 2050 target will require substantial changes in our carbon efficiency, local governments may consider whether they can set an even more aggressive target for 2020. See Scoping Plan, Appendix C, p. C-50 [noting that local governments that "meet or exceed" the equivalent of a 15 percent reduction in GHG emissions by 2020 should be recognized].

¹⁷ *Christward Ministry v. Superior Court* (1986) 184 Cal.App.3d 180, 194 [EIR must consider future development permitted by general plan amendment]; see also CEQA Guidelines, §§ 15126 [impact from all phases of the project], 15358, subd. (a) [direct and indirect impacts].

¹⁸ See the City of Palm Desert's Energy Independence Loan Program at <http://www.ab811.org>.

¹⁹ Pub. Res. Code, § 21081.6, subd. (b); CEQA Guidelines, § 15091, subd. (d); see also *Federation of Hillside and Canyon Assocs.* (2000) 83 Cal.App.4th 1252, 1261 [general plan EIR defective where there was no substantial evidence that mitigation measures would "actually be implemented"].

²⁰ CAPCOA white paper at pp. 79-87 and Appendix B-1.

²¹ OPR Technical Advisory, Attachment 3.

²² See http://ag.ca.gov/globalwarming/pdf/GW_mitigation_measures.pdf [mitigation list]; http://ag.ca.gov/globalwarming/pdf/green_building.pdf [list of local green building ordinances].

²³ See http://opr.ca.gov/ceqa/pdfs/City_and_County_Plans_Addressing_Climate_Change.pdf.

²⁴ See Scoping Plan, Appendix C, at p. C-49.

²⁵ CEQA Guidelines, § 15126.2, subd. (a).

**Exhibit 3: Department of Justice Letter on the Tulare County General Plan Update
and related Court Case**

ATTACHED AS SEPARATE PDF FILE FOR YOUR REFERENCE