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Thomas J. Christofk, Air Pollution Control Officer

MEMORANDUM

TO: Board of Directors, Placer County Air Pollution Control District

FROM: Yushuo Chang, Planning and Monitoring Section Manager

AGENDA DATE: December 11, 2008

SUBJECT: Environmental Review Program for Land Use Projects in Placer County Air

Pollution Control District (Information only)

Action Requested:

No action required. This is an "information only" item which will describe the current review program for land use projects within the Placer County Air Pollution Control District (District) under the California Environmental Quality Act (CEQA).

Background:

Placer County is located within the Sacramento Federal Ozone Nonattainment Area (SFONA), an area with air quality which does not currently meet the federal ozone standard. The ozone standard was established by the United State Environmental Protection Agency (EPA) to help achieve one of the primary federal Clean Air Act goals – to "protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." Currently, the SFONA ranks as the sixth worst area in the nation for ozone air pollution¹. Our District is not only responsible for achieving federal and state air quality standards to ensure healthy air in Placer County, it is also responsible for working with jurisdictions outside of Placer County to bring the entire Ozone Nonattainment Area into compliance.

One of the District's Goals is to "mitigate effects of growth through reviewing development plans for impacts on air quality and working toward mitigating those impacts through initiatives and programs that reduce emissions". As part of an ongoing effort to improve air quality, the District reviews and comments on CEQA documents which are prepared for discretionary development proposals that may result in substantially significant air pollutant emissions within the County. As a part of our review process, the District makes recommendations for reducing emissions of air pollutants to mitigate potential air quality impacts. These recommendations are then provided to the County, as well as incorporated

¹ American Lung Association, the State of the Air 2008, "Most Polluted Cities: Ozone". Information can be found at the following link: http://www.stateoftheair.org/2008/most-polluted/

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cities within the County, relatively early in the planning process.

Discussion:

The California Legislature enacted CEQA in 1970. CEQA requires that public agencies (i.e., local, county, regional, and state government) consider and disclose the environmental effects of a particular project to the public and governmental decision-makers. Further, it mandates that agencies implement feasible mitigation measures or alternatives that would mitigate significant adverse impacts on the environment.

CEQA is intended to address a broad range of environmental issues including water quality, noise, land use, natural resources, transportation, energy, human health, and air quality. Typically under CEQA, a public agency reviews an Initial Study and will decide which type of environmental document (e.g., negative declaration or environmental impact report) is required in order to evaluate the potential impacts on the environment. Once the appropriate environmental document is determined, then that document will indicate the manner in which those potential impacts could be mitigated or avoided, and when an EIR is required, and to identify alternatives and any impacts that cannot be fully mitigated.

Public Agency Roles in the CEQA Review Process:

Public agencies take an active part in the intergovernmental review process under CEQA. In carrying out the duties under CEQA, a public agency may act as a Lead Agency, a Responsible **Agency**, Trustee Agency, or a Commenting Agency (in which case the Agency is making a comment much like a member of the public would make on a project).

Lead Agency – A Lead Agency is the public agency with the principle responsibility for carrying out or approving a project subject to CEQA. In general, a local government agency with jurisdiction over land use (normally a city or county) is the preferred lead agency for land use development projects. Lead Agencies are responsible for complying with CEQA by ensuring that the potential environmental impacts of projects are adequately assessed. This may include determining that a project is exempt from CEQA, preparing a Negative Declaration, Mitigated Negative Declaration, or the preparation of an Environmental Impact Report. Lead Agencies must also consult with and solicit comments from Responsible Agencies and others during the preparation of certain projects.

Responsible Agency – A Responsible Agency is a public agency, other than the Lead Agency which has the responsibility for reviewing and/or approving a project (e.g., the project must obtain a permit from the Agency). The role of Responsible Agency is different from that of a Lead Agency. While a Lead Agency must consider all of the potential impacts for a project, the Responsible Agency is required to comment on those aspects that are within the agency's area of expertise and are related to the Agency's permitting authority.

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Trustee Agency – There are also several State agencies that may not require a permit from development projects, but nevertheless under the law are required to comment on projects. These State Departments are called "Trustee Agencies" (e.g., California Department of Fish and Game). The Air District is not a Trustee Agency.

Commenting Agency – A Commenting Agency is a public agency with "jurisdiction by law" over a particular natural resource, but is neither a Lead Agency nor a Responsible Agency. A Commenting Agency reviews a project based on its expertise and provides comments back to the Lead Agency to assist the Lead Agency in identifying key issues for the project. Generally, a local air district falls into this category with respect to land use and development projects. Air districts review and comment on the air quality analysis within environmental documents when local lead agencies submit those documents to the air district for comment. However, while the air district makes *recommendations* regarding mitigation measures, the air district has no authority to *require* project mitigation (unless a project needs an independent permit from the District).

Placer County APCD's Role in the CEQA Review Process

As a public agency, the District takes an active part in the intergovernmental review process under CEQA. In most of cases, the District acts as a Commenting Agency for land use projects that are distributed by the Lead Agency for review and comment. The District has an internal process for reviewing and commenting on the documents received. The District provides comments addressing the potential air quality concerns back to the Lead Agency within a specific timeframe. The comments from the District are based on the professional expertise and information developed by the District. Comments are focused on the adequacy of the air quality analysis for the project. Comments normally include identifying a project's impacts on air quality based on scientific modeling analysis and the recommendation of feasible mitigation measures to offset the project related air quality impacts. The District is available for consultation at any time, by any jurisdiction within its boundaries, before or during the project review process.

The District would act as a Responsible Agency if a project or a portion of a project is required to obtain an air district permit. The District is required to comment on any Negative Declaration or EIR prepared by the lead agency, within 30 days of receiving an initial application, and make comments directly related to any environmental effects that the District believes are appropriate. During subsequent environmental review, the District is required, once again, to analyze the adequacy of the air quality portion of the document within 30 days.

Although rare, in some cases, the District could act as a Lead Agency. The District can change from a Responsible Agency to a Lead Agency if a Lead Agency (1) failed to prepare any environmental analysis under CEQA, (2) the District determines that a subsequent EIR is required for the project, or (3) determines that the prepared EIR, Mitigated Negative

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Declaration, or Negative Declaration was inadequate *and* the District did not receive any notice of the document when it was circulated. If the District determines any of these circumstances to be the case, then the District could become the Lead Agency.

District CEQA Review Program

The District has jurisdiction over most air quality matters in Placer County, specifically pollutants in the ambient air. The District is responsible to implement certain programs and regulations for controlling air pollutant emissions to improve air quality in order to attain federal and state ambient air quality standards. In addition to industrial sources, land use projects have the potential to generate air pollutants which result in adverse environmental impacts and are therefore subject to CEQA. In the "Sacramento 1-hour Ozone State Implementation Plan" (SIP), the local air districts (including Placer County) have committed to reduce 1 ton per day of reactive organic gases (ROG) and 3 tons per day of nitrogen oxides (NOx) through the land use review process as well as off-road control measures. This same commitment will be carried into the new 8-hour Ozone SIP, which is scheduled for a public hearing and possible adoption in February 2009. The District has developed a review program that includes two components: 1) thresholds of significance, and 2) evaluation process. The District uses the review program as a Commenting Agency to evaluate land use projects within the Cities and Counties in order to accomplish these mandates.

Through the review program, the District Staff evaluates the types and levels of emissions generated by the project, the existing air quality conditions, and the other neighboring land uses in order to determine the significance of air quality impacts resulting from the proposed projects. The first step is the determination of significance for the project, which is based on modeling analysis. During the second step, the District Staff identifies any feasible mitigation measures, and recommends those measures to the Lead Agency. Finally, District Staff will prepare either a letter, or prepare the "Air Quality " portion of an Initial Study, which both include recommended mitigation measures which should be implemented by the project, and describe the reasoning behind those recommendations. The Lead Agency can use this information, if it chooses, in order to help offset the potential air quality impacts generated by the proposed project.

Thresholds of Significance - "Thresholds of significance" are used to determine the level of significance for air quality impacts from any given land use project. CEQA encourages each public agency to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. The thresholds of significance should be supported by substantial, scientific evidence. In setting these thresholds, the District considers both the health-based air quality standards as well as the attainment strategies developed in conjunction with the California Air Resources Board (CARB) and the U.S. Environmental Protection Agency (EPA).

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²CEQA Guidelines, §15064.7

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The New Source Review (NSR) is a permitting program which requires stationary sources of air pollution to get permits before they start construction. The NSR program was established by the U.S. Congress as part of the 1977 Clean Air Act Amendments. The NSR program has two objectives: 1) setting the emission thresholds to ensure that air quality is not significantly degraded from the addition of new and modified industrial sources and 2) requiring Best Available Control Technology (BACT) to assure that any large new or modified industrial source within a given area will be as clean as possible, and that advances in pollution control occur concurrently with industrial expansion.³

The District has concluded that the industrial pollutants described under the above NSR Program, are similar to those pollutants generated with land use projects (e.g., vehicle emissions). Therefore, the District has historically applied the concept of the NSR program to establish the thresholds for projects under the CEQA review program. The following table explains this concept in greater detail.

• <u>Project-Level Thresholds</u> - Table 1 is the current project-level thresholds of significance established by the District to the impacts of construction and operational emissions associated with a land use project.

Table 1 Project-Level Thresholds of Significance⁴

·	Thresholds of Significance				
	ROG	NOx	PM10		
	(lbs/day)	(lbs/day)	(lbs/day)		
Construction Emissions					
(short-term)	82	82	82		
Operational Emissions					
(long-term)	82	82	82		

The threshold of 82 lbs per day was established based on 15 tons per year, which was set as the total emission threshold in the District Rule 502 New Source Review. ⁵ The District uses these thresholds to determine the level of significance for emissions associated with a project's construction activities (e.g., demolishing, site preparation, earthmoving, and building, etc.) and operational activities (e.g., energy consuming, motor vehicle trips, and landscaping maintenance). If any project's associated emission exceeds the threshold, the District will then make a determination that the project related air quality impacts would be "potential significant". Mitigation measures are then

⁴ Does not currently include green house gas thresholds, which the Office of Planning and Research and Air Resources Board are developing the policy guidance.

³ EPA NSR Program website, http://www.epa.gov/NSR/

⁵ The District Rule 502 New Source Review was amended in December, 2004 to lower offset thresholds for ROG and NOx from 15 tons per year to 10 tons/per year pursuant Section 70600 and 70601, Title 17, California Code of Regulations, set forth the State Ozone Transport Mitigation Regulations.

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suggested by the District to the Lead Agency to offset the project's related air quality impacts. An EIR process may be recommended by the District to the Lead Agency if the project related emissions cannot be mitigated to a less than significant level and the project cannot achieve the thresholds described above.

Table 2 shows the types and sizes of projects corresponding with the thresholds of significance by the year of project build out. The table is based on the default setting from the URBEMIS model and the actual emissions from the project may vary based on the types of projects and locations.

Table 2 Project Sizes corresponding with the significant threshold

The size of land use project for 82 lbs/day threshold for NOx only ¹							
assumed builtout year	2009	2010	2015	2020	2025		
Residential Project ²	600 units	650 units	950 units	1300 units	1700 units		
Commercial Project ³	180,000 sf	200,000 sf	300,000 sf	450,000 sf	600,000 sf		

- 1. Urbemis 2007 9.2.4 version
- 2. single family units
- 3. regional shopping center
- <u>Cumulative Thresholds</u> In addition to reviewing the impacts associated with the project individually, CEQA requires that Lead Agencies review the project's possible environmental effects which are "individually limited but cumulatively considerable". CEQA defines "cumulatively considerable" as the incremental effects of an individual project when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. Therefore, it can be argued that any land use project's related emissions would be cumulatively considerable if the project contributes a net increase of emissions within Placer County or within incorporated cities within the County.

The District applies a "10 lbs per day" standard as the threshold for a project's cumulative impacts resulting from its ROG and NOx emissions because Placer County lies within the federal ozone nonattainment area. This threshold was established based on the NSR BACT requirement, which means that any stationary source that emits more than this threshold must employ Best Available Control Technology. Stationary source emissions of criteria pollutants are similar to those emitted by "indirect sources" (emissions generated by land use development actions), and thus the nexus that projects emitting above this threshold should employ mitigations (or BACT) to reduce their cumulative impacts. Therefore the District recommends to Lead Agencies that any project that emits more than this amount should include mitigation measures to offset such impacts, although the final decision resides with the Lead Agency.

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⁶ CEQA Guidelines, §15065 (c)

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Mitigation measures could include both on-site and off-site mitigation measures.

It is very important to note that the District suggests the use of the cumulative threshold (10 lbs/day) to trigger the need of mitigations when a project's related emissions are below the project-level thresholds (82 lbs/day) but above the cumulative thresholds (10 lbs/day). Because Placer County lies within the SFONA, any associated emissions from a land use project will contribute a net increase and degrade the air quality within the County. At a macro scale, a land use project would be required by the Lead Agency to implement mitigation measures which were identified by the previous certified EIR associated with the General Plan, Specific Plan, or Community Plan to mitigate cumulative impacts. However, the previous certified EIR could be outdated due to the time lag between its environmental analysis (in most cases many years and possibly decades) and newer more restricted ozone standards and emission analysis and impacts model updates. Those mitigation measures initially identified in that original environmental document may not be sufficient to offset the project's related cumulative impacts in today's environment. Therefore, the District utilizes the cumulative threshold as a tool to require additional mitigation measures. Those mitigation measures have been recognized as the feasible measures implemented by recent approved projects within Placer County.

One of the recognized feasible mitigation measures is the offsite mitigation program which allows an offsite project (e.g., retrofitting vehicles, alternative fuel application, etc.) to be implemented by the applicant or a payment of fees to the District's Offsite Mitigation Funds in lieu of on-site reductions. The District then applies these funds towards emission reduction projects through the District's annual Clean Air Grant (CAG) process. The recommendation for the use of offsite mitigation measures is based on approved action taken by the Board in April 2001 with the "Policy Regarding Land Use Air Quality Mitigation Funds". It provides an alternative to offset the land use project's related emissions (e.g. vehicle exhaust, water heater, and consumer products) when **on-site** mitigation measures are not sufficient to offset the emissions resulting from projects. This recommendation to the Lead Agencies is a suggestion only. Local agencies can always opt to justify their conclusions regarding air quality through their own analysis.

The District does **not** recommend the use of this cumulative threshold to determine the need for an Environmental Impact Report. Local governments acting as Lead Agencies have the responsibility to determine the type of environmental document that should be prepared by the project and should determine when a project's impacts, even after complying with the District's offsite and/or fee programs, are potentially significant as defined under CEQA.

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Table 3 shows the types and sizes of projects corresponding with the 10 lbs/day threshold. The table is based on the default setting from the most recent Urbemis model. The actual emission from a project may vary based on the types of projects as well as the project's locations.

Table 3 Project Sizes corresponding with the cumulative threshold

The size of land use project for 10 lbs/day threshold for NOx only ¹							
assumed builtout year	2009	2010	2015	2020	2025		
Residential Project ²	75 units	76 units	100 units	120 units	135 units		
Commercial Project ³	25,000 sf	28,000 sf	44,000 sf	55,000 sf	70,000 sf		

- 1. Urbemis 2007 9.2.4 version
- 2. single family units
- 3. regional shopping center

With the use of the two different thresholds of significance outlined above, the District is able to evaluate the environmental impacts of the projects it reviews, whether those projects are required to be reviewed by the District as a lead or responsible agency, or when local jurisdictions request District review on their projects. Below is a discussion on how the District performs environmental analysis.

Process of Environmental Review - Generally, the District receives the bulk of its CEQA project review from the County and the Cities. The District occasionally receives CEQA documents from outside the County for review. The District also receives documents from other jurisdictions when the District is a Responsible Agency. The District receives documents to comment on when the Lead Agency is required to seek consultation from the District during the circulation of the draft Negative Declaration, Mitigated Negative Declaration or EIR. This scenario is when the District is only a "Commenting Agency" under CEQA.

District Staff will review the project description and related information to prepare a preliminary modeling analysis for the project. When reviewing environmental documents, District Staff will review the associated chapters (e.g., project description, land use, traffic analysis, and air quality) to verify the accuracy of modeling analysis and the conclusions drawn from that analysis.

Modeling and Determinations of Significance - A good modeling analysis is the
key foundation to provide scientific data and support the project related impact
analysis and conclusion. The result from the modeling analysis provides a
quantitative analysis to determine the level of significance for a project's related
air quality impacts.

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⁷. CEQA Guidelines, §15073 & §15086

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The **URB**an **EMIS**sions (URBEMIS) is the most common model utilized by many air districts in California for a land use project related air quality impact analysis. The URBEMIS includes emissions factors for estimating emission from construction activities, motor vehicles, and area sources resulting from the project. URBEMIS offers conservative mass emissions computation in a user-friendly Windows environment. While the use of URBEMIS is the preferred approach for estimating project related emissions, the District may also utilize other approaches to estimate the project related emission.

The determination of significance is one of the key decisions in the CEQA review process. The determination is based on comparing a project's emissions estimated by the modeling analysis to the thresholds of significance established by the District (as discussed in the Section above). If a project's emission estimates do not exceed the project-level thresholds shown in Table 1, then a determination will be made that emission impacts will be "less than significant". If the estimated emissions exceed one of thresholds, the project related impacts could be "potentially significant" and mitigation measures should be identified to mitigate the project related impacts.

If a project's related operational ROG or NOx emissions are below the project-level threshold (82 lbs/day) but above the cumulative threshold (10 lbs/day), the District considers that the project would result in a net increase cumulatively to the Sacramento ozone nonattainment area. The District will identify feasible mitigation measures for the project to mitigate its cumulative impacts.

After the determination of significance, the District will move on to the next phase of the analysis: determining proper mitigation for the identified impacts.

<u>Project Mitigation</u> - CEQA requires Lead Agencies to mitigate or avoid the significant effects on the environment of projects that it approves whenever it is feasible to do so.⁸ Environmental documents for projects that have one of more significant environmental impacts must identify feasible mitigation measures or alternatives to reduce the adverse impacts below a level of significance.

When the project related emission estimates exceed any of the thresholds discussed above, its preliminary conclusion for the project's related impacts would be "potentially significant". A broad range of potential mitigation measures should be considered to maximize the potential to mitigate the project's related impacts. District Staff will identify the feasible mitigation measures for the project based on the best practices recognized by the past approved projects or acknowledged by the other local air districts. These identified mitigation measures would include both

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⁸ CEQA §21002.1 (b)

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construction and operational emissions mitigations and should minimize the project's impacts to the maximum extent.

• <u>Project Recommendation</u> - For a project application, District Staff will review the application and prepare a comment letter or assist in the preparation of an Initial Study. Depending on the type of environmental document, the District may discuss whether there are project design alternatives that could later help the project avoid additional mitigation measures, and will summarize any findings by the District regarding mitigation measures in the form of recommendations to the Lead Agency for consideration. If the District Staff feels that any given impact may be so significant that it might not be able to be mitigated, this would be included in its letter to the Agency, or as outlined in the Initial Study.

For environmental document review, District Staff will review the detailed air quality analysis. The review includes verifying the accuracy of the modeling analysis and the feasibility of the mitigation measures and identifying if any additional mitigation measure should be addressed into the Mitigated Negative Declaration or EIR document. The District's analysis will include the findings of the review and any additional mitigation measure for the project's implementation.

Comment letters and assistance with Initial Studies from the District (when the District is acting as a Commenting Agency) are project based, and provided to the Agencies to assist them in identifying key issues for the project. The District recognizes that the final determination of mitigation measures for a project will be determined by the Lead Agency.

Summary

In addition to the efforts for CEQA document review, District Staff continues to work with County and Cities Staff to identify key issues within projects. District Staff is available for consultation at any time before or during the project review process, including prior to the preparation of the environmental documents, as well as during public review of the complete documents. Joint meetings with the planners and the project applicant is another approach used by District Staff to find solutions prior to the final environmental document approval. It is the District's desire to collaborate with local governments to ensure that the air quality assessment for a land use project would be in compliance with CEQA requirements and to achieve the objectives for reducing emissions to meet the federal and state air quality standards.

Fiscal Impact:

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Environmental review of land use projects is a core program area and the staff resources allocated to it are addressed in the District budget. There are no plans to increase staffing resources beyond those current allocations at this time.

Recommendation:

None. This is an "information only" item to explain the current District's CEQA review program. The District will continue working with local jurisdictions under the existing staff level to provide professional assistance for the identification of air quality impacts associated with land use projects within Placer County. Staff is committed to the development of a "CEQA Review Handbook" as a work product for use by Lead Agencies and others and will be bringing that to the Board for consideration when it is completed. This handbook will incorporate both criteria pollutants and green house gases emission impact evaluations and mitigations.