

March 23, 2021

County Supervisors via Clerk of the Board

Honorable Don Nottoli: Chair, District 5
Honorable Phil Serna: District 1
Honorable Patrick Kennedy: District 2
Honorable Rich Desmond: District 3
Honorable Sue Frost: District 4

County Planning and Environmental Review

Via Email

REVISED FINAL DRAFT CAP: 350 SACRAMENTO COMMENTS

Dear Supervisors and Staff,

We appreciate this opportunity to comment on the County's February 17, 2022 Revised Final Draft Climate Action Plan (CAP). We recognize the current draft has considerable modified wording, and are gratified by some substantive improvements as noted; however we remain concerned about the CAP's continuing general problems, e.g.:

- Key measures are vague, unenforceable, deferred, and/or unfunded;
- Assumptions and conclusions about baseline conditions and measure efficacy, though now sometimes reduced, remain unsubstantiated;
- The County's major source of GHG, on-road auto traffic, is not seriously dealt with;
- The County incorrectly asserts its 2011 General Plan EIR adequately addresses the CAP's direct and indirect environmental impacts as a mitigation plan that will "streamline" environmental review of future projects.

We here incorporate by reference our earlier comments on the three previous drafts. Our current comments augment those previous remarks and focus on changes in the current draft.¹

¹: Our most recent, October 8, 2021 comments remain valid except for references to statistics changed in the current CAP, and material superseded by these current remarks on new and revised CAP material.

² Earlier County commitments presented in the County's 2011 General Plan Update FEIR, and 2011 Phase 1 CAP *Framework and Strategy Document*, are detailed in our October 8, 2021 comments section III.A., "The Draft CAP is inconsistent with governing documents".

³: Palmgren, Claire, Miriam Goldberg, Ph.D., Bob Ramirez, Craig Williamson and DNV GL Energy Insights USA, Inc. 2019. [2019 California Residential Appliance Saturation Study](#) (PDF p. 56)
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I. GENERAL COMMENTS

A. Comments applying to many CAP measures: The following deficiencies are common to many of the CAP's measures. They are further detailed below, but listed here in overview:

- There is a general lack in Appendix E or elsewhere of credible, transparent substantiation for claimed GHG reductions.
- No cost or funding source are identified for outreach, staff time, and other proposed County work.
- There is a general lack of interim targets to track whether implementation and GHG reductions are on schedule to meet the identified 2030 goals.
- There is a universal use of discretionary, aspirational language (“will”, “should”, “would”, etc.) rather than binding statements affirming a commitment to implement (“shall”, “must”, etc.).

B. Future use of un-quantified measures will require separate CEQA analysis. The CAP states,

“... applicants who wish to utilize community measures for which GHG reductions have not been quantified must submit documentation ... subject to review and verification by the County or a qualified third party selected by the County” (p. 13)...

As defined in the CAP, non-quantified measures are not shown to be feasible, so cannot be considered CEQA implementation measures. Future use of such measures to claim project consistency with State standards is therefore subject to later project-specific CEQA review, not just verification by the County or “a qualified third party” through a currently undefined process apparently free of public or regulatory review.

II. MEASURE-SPECIFIC COMMENTS

A. REVIEW OF SELECTED QUANTIFIED MEASURES

Ten quantified measures provide 97 percent of the CAP's claimed County's GHG reductions. Some are better than others, but none of them clearly comply with all or most regulatory requirements and previous County promises. We review them below, as written, for consistency with selected CEQA requirements and County commitments², and summarize our conclusions in following Table 1. Measures are listed in the order of their claimed GHG reduction, from most to least.

Measure GHG-01: Promote and Increase Carbon Farming

Our October 8, 2021 comments discussed the previous version of this measure in some detail. The current version reduces the estimated participation by growers and the total GHG

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reduction, It remains otherwise unchanged, except for deletion of the previous draft's interim 2026 goal. It still is the largest contributor to the County's claimed GHG reductions, and suffers the deficiencies we detailed earlier, e.g.,

- it is entirely voluntary; there is no evidence for assumed grower participation rates; we have presented evidence that such participation rates are doubtful and that agricultural carbon sequestration is of dubious regulatory value; there is still no provision for conservation easements or other means to ensure any sequestration would be permanent, and County costs and funding sources are unstated.
- The measure is unsubstantiated, unfunded, and inconsistent with the County's 2011 FEIR commitment that the CAP would include "*economic analysis and detailed programs and performance measures, including timelines*".

GHG-06: Increase Energy Efficiency and Electrification of Existing Residential Buildings

We applaud this measure in concept. It states the County will "adopt a ... requirement" that replacement residential space and water heating appliance shall be electric. The County would also undertake educational outreach and partner with SMUD. No details are provided for these aims.

- Please specify what form the "requirement" will take (e.g., building code amendment or other).
- The enforceable component of GHG-06 hinges on the use of permits to ensure replacement of gas appliances with electric models, but absent point-of-home-sale checks or other enforcement mechanism, compliance is doubtful. Lack of permit compliance is a documented problem statewide, with less than ten percent of appliance replacements properly permitted³. GHG-06 does cite a target of establishing "*a point-of-sale electrification retrofit program*", but this seems to be an unintended carry-over from the previous draft.
- Please clarify whether point of home-sale or other enforcement is intended. If not, the claimed GHG-reductions from this measure should be appropriately reduced to account for unpermitted replacements with new gas appliances.
- The CAP credits GHG-06 with GHG-reductions of 140,819 MT CO₂ e per year; however, the "target Indicator" is in another parameter, therms, and no conversion factor is provided.
- The measure without explanation seems to inappropriately identify "*forecast natural gas consumption by 2026*" as a target. To facilitate future determinations of whether this measure is on track, please identify year 2030 and interim milestone targets and indicators in a consistent parameter, e.g. MT CO₂ e/yr.
- The measure is of dubious enforceability, unfunded, and inconsistent with the County's 2011 FEIR commitment that the CAP would include "*economic analysis and detailed*

³: Palmgren, Claire, Miriam Goldberg, Ph.D., Bob Ramirez, Craig Williamson, and DNV GL Energy Insights USA, Inc. 2019. [2019 California Residential Appliance Saturation Study](https://www.energy.ca.gov/publications/2021/2019-california-residential-appliance-saturation-study-rass) (PDF p. 56). California Energy Commission. Publication Number: CEC-200-2021-005. <https://www.energy.ca.gov/publications/2021/2019-california-residential-appliance-saturation-study-rass>.

programs and performance measures, including timelines”.

**Table 1:
 Measure Compliance with Selected
 CEQA Requirements and FEIR / Phase 1 CAP Commitments**

Y = Substantially Compliant **N** = Substantially Non-Compliant

Measure No-	Measure Name	Pct-- of Co GHG Re-duct	Enforceable	Funded	Detailed	Time-Lines	Economic Analysis	LU-VMT Reduction
GHG-01	Promote and Increase Carbon Farming	30	N	N	N	N	N	N
GHG-06	Increase Energy Efficiency and Electrification of Existing Residential Buildings	29	N	N	N	N	N	N
GHG-07	Eliminate Fossil Fuel Consumption in New Residential Buildings	10	YN	N	N	N	N	N
GHG-24	Increase Organic Waste Diversion	8	N	N	N	N	N	N
GHG-10	Implement Electric Vehicle Infrastructure Program	7	N	N	N	N	N	N
GHG-11	Reduce Emissions from New Residential and Office/Business Professional Development Vehicle Miles Traveled	5	?	N	N	N	N	?
GHG-12	Update Transportation System Management Plan for Nonresidential Projects	3	?	N	N	N	N	N
GHG-04	Increase Energy Efficiency and Electrification of Existing Commercial/Nonresidential Buildings and Facilities	3	Y	N	N		N	N
GHG-08	Require Tier 4 Final Construction Equipment	1	Y	N	Y	N	N	N
GHG-13	Revise Parking Standards for Nonresidential Development	1	Y	N	Y	N	N	Y
Total		97						

GHG-07: Eliminate Fossil Fuel Consumption in New Residential Buildings

We strongly support the intent of this measures and its proposed ordinance, but it (and companion measure GHG-05) is of uncertain efficacy as stated because explicitly subject to future feasibility and cost-effectiveness analysis. We also believe its substantiation of assumed efficacy needs further explanation as discussed below.

- GHG-07, in other words, has not yet been determined be feasible, contrary to CEQA's most fundamental requirement for proposed mitigation measures.
- The proposed deferred determination, after CAP adoption, would be subject to the give-and-take of political discourse, so the critical details of the measures, and indeed whether they will be adopted at all, are not assured as CEQA requires.
- Substantiation of the measure as presented in Appendix E appears questionable. The assumed avoided therms is based on a forecast of 30,540 new dwelling units by 2030. The beginning period is unstated, but presumably coincides with the ordinance's effective dates for single- and multi-family homes - January 1 of 2023 and 2026 respectively, and ends with 2029; i.e seven years for single- and four years for multi-family homes. However, SACOG projects that a total of 37,230 new DU will be needed through 2040. This measure seems to assume without explanation that over 80 percent of the growth expected through 2040 will occur in less than a decade during the 2030's. If inaccurate, this would mean the calculation of avoided therms could be inflated.
- Early action measures. The proposed feasibility analyses are on the critical path for ordinance adoption. They can and should proceed immediately, given the 2023 effective date. Cost-effectiveness analyses have already been prepared for the City of Sacramento and should accelerate needed review. Ordinance preparation and adoption should be expedited, consistent with the urgency of the Climate Emergency Declaration and without regard to CAP timing.
- The measure as written is unsubstantiated, unfunded, and inconsistent with the County's 2011 FEIR commitment that the CAP would include "*economic analysis and detailed programs and performance measures, including timelines*".

GHG-24: Increase Organic Waste Diversion

This measure would, "*Increase local capacity for composting and processing of organic wastes*". No description is provided for how this would be done, no costs or funding source are identified, and there is only a 2030 target with no interim milestones.

- The measure is unsubstantiated and inconsistent with the County's 2011 FEIR commitment that the CAP would include "*economic analysis and detailed programs and performance measures, including timelines, including timelines*".

GHG-10: Implement Electric Vehicle Infrastructure Program

This measure present a goal of installing EV chargers by "working with" unidentified third parties: cites a possible future plan update; and cites aspirational "infrastructure, fleet changes, funding mechanisms, utility coordination, and education" without further detail.

- This measure assumes (Appendix E) that 2,486 EV chargers will be in operation. No

basis for this number is presented, nor when that number will be reached; nor the period over which they are assumed to be operational. Further clarification is needed to verify the claimed GHG reductions.

- The measure is unsubstantiated and inconsistent with the County's 2011 FEIR commitment that the CAP would include "*economic analysis and detailed programs and performance measures, including timelines*".

GHG-11: Reduce Emissions from New Residential and Office/Business Professional Development Vehicle Miles Traveled

This measure would implement the County's *Transportation Analysis Guidelines*, which reflect the VMT-reduction thresholds of SB 743. The *Guidelines* would affect four large high-VMT greenfield projects currently planned in locations outside the County's adopted Urban Policy Area. There is no apparent way these projects can meet SB 743's goals, and GHG-11 would establish a "VMT mitigation program" to provide, "*VMT improvement projects or equivalent GHG emission reduction*" (emphasis added). Also see section II.B of these comments.

- GHG-11 lacks all detail and any protocol for ensuring its efficacy, contrary to CEQA requirements
- The measure conflates VMT and GHG reduction, apparently assuming they are fungible. This appears to conflict with the terms of SB 375 and SB 743, both of which specifically direct VMT reduction.
- The measure as written would facilitate high-VMT sprawl with uncertain mitigation, and could thereby actually increase GHG emissions.
- The substantiation for this measure (Appendix E) states that the measure assumes all new development will achieve 15% VMT reduction, and "*The County's protocol could amend the General Plan to add a policy requiring such reductions.*" No such caveat is included in the measure itself, throwing the enforceability of this measure into question.
- The measure is unsubstantiated and inconsistent with the County's 2011 FEIR commitment that the CAP would include "*economic analysis and detailed programs and performance measures, including timelines*".

GHG-12: Update Transportation System Management Plan (TSMP) for Nonresidential Projects

This measure would update existing TSMP zoning code requirements. Possible future update areas are identified and a "monitoring and reporting mechanism" is mentioned but no specifics are offered on which to base GHG-reduction or enforcement efficacy.

- No information is offered on the efficacy or problems of the existing requirements and why updating is needed.
- Per Appendix E, this measure assumes a 4.2% reduction in VMT, but no basis for that assumption is provided. The vague statement, "*Implementation could be achieved through a plan check or identifying a Transportation System Management Plan specialist*" seems to indicate uncertainty in how implementation might be achieved, and therefore in its achievement, at all. Further substantiation is needed.
- The measure is unsubstantiated and inconsistent with the County's 2011 FEIR commitment that the CAP would include "*economic analysis and detailed programs and performance*".

measures, including timelines.

GHG-04: Increase Energy Efficiency and Electrification of Existing Commercial / Nonresidential Buildings and Facilities

This measure proposes an ordinance by January 2023 requiring that existing non-residential buildings undergoing specified alterations or additions must switch to electric appliances and upgrade energy efficiency. Educational outreach would be provided to encourage voluntary energy efficiency/electrification retrofits.. Targets are identified for 2026 and 2030.

- We suggest that absent substantive justification, replacement with all-electric appliances on-burnout should be mandated for commercial applications, as is proposed for residential.
- Per Appendix E this measure assumes a voluntary retrofit rate of 10 percent. No basis for this assumption is provided. The bulk of energy reductions would be realized from mandatory upgrades during alteration work. Assumed reductions are presented for various building categories, but how these figures are derived is unexplained. In the interest of transparency further substantiation is required,
- The measure is unsubstantiated and inconsistent with the County's 2011 FEIR commitment that the CAP would include "*economic analysis and ... timelines*".

GHG-08: Require Tier 4 Final Construction Equipment

This measure would implement USEPA PM and NO_x-reduction requirements for construction equipment, to be enforced through approval of plans and grading permits. Target indicators are identified for 2026 and 2030.

- Appendix E substantiation for this measure consists of several statistics, but how they are derived and used to calculate the claimed GHG reduction is unclear and unexplained.
- The measure is unsubstantiated and is inconsistent the County's 2011 FEIR commitment that the CAP would include "*economic analysis and ... timelines*".

GHG-13: Revise Parking Standards for Nonresidential Development

This measure would "*study and revise*" existing non-residential parking standards.

- No specifics of the proposed revisions are offered so it is unclear on what basis the claimed GHG-reductions were calculated. It assumes (Appendix E) a 2.5 percent reduction in commute VMT, but how this figure is derived is unstated.
- The measure is unsubstantiated and inconsistent the County's 2011 FEIR commitment that the CAP would include "*economic analysis and detailed programs and performance measures, including timelines*".

B. CARBON & VMT OFFSET PROVISIONS

Two in-lieu mitigation schemes are identified in the CAP:

- A Carbon Offset Program at CAP section 2.3
- A VMT Mitigation Program in GHG-11.

Use of these offset is mentioned in the CAP as a funding mechanism for other measures (e.g., GHG-04, GHG-06, GHG-10), and as a means of providing regulatory compliance (e.g., GHG-11, GHG-30).

We have the following concerns:

- California’s most common offset protocols have been found to create illegitimate offsets, as cited in our October 8, 2021 comments.
- Such offsets have been found to be legally problematic by California courts, as cited in our October 8, 2021 comments; and the CAP does not indicate that the County recognizes or has a plan to address these legal constraints.
- Both offset proposals are entirely conceptual, without protocols or processes to ensure the legitimacy that courts have demanded.
- The VMT Mitigation proposal states that “*VMT impacts*” may be offset with, “... *equivalent GHG emission reduction*”. This conflation of disparate VMT and GHG parameters is inconsistent with the requirements of SB 375 and SB 743 which explicitly direct reduction of VMT - not GHG.
- The above concerns are more than theoretical. As the CAP states, “*The County has several approved and pending master plans (Table 5) in locations that contribute to increased VMT and associated GHG emissions*”. Four of the pending planned projects (Jackson Township, Jackson West, GrandPark, and Upper Westside) lie in greenfields outside the County’s adopted growth boundary and are very large, totaling over 55,000 new dwelling units (for comparison, SACOG projects that the unincorporated County will require a total of only about 37,000 new dwelling units through 2040).
- These outlying projects have the potential to generate an enormous amount of new VMT, far exceeding SB 743’s thresholds and SB 375’s regional VMT-reduction goals. Establishing, through adoption in the CAP, uncertain and undetailed offsets to mitigate these very large impacts could have significant adverse cumulative impacts. Such impacts can and should be considered at a programmatic level in the CAP, consistent with CEQA requirements.

III. APPENDICES

Appendix F. Additional options considered for the CAP. Appendix F (p. 1) erroneously states,

“Strategy options described in this section entail changes to the underlying assumptions used to prepare the CAP, such as modified land uses or setting targets for GHG reduction that were not identified as part of the Phase 1 Strategy and Framework document....”

In fact, as demonstrated in our October 2021 comments, section III.A.2, the County Phase 1 CAP addressed the land use/transportation/VMT/GHG nexus at length; noted the County’s “direct authority over land use”; and identified infill land-use strategies to reduce GHG emissions (citing research documenting their efficacy).

By implication, a number of the options presented in Appendix F may in fact be feasible and supported by the Phase I CAP’s *explicit* policy-level recognition of the importance of “*modified land uses*” to reduce GHG emissions.

Thank you for considering our comments.

Sincerely,



Justin Tweet, Co-Chair:
350 Sacramento CAP Team:



Oscar Balaguer, Co-Chair
350 Sacramento CAP Team

cc: Ann Edwards, County Executive
Josh Chatten-Brown, CBCM