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December 12, 2006

Elaine Chang  
Deputy Executive Officer  
South Coast Air Quality Management District  
21765 Copley Drive  
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SUBJECT: Comments on Proposed Control Measure EGM-01, as a Part of the Preliminary Draft 2007 Air Quality Management Plan

Dear Ms. Chang:

Thank you for the opportunity to participate in the South Coast Air Quality Management District's Stakeholder Working Group on proposed EGM-01. City staff comments on this proposed measure are provided below. Please note that this measure involves a number of policy issues, and City staff may recommend that the City take a policy position on this measure at a later date. For discussion purposes, and for AQMD staff consideration, we are providing the following comments.

Emission Reductions from New or Redevelopment Projects [CM #2007EGM-01]:

Emissions growth from population and VMT increases will occur whether new or redevelopment projects are approved or not. Many new development, redevelopment and transportation projects are crucial to manage growth and already contain components that reduce the expected number of vehicle trips and area source emissions from new buildings. Many of these projects are intended to take advantage of major transportation facilities, including subway and light rail stations throughout the City of Los Angeles. We have provided a summary description of Transit Oriented Districts and Pedestrian Oriented Districts in an attachment to this letter.

City staff primarily are concerned about the potential for duplicative regulations (both between local jurisdictions and the AQMD and duplicative AQMD regulations on the same equipment or source), the potentially negative impact on incentives for "good" development if requirements are established, inconsistent development standards and/or CEQA processes across the basin, and the likely negative impact on development of any mandatory fee program. In addition, any control measure strategy should incorporate flexibility to allow many types of development to contribute to the goal of reduced emissions. Incentives should be considered

wherever possible to encourage – and reward – compliance beyond current requirements. Please also note that, as the light duty fleet continues to get cleaner, diminishing returns will be realized from mobile sources associated with new development.

City staff are particularly concerned that any mandatory fee component of control measure EGM-01, could severely impact large Community Redevelopment Agency-approved projects. Specifically:

- The primary purpose of the Community Redevelopment Agency is to work with developers so that socially and environmentally beneficial projects (e.g. restoration of blighted areas in the City, development of low-income housing near job areas, transit villages near existing and planned transit nodes, and other in-fill projects) are developed. One benefit of these projects is to allow low- and middle-income residents to live closer to their jobs and to transit options; otherwise, development will be pushed to outlying areas with greater commutes (and emissions) resulting. CRA/LA assists developers financially in a number of ways, including assembling parcels of land to create an economically viable project site, buying down the cost of land, assisting or waiving other project fees, etc., to encourage the development of these projects. The funds for CRA/LA come from incremental tax dollars through the equalization process. Thus, future CRA-funded projects depend on increasing property values within the project area. Any mitigation fee on new projects would directly increase the cost of the project to the CRA. Thus, any mandatory mitigation fee would be a disincentive for local redevelopment projects that provide low- and middle-income housing, reduce blight, and improve the job/housing balance in the Basin.
- One way to reduce the potential for this situation would be to provide an exemption process for projects that already incorporate, or are willing to add, components that provide emission reduction benefits, such as easy access to transit or reduced energy use. A project proponent could provide a list of such components of any proposed project for consideration. If this measure moves forward, a rule development working group could discuss how to account for various emission reduction components.
- Note that a Program Environmental Impact Report (PEIR) is prepared for most major redevelopment areas supported by the City's Community Redevelopment Agency (CRA/LA) which address air quality and other potential environmental impacts. As part of the PEIR process, mitigations and mitigation fees are established, including congestion mitigation fees. The City's Department of Transportation (LADOT) establishes a "fair share" contribution level for individual development projects in the overall program (the individual projects within each program rely on the PEIR to meet CEQA requirements). These LADOT fees must be used to reduce congestion in the specific program area where the project is located. The City is concerned that the CEQA Mitigation Fee does not account for the congestion (and related emission) decrease from improvements arising from the LADOT fee program.

- We understand that SCAQMD staff is aware of the Los Angeles County Metropolitan Transportation Authority's (Metro) proposal to impose a fee on project traffic congestion impacts, similar to other existing fees in the region. It is proposed that these fees would be used to further reduce congestion (and emissions) by funding local transit or other congestion-reduction measures. Again, this would use local project fees to fund local congestion and emission reduction projects. Any mitigation fee considered as a part of this measure should account for the congestion fees and emission reductions associated with this proposal.

As discussed at the Stakeholder Working Group, the AQMD could provide better information to lead agencies and project proponents during the CEQA review process. At this point AQMD could recommend additional mitigation measures and provide back-up information on the emission reduction potential of various measures and their cost-effectiveness. Concurrent with this, additional work with local agencies is needed to ensure that they understand the reasoning behind this measure and how their agency can help reduce harmful air quality emissions as part of their proposed project review process. I would note that the City of Los Angeles has identified many areas of the City in which development is encouraged around transit nodes, with increased density and reduced parking requirements. These project components, combined with the projects' location, combine to encourage transit use and walking rather than solo vehicle use.

As also discussed at the Working Group, it appears that there is no one strategy that will capture all new development projects in the basin. Not all large projects go through the CEQA review process, and many new developments fall below the suggested size thresholds. Thus, a variety of strategies for different project types may be required. If AQMD staff chooses to look at source categories separately, careful attention must be paid to prevent making the implementation process too complex. A single project should not be expected to meet several individual requirements to satisfy this control measure, especially since so many aspects of development are already regulated. Please also note that it may be difficult to go beyond current (or foreseeable) regulatory requirements in some areas, such as the provision of lower-emitting construction equipment. For example, there is very limited availability (if any) of alternative fuel construction equipment, and the availability of diesel emission control systems for off-road equipment is well behind schedule. Any assumptions used to estimate the potential to go beyond upcoming CARB off-road requirements should take supply and cost issues into consideration.

City staff notes that Option 1 (the San Joaquin Valley Air Pollution Control District (SJVAPCD) Rule 9510) is inappropriate for the Basin in general and the City of Los Angeles in particular. The SJVAPCD approach was developed for a region with large amounts of open space and/or agricultural lands being developed, where projects are truly growth inducing. As noted above, the Basin's population and VMT will continue to grow whether large-scale development and redevelopment projects are approved or not. A fixed emission threshold

(whether in Option 1 or Option 2), penalizes the type of large-scale redevelopment and/or transportation projects needed in this area to maximize transit alternatives (e.g., transit villages) or reduce congestion (and emissions) (e.g., Regional Transportation Improvement Program (RTIP) projects). Development of separate project thresholds that may conflict with established CEQA thresholds should not be considered to avoid duplicative or even contradictory thresholds from being created.

If the SCAQMD proceeds with proposals for an off-site (or other) Mitigation Fee Program, the City strongly recommends that such fees be spent in the project area and be paid directly to the responsible local government entity with the best information about local conditions. In this case, the City proposes that public agencies, subject to the approval of their governing body and in consultation with the SCAQMD, be given the option to invest directly in Supplemental Environmental Projects, in lieu of paying a mitigation fee to the SCAQMD, if such is proposed. Only in this way will the funds benefit the area where impacts are projected to occur and be administered by the government agency with the best knowledge of local emission reduction opportunities. Some cost-effective projects may not complete effectively for funds on a regional basis, which could deny funds for a local project, within the actual project impact area. Any fee structure should not duplicate or repeat other fees such as those proposed in EGM-02 and MOB-01. (Please refer to the City's previous comments on proposed measure MOB-01 for a more extended discussion on potential ramifications of mitigation fees as they relate to the unique aspects of airlines and airports.)

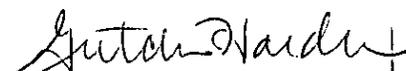
Careful consideration should also be given to the use of incentives to encourage developers to go beyond current building requirements in terms of energy efficiency and providing tenants options to using individual vehicles. Cities and/or architect or building associations may have more information on current rates of introducing such project elements, and a greater number of local jurisdictions are incorporating these elements into building requirements. As the City of Los Angeles has successfully introduced these measures into various Specific Plan Areas, we would be happy to discuss this item in more detail.

Although this measure does not directly refer to airports, the legal authority for pursuit of the measure is predicated on the section of the California Health and Safety Code that addresses the concept of indirect sources of air pollution, including certain large facilities, such as airports. As such, new projects at airports may be construed as being subject to the provisions of this proposed measure. Please note that LAWA has already adopted a wide range of mobile source emission reduction measures as part of the LAX Master Plan process. As with the City's redevelopment projects, relevant measures that reduce vehicle trips to our airports, and associated emissions, should be considered to reduce any burden of airport improvement projects.

Elaine Chang  
December 15, 2006  
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Thank you for your consideration of these comments. We look forward to continuing with the Stakeholder Working Group both prior to Plan adoption and in the rule development phase. If you have any questions on these comments, please contact me at (213) 978-0852.

Sincerely,



Gretchen Hardison  
Air Quality Director

Cc: Carol Gómez, SCAQMD