



Via Electronic Mail and USPS (w/attachments)

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Re: Comments on Napa County's Draft Climate Action Plan

Dear Mr. Hade:

These comments are submitted on behalf of the Center for Biological Diversity (the "Center") regarding Napa County's Draft Climate Action Plan (the "Draft CAP"). While the Draft CAP identifies many significant sources of greenhouse gas ("GHG") emissions in the Napa County and proposes some measures to address them, the Draft CAP does not provide specific, mandatory, and enforceable policies necessary to adequately fulfill the County's legal responsibilities under state law.

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over one million members and online activists throughout California and the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Napa County.

I. The County's Role in Combating Climate Change.

The County is charged with reducing GHG emissions in the County. As the California Air Resources Board ("CARB") explains:

Essential partners in achieving California's goals to reduce GHGs, local governments have broad influence and authority over activities that contribute to significant direct and indirect GHG emissions. Through their planning and permitting processes, local ordinances, outreach and education efforts, and municipal operations many local governments have become leaders in reducing GHG emissions.¹

¹ California Air Resources Board, "Local Government Actions for Climate Change" (Apr. 2016), available at <https://www.arb.ca.gov/cc/localgovernment/localgovernment.htm>.

The County thus has the opportunity – and responsibility – to holistically assess the GHG emissions of activities in the County and develop and implement policies to significantly reduce these emissions.

II. The Draft CAP Cannot Allow Projects to Evade CEQA Review.

The Draft CAP states that the County will “streamline” the CEQA analysis of individual projects with a checklist in Appendix D. As a preliminary matter, this checklist was not included with the Draft CAP, rendering it impossible to evaluate. Moreover, the specific impacts and required mitigation measures for individual projects will vary widely. As such, it is unlikely that a checklist – even if it is developed – will adequately analyze and mitigate GHG impacts of all individual projects in the County in the future.

At the conclusion of the Draft CAP, the County claims that the “CAP meets the criteria identified in Section 15183.5 and is therefore considered a ‘qualified’ CAP.” As currently drafted, the County’s CAP does not come close to meeting the requirements for streamlined CEQA review. A guidance document from the California Attorney General states that while a CAP may constitute “reasonable mitigation” under CEQA, the CAP should 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.”²

The Draft CAP does not contain binding and enforceable GHG control measures. Notably, the words “encourage,” “promote,” or “support” occur many dozens of times in the sections describing the Draft CAP’s implementation measures. The California Attorney General expressly disapproved such non-binding measures:

Can a lead agency rely on policies and measures that simply “encourage” GHG efficiency and emissions reductions?

No. Mitigation measures must be “fully enforceable.” *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.³

The California Attorney General further states that programmatic plans to reduce GHG emissions pursuant to CEQA Guidelines section 15183.5 must “[i]dentify a set of specific, enforceable measures that, collectively, will achieve the emissions targets....”⁴ Such vague

² California Attorney General’s Office, “Climate Change, the California Environmental Quality Act, and General Plan Updates: Straightforward Answers to Some Frequently Asked Questions” (Sept. 2009) available at http://ag.ca.gov/globalwarming/pdf/CEQA_GP_FAQs.pdf.

³ *Id.*

⁴ California Attorney General’s Office, “CEQA and General Planning,” available at <https://oag.ca.gov/environment/ceqa/planning>.

measures also are clearly inconsistent with CEQA Guidelines section 15183.5(b)(1)(D), which states that measures should have “performance standards” which demonstrate they will achieve the planned reductions on a project by project basis.

Accordingly, while the Draft CAP may contain a set of worthwhile goals for the County to pursue, the Draft CAP fails as a CEQA compliance tool because it generally relies upon non-enforceable measures. In Table 5-1, which summarizes all measures, the Draft CAP expressly notes that many of these implementation measures are “voluntary.” Even many of the measures characterized as “mandatory” are not truly mandatory because they just require the County to “support” or “promote” the actions of other entities.

In addition, other measures in Table 5-1 which are characterized as “mandatory” cryptically state in the “other considerations” column that the measure “requires County collaboration & administrative capacity.” This suggests that even these purportedly “mandatory” measures will be implemented only if sufficient administrative capacity (e.g., funds) is available. The Draft CAP never explains what this phrase means or whether it essentially conditions implementation of these implementations on the potential availability of unspecified funds or other “capacity.” Given the budget shortages routinely facing local governments, the Center is concerned that these implementation measures will never be implemented due to lack of funding (and that the Draft CAP allows this result).

III. The Emissions Inventory Is Incomplete.

The Draft CAP lists nine categories of GHG emissions in its GHG inventory: Building Energy Use, On-Road Vehicles, Solid Waste, Agriculture, Off-Road Vehicles, High GWP Gases, Wastewater, Land Use Change, and Imported Water Conveyance. However, the Draft CAP does not appear to include some potentially significant categories of emissions, such as rail emissions. Other Draft CAPs, such as the San Francisco Draft CAP, include rail emissions.⁵

The CAP should also set forth the emissions categories in more detail. A guide prepared by the Bay Area Air Quality Management District (“BAAQMD”) recommends listing the GHG emissions of specific items such as streetlights and traffic signals.⁶

In addition, other agencies, including CARB, separately categorize emissions from the residential, industrial, and commercial sectors. In contrast, the Draft CAP appears to aggregate at least some of these emissions together in the “Building Energy Use” category. While Appendix A does appear to list the separate emissions totals for these sectors (Appx. A at Table 4), this information should be in the text of the CAP and separate mitigation strategies should be developed for each sector.

⁵ Climate Action Plan for San Francisco (Sept. 2004)

<https://sfenvironment.org/sites/default/files/fliers/files/climateactionplan.pdf>.

⁶ Strategic Energy Innovations and Bay Area Air Quality Management District, “Conducting A Municipal Greenhouse Gas Emissions Inventory: A Practical Guide” (Aug. 2009), available at http://www.ca-ilg.org/sites/main/files/file-attachments/Municipal_GHG_Inventory_Guidebook.pdf.

IV. The Draft CAP Should Not Plan On Failing To Meet Long-Term Goals.

Table 3-2 claims that – with the Draft CAP’s GHG reduction measures – the County’s GHG emissions will exceed the County’s 2020 target by 57,138 metric tons of carbon dioxide equivalents (“MTCO₂e”) per year and the County’s 2030 target by 145 MTCO₂e per year. (Draft CAP at 3-5.) Exceeding the County’s 2030 target by only 145 MTCO₂e per year leaves very little room for variations between the County’s estimated and actual reductions in GHG emissions – it is possible that the County will miss the 2030 target.

Furthermore, Table 3-2 states that the County would still need to reduce emissions by 158,306 MTCO₂e per year to meet the County’s 2050 target. In other words, the Draft CAP expects the County *not* to reach this long-term target. The County should not be enacting a Draft CAP that contemplates failing to achieve long-term targets in GHG reductions. Instead, the County should be evaluating and implementing stronger mitigation measures to put the County on track to reach all of its goals.

The County’s plan not to meet its long-term GHG targets also makes the Draft CAP not consistent with CEQA Guidelines section 15183.5(b)(1)(D), which requires that the document demonstrate that it will achieve planned reductions on a project by project basis. Accordingly, compliance with the CAP, even if fully implemented, cannot be used to demonstrate that a particular project is consistent with the County’s targets.

V. The Draft CAP’s GHG Reduction Strategies and Measures Are Inadequate.

A. The Building Energy Measures do not demonstrate that they will result in significant GHG reductions.

The County acknowledges the very significant role of buildings in generating GHG emissions. For example, the Draft CAP estimates that building energy currently accounts for 31 percent of the County’s emissions. (Draft CAP at 4.) Unfortunately, the Draft CAP does not set forth long-term strategies to curb emissions generated by new development. This is especially unacceptable because the County plans to allow such projects to move forward merely by meeting certain unspecified requirements on a “checklist.” Because (a) these projects will lock in significant GHG emissions for many decades and (b) the County has conceded its proposed measures will fail to meet long-term targets, these projects should be required to implement stronger mitigation measures.

In particular, the Draft CAP sets forth ten “Building Energy Measures” in Table 3-3. Unfortunately, many of these measures are extremely vague and do not require any specific actions of regulated parties. For instance, BE-1 merely provides that the County will “work with” PG&E and other utilities on efficiency programs. This fails to actually require any utilities or regulated parties to take any concrete actions to reduce GHG emissions. Likewise, BE-2 does not require regulated parties to actually reduce GHG emissions – it just suggests that the County will perform more energy audits. Furthermore, despite the lack of any identifiable GHG reductions of BE-1 and BE-2, the Draft CAP incorrectly concludes that “improved air quality” and “reduced fossil fuel reliance” will be “co-benefits” of these measures. (Draft CAP at 3-8.)

BE-3 and BE-4 require compliance with California Green Building Standards. However, significant portions of the California Green Building Standards are already mandatory.⁷ BE-3 and BE-4 do not specify what standards (if any) will be required under the Draft CAP that go above and beyond what state law already requires.

The Draft CAP also does not explain how it arrived at the 15 percent reduction under Tier 1 Standards and 30 percent reduction above current standards. (See Draft CAP at 3-8.) Indeed, California's 2016 Building Standards, which are effective on January 1, 2017, already require that buildings are 28 percent more efficient than the 2013 Building Standards.⁸

The Draft CAP further notes that the state is likely to adopt a zero net energy ("ZNE") standard in 2020, and that the County would incorporate the ZNE standard into its local building code. The Center urges the County to be a leader in fighting climate change by adopting the ZNE *now* instead of waiting for action on the state level.

BE-5 also does not require the County to actually take any concrete steps. Rather, it simply requires the County to "consider" subsidizing the extra cost of the Marin Clean Energy Deep Green Program. The County thus cannot claim either GHG reductions or "co-benefits" of improved air quality and reduced fossil fuel reliance merely because it considers taking a concrete action.

BE-6 states that the County will reduce GHG emissions by requiring electric or alternatively fueled water heaters. Yet, BE-6 does not appear to expressly require that the electricity powering these water heaters come from renewable or low-carbon sources.

BE-7 states that the County "will continue to provide expedited permitting incentives for installing solar panels, electric vehicle charging stations, and wind turbines." (Draft CAP at 3-10.) While incentives are helpful in increasing user adoption of these technologies, incentives alone are insufficient. The County should take steps to *require* certain amounts of solar or wind and EV charging stations in new residential and commercial development. Likewise, the Center appreciates that the County has "set a goal" of approving 20,000 kw of solar permits by 2030. Yet, once again, the Draft CAP does not explain how merely "incentivizing" solar will result in the County reaching this goal. The Draft CAP should set forth both "carrot" and "stick" approaches to reach aggressive renewable energy goals instead of relying solely upon voluntary incentives.

BE-8 indicates that the County will develop a program for new development to offset its emissions by retrofitting existing buildings. (Draft CAP at 3-10.) While retrofitting existing buildings is a critical strategy for reducing GHG emissions, such retrofitting activities should not serve as a substitute for reducing emissions from new buildings. New buildings should

⁷ See California Building Standards Commission, "California's Green Building Code," available at <http://www.bsc.ca.gov/Home/CALGreen.aspx>.

⁸ See California Energy Commission, "2016 Building Energy Efficiency Standards Frequently Asked Questions," available at http://www.energy.ca.gov/title24/2016standards/rulemaking/documents/2016_Building_Energy_Efficiency_Standards_FAQ.pdf.

independently be required to reduce their GHG emissions through energy efficiency and renewable energy, and other programs should incentivize or require retrofits to existing buildings. Implementing GHG reduction measures within the new construction can also sometimes be the most cost-effective means to significantly reduce emissions.

As noted above, none of these measures explain how they will result in quantifiable reductions in GHG emissions. Nonetheless, the Draft CAP claims without citation to facts or evidence that BE-4, BE-5, BE-6, BE-7, and BE-9 will reduce GHG emissions by specific amounts. The CAP must explain how these mostly voluntary programs will actually lead to these claimed GHG emission reductions.

B. The Draft CAP should require implementation of proven green building techniques, including LEED.

Using green building techniques can substantially reduce GHG emissions from buildings. Green buildings help reduce the amount of energy used to light, heat, cool and operate buildings and substitute carbon-based energy sources with alternatives that do not result in GHG emissions. (Commission for Environmental Cooperation 2008.) Currently, green buildings can reduce energy usage by 30 percent or more and carbon emissions by 35 percent. (Commission for Environmental Cooperation 2008.) The technologies available for green building are already in wide use and include “passive solar design, high-efficiency lighting and appliances, highly efficient ventilation and cooling systems, solar water heaters, insulation materials and techniques, high-reflectivity building materials and multiple glazing. Additionally, the U.S. Green Building Council (USGBC), a private, nonprofit corporation, has established a nationwide green building rating system, called Leadership in Energy and Environmental Design (“LEED”). The LEED standard supports and certifies successful green building design, construction and operations. It is one of the most widely used and recognized systems, and to obtain LEED certification from the USGBC, project architects must verify in writing that design elements meet established LEED goals. Below are some specific measures the CAP should include:

- Incorporating the USGBC’s LEED or comparable standards for energy- and resource efficient building;
- Requiring buildings to be designed for passive heating and cooling, and natural light, including building orientation, proper orientation and placement of windows, overhangs, skylights, etc.;
- Requiring buildings to be designed for maximum energy efficiency, including the maximum possible insulation, use of compact florescent or other low-energy lighting, use of energy efficient appliances, etc.;
- Reducing the use of pavement and impermeable surfaces;
- Requiring water re-use systems;
- Installing light emitting diodes (LEDs) for traffic, street and other outdoor lighting
- Limiting the hours of operation of outdoor lighting;
- Maximizing water conservation measures in buildings and landscaping, using drought tolerant plants in lieu of turf, planting shade trees;

- Requiring installation of the maximum possible photovoltaic array on building roofs and/or building sites to generate all of the electricity required by the building, and utilizing wind energy to the extent necessary and feasible;
- Installing solar water heating systems to generate all of the building’s hot water requirements; and
- Installing solar or wind powered electric vehicle and plug-in hybrid vehicle charging stations to reduce emissions from vehicle trips.

The California Energy Commission also published a report that details numerous strategies that local governments can use to reduce GHG emissions through green building ordinances and solar programs.⁹

C. The Draft CAP does not contain adequate measures to mitigate sprawl development.

The Building Energy Measures section is further inadequate because it fails to consider holistic strategies to create low-carbon communities. More specifically, while this section provides some measures attempting to reduce emissions at the level of individual buildings, it does not contain planning strategies to require growth to occur near employment centers and walkable neighborhoods. While the Transportation Measures section touches upon these topics, neither section provides concrete measures to limit sprawl development and require any new development to occur near existing job centers.

D. The On-Road Transportation Measures are impermissibly vague.

The On-Road Transportation Measures suffer from many of the same defects as the Building Energy Measures. Many of these measures do not require the County or regulated parties to take any concrete steps to reduce GHG emissions. Instead, they require the County to “consider,” “promote,” or “support” certain plans or programs.

For example, TR-3 states that the County will “encourage” and “promote” transit-oriented development. (Draft CAP at 3-13.) TR-3 does not explain in any detail how it will encourage and promote this worthy goal, but still claims quantifiable reductions in GHGs from its “promoting” activities. (*See* Table 3-4.)

TR-9 states that the County will “work” with neighboring jurisdictions to install park and ride facilities. Again, while park and ride facilities might assist in reducing transportation-related GHG emissions, the CAP should include specific proposed locations for park and ride facilities and a plan with adequate funding to establish these facilities. Without any specific details and commitments, the County cannot claim any GHG reductions from this measure.

Moreover, TR-11 does not actually require electric vehicle charging stations at wineries, industrial centers, hotels, major visitor attractions, and multifamily complexes; it just requires the County to “promote” them. (Draft CAP at 3-15.) The County should incentivize such charging

⁹ See California Energy Commission, “Energy Aware Planning Guide” (Feb. 2011), available at <http://www.energy.ca.gov/2009publications/CEC-600-2009-013/CEC-600-2009-013.PDF>.

stations through substantial rebates and also require a minimum number of stations on new construction.

TR-1 comes close to actually requiring concrete actions, but stops short of establishing measurable targets in increased vanpool ridership. (Draft CAP at 3-12.) It also does not commit to any particular ordinance and instead generally cites to a few other ordinances. This is insufficient to demonstrate an annual GHG reduction of 4,818 MTCO_{2e}. (See Table 3-4.)

There are many other measures which the County could implement to reduce GHG emissions from the transportation sector. For example, the County could offer rebates to consumers who purchase or lease plug-in or electric passenger cars and trucks; CARB has already implemented a similar program called the Clean Vehicle Rebate Project.¹⁰ The County also could implement a local program similar to CARB's Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project.¹¹ This program provides vouchers to purchasers of California purchasers and lessees of hybrid and zero-emission trucks.

E. The Draft CAP does not contain adequate Solid Waste Measures.

The Draft CAP contains only two Solid Waste Measures – “encouraging” expansion of composting programs (SW-1) and meeting an 80 percent waste diversion goal by 2020 and 90 percent by 2030 (SW-2). Regarding SW-1, the Draft CAP should demonstrate what concrete steps the County will be taking to actually expand composting programs. Regarding SW-2, the Draft CAP states that the 80 percent waste diversion goal is just that – a “target” or goal. (Draft CAP at 3-17.) The Draft CAP should specifically demonstrate how that goal will be met. The County could work towards meeting these goals by establishing local programs similar to CalRecycle's Greenhouse Gas Reduction Grant and Loan Programs, which provides financial incentives for capital investments in infrastructure for aerobic composting, anaerobic digestion and recycling and manufacturing facilities that will reduce GHG emissions.¹²

The Draft CAP also does not provide evidence indicating that all forms of Solid Waste emissions were considered in the inventory, including methane emissions. Similarly, the Draft CAP does not explain how emissions from solid waste sources such as landfills were calculated.

F. The Draft CAP does not contain adequate Agriculture Measures.

As with measures in other categories, the Agriculture Measures contain vague and non-binding language regarding the County's desire to “support” or “work” with various entities. Given agriculture's significant role in producing GHG emissions, such measures are plainly inadequate. The Agriculture Measures section of the Draft CAP also does not acknowledge the

¹⁰ See California Air Resources Board, “Clean Vehicle Rebate Project,” available at <https://www.arb.ca.gov/msprog/aqip/cvrp.htm>.

¹¹ See California Air Resources Board, “Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project,” available at <https://www.arb.ca.gov/msprog/aqip/hvip.htm>.

¹² See CalRecycle, “Greenhouse Gas Reduction Grant and Loan Programs,” available at <http://www.calrecycle.ca.gov/Climate/GrantsLoans/>.

role of agriculture in deforestation, and the carbon sequestration benefits of keeping forests intact.

Researchers have identified other specific measures to reduce GHG emissions associated with agricultural operations. For example, GHG emissions can be reduced through decreasing fertilizer use and limiting tillage.¹³ In addition, the California Attorney General encourages local governments to consider requirements for carbon and nitrogen-efficient agricultural practices.¹⁴

In addition, the County should take what steps it can within its jurisdiction to reduce GHG emissions from livestock operations. The County should proactively work to comply with California's new policies regulating methane emissions, perhaps by offering incentives to agricultural operations that voluntarily implement the new standards prior to their effective dates.

G. The Draft CAP should contain stronger Water and Wastewater Measures.

Water conservation measures are beneficial not only because they conserve scarce water resources but also because wastewater and water importation generate GHG emissions. (*See, e.g.,* Table 2 in Appx. A of Draft CAP.) While the Water and Wastewater Measures outlined in the Draft CAP are a step in the right direction, the County should incorporate additional water conservation measures into the Draft CAP. For example, the Draft CAP should require that new construction include "purple" piping and provide incentives to include purple piping in existing construction. Other cities in Northern California are already adopting purple piping programs – for example, the City of Pleasanton is implementing a purple piping program.¹⁵ Similarly, the Draft CAP should require or at least incentivize the use of wastewater recycling facilities. In addition, the County should consider implementing the water savings strategies detailed on CARB's Local Government Toolkit for AB 32 (known as "CoolCalifornia").¹⁶

In section 4.3.3 of the Draft CAP, the County proposes other measures to "prepare for variable water supplies and preserve water quality." (Draft CAP at 4-18.) The Draft CAP should more specifically detail the steps it will take with respect to Measures Water 1 through 6. By their own terms, these measures only require the County to "evaluate," "consider," and "promote," certain systems or programs to reduce water usage. The Draft CAP should instead set forth plans to adopt mandatory programs for on-site graywater systems and use of recycled water. The Draft CAP also should not defer these measures for four to eight years ("mid-term"), as proposed for Measure Water 2, 3, 5, and 6. (*See* Table 4-3.) Instead, measures should be adopted and implemented as soon as possible.

¹³ See Duke Nicholas Institute, "Greenhouse Gas Mitigation Opportunities in California Agriculture" (Feb. 2014), available at <http://aic.ucdavis.edu/publications/california%20economics%20for%20GHG%20dduke%20report.pdf>.

¹⁴ California Attorney General's Office, "Climate Change, the California Environmental Quality Act, and General Plan Updates: Straightforward Answers to Some Frequently Asked Questions" (Sept. 2009) available at http://ag.ca.gov/globalwarming/pdf/CEQA_GP_FAQs.pdf.

¹⁵ See http://www.cityofpleasantonca.gov/gov/depts/os/env/purple_pipes_project.asp

¹⁶ See CoolCalifornia.org, "Water-saving strategies," available at <http://www.coolcalifornia.org/tip/water-lg>.

H. The Draft CAP's Land Use Change Measures are not sufficient to reduce GHGs.

The County plays a crucial role in ensuring that land use changes in the County do not generate significant GHG emissions. The California Supreme Court recently recognized this role when it stated that “[l]ocal governments [] bear the primary burden of evaluating a land use project’s impact on greenhouse gas emissions.” (*Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204, 230.)

While the Draft CAP correctly identifies the critical role that trees play in sequestering carbon, the Draft CAP states that the County expects to allow 8,000 acres of forests to be destroyed pursuant to due to general plan projections. (Draft CAP at 3-32.) The Air Resources Board’s most recent climate change Scoping Plan makes clear that local land use planning must take an integrated approach that *avoids* conversion of forests to other uses.¹⁷ In an era of climate change and deforestation, the deforestation sanctioned in the CAP is not only contrary to explicit state policy but also scientifically unacceptable. The County should be finding ways to save its remaining forests instead of planning for their destruction in a Climate Action Plan.

The Land Use Change Measures will not protect Napa’s forests or achieve significant GHG reductions. LU-1 proposes compensating for the destruction of each tree by planting two more. Planting trees does not guarantee that the planted trees will grow to a size that mitigates the carbon sequestration benefits lost by destroying the pre-existing tree. The Draft CAP further does not explain where these trees will be planted, or who will be responsible for ensuring that the trees grow over their lifespan. Tree planting activities also are plainly insufficient to compensate for the carbon sequestration and biological benefits of old growth forests in the County. Moreover, neither the Draft CAP nor any of its appendices provide any evidence suggesting that merely planting additional trees will adequately mitigate for the loss of pre-existing trees.

The County’s recent conduct with respect to specific projects has been particularly troubling. Citing the same policies listed in the Draft CAP, the County recently greenlighted the destruction of over 14,000 large trees and countless smaller trees near Atlas Peak for the Walt Ranch Erosion Control Plan. The County should be safeguarding its remaining natural resources and their carbon sequestration benefits instead of allowing them to be destroyed for more vineyards and development.

The County should implement much stronger measures to protect its remaining trees. For instance, the Draft CAP states its program will “target a minimum preservation rate of 30 percent of existing onsite trees.” (Draft CAP at 3-25.) This appears to mean that the Draft CAP would allow destruction of 70 percent of onsite trees. The Draft CAP should instead require a minimum preservation rate of 95 percent, and require mitigation through conservation easements for preexisting forests to the extent that requirement cannot be reached. In short, the Draft CAP

¹⁷ California Air Resources Board, First Update to the Climate Change Scoping Plan: Building on the Framework at 60, 74 (May 2014), available at https://www.arb.ca.gov/cc/scopingplan/2013_update/first_update_climate_change_scoping_plan.pdf (visited March 6, 2017).

should seek to adopt a “no net loss” policy for forest carbon stocks, much as it attempts to do in LU-2 for riparian lands.

Finally, the Draft CAP does not provide adequate evidence supporting the emissions data for the Land Use emissions, or whether it has calculated emissions from all types of GHGs, including black carbon. The Draft CAP also does not contain analysis of the GHG emissions associated with burning trees or other biomass.

VI. The Vulnerability Assessment Should Consider Impacts on Fish and Wildlife.

The Vulnerability Assessment in the Draft CAP explains many of the impacts and risks arising from climate change, including increased temperatures, increased wildfire risk, and increased likelihood of flooding. The Draft CAP further explains how these changes can impact the wine and agricultural industries and sensitive populations of people. However, neither the Draft CAP nor Appendix C analyze or consider the impacts on fish and wildlife of increased temperatures, wildfires, and flooding.

Climate change already is having a major adverse impact on numerous plant and animal species. (Cameron and Scheel, 2001.) Climate change impacts species by altering the climatic conditions that species need to survive or use a particular location as habitat, including particular temperature, type of food, water levels and water abundance, or weather conditions. (Schwartz, et. al., 2006.) This causes massive migration shifts, with species seeking out other areas featuring their needed climatic conditions. (Schwartz, et. al., 2006.) However, such migration shifts are not simple. For many species, their habitat is already so limited that there is no other location they can practically relocate to. In addition, major impediments such as urban areas can keep species from reaching other habitats. Species migration can also cause increased food and habitat competition as more species attempt to forage, hunt, or breed, in smaller areas. Migration also has the potential to cause many of the issues commonly associated with invasive species.

For many species, migration just is not possible – as their habitats quickly change, they will be unable to adapt in time, and will become extinct. Extinction as a direct result of climate change is an imminent possibility for numerous species. (Cameron and Scheel, 2001).

The threat of climate change-induced species extinction is found to be highest in species with a small current distribution (Schwartz, et. al. 2006). This makes sense given that the reason that these species have small habitats in the first place is that they are “habitat specialists,” meaning they can only survive in a very specific set of climatic/habitat conditions. (Schwartz, et al., 2006.)

The Draft CAP should acknowledge and disclose the profound impacts that climate change is and will continue to have on fish and wildlife in the County. Because the Draft CAP does not acknowledge or analyze these issues, the section on Adaptation Strategies and Measures does not include any measures to assist fish, wildlife, or special status species in adapting to climate change. The Draft CAP should closely consider measures to protect special status species that inhabit the County, which are most at risk to extinction. For instance, the California

foothill yellow legged frog is currently at risk of extinction, and studies indicate that the effects of climate change will further impede the species ability to survive.¹⁸

VII. The Implementation Strategy Should Provide More Detail Regarding The County's Implementation Plans.

The Draft CAP correctly acknowledges that ensuring that measures translate into actual GHG emissions reductions is critical to the success of the Draft CAP. (Draft CAP at 5-3.) The Draft CAP further states that the County will develop “more detailed implementation schedules for each measure.” (CAP at 5-4.) Again, the CAP cannot function as a means to “streamline” future CEQA review when the timeframes and details regarding the implementation of the CAP’s mitigation measures are not even included in the document. (*See Federation of Hillside & Canyon Ass'ns v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261 [mitigation measures must be fully enforceable through permit conditions, agreements, or other measures so that feasible mitigation measures will actually be implemented as a condition of development].)

VIII. The Draft CAP Should Require More Consistent Monitoring Of Progress.

The Draft CAP provides that the County will need to review and update the GHG emissions inventory periodically every five years, track the community’s progress on the implementation status of each measure in the Draft CAP, and report back to the Board of Supervisors and the public at least every five years. (Draft CAP at 6.) Delaying an update on these items for an additional five years could frustrate the County’s ability to meet its climate change goals. The Draft CAP should provide for more sustained monitoring in order to ensure that objectives are being met, such as updates on the above items every two or three years.

The CAP should specify what categories of information will be included in monitoring reports. For example, monitoring reports should include data on the projected and actual GHG reductions for each individual implementation measure.¹⁹ In section 5.3 (“Monitoring and Updates”), the Draft CAP does indicate that County staff will evaluate the GHG emission reduction measures’ capacity, cost, effectiveness, and benefits of each individual measure. The CAP should make it clear that these evaluations will be included in the monitoring report. Without such data specific to each implementation measure, the County will be unable to evaluate whether measures are achieving planned reductions in GHGs.

Finally, the CAP should provide for public participation in the monitoring process and allow for notice and opportunity to comment on each monitoring report. The public should be notified when evaluations occur on specific mitigation measures and invited to provide input.

¹⁸ See Center for Biological Diversity, “Comments on Status Review of Foothill Yellow Legged Frog,” Docket No. #FWS-R8-ES-2015-0050 (Aug. 2015) at 122-123 (referencing studies), available at https://www.biologicaldiversity.org/species/amphibians/foothill_yellow-legged_frog/pdfs/CBD_comments_on_FYLF_8-28-15.pdf.

¹⁹ See California Air Resources Board, “Climate Action Planning Resource Guide,” available at <http://www.coolcalifornia.org/climate-action-planning-resource-guide>.

IX. The County Should Prepare An EIR.

CEQA Guidelines section 15183.5(b)(1)(F) expressly requires that a climate action plan be adopted in a public process “after environmental review. Similarly, subdivision (b)(2) provides that “[a] plan for the reduction of greenhouse gas emissions, *once adopted following certification of an EIR or adoption of an environmental document*, may be used in the cumulative impacts analysis of later project.” Accordingly, the statute expressly contemplates that a local agency will prepare an EIR in connection with a CAP. In reviewing the County’s CAP website²⁰ there does not appear to be any indication that the County is preparing an EIR for the CAP. The CAP cannot be used to streamline CEQA review absent this analysis.

X. Conclusion.

Thank you for the opportunity to submit comments on the Draft CAP. We look forward to working to assure that the Final CAP sets forth a specific and enforceable plan to reduce the County’s GHG emission in accordance with state law. Please do not hesitate to contact the Center with any questions at the number listed below.

Sincerely,



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²⁰ <http://www.countyofnapa.org/CAP/>.

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