

Sirius Environmental

August 5, 2016

Claire Bowin, Senior City Planner
City of Los Angeles, Department of City Planning
200 North Spring Street, Room 272
Los Angeles, California 90012

Re: Mobility Plan 2035 FEIR – Greenhouse Gas Emissions Analysis

Dear Claire:

At the City's request, in light of the Supreme Court's recent decision in *Center for Biological Diversity v. California Department of Fish and Wildlife* (2015) 62 Cal.4th 204 (Newhall Ranch)¹, Sirius Environmental² prepared the following clarification to further explain the Mobility Plan 2035 Final Environmental Impact Report's (FEIR)³ assessment of greenhouse gas emissions (GHG emissions). Specifically, this discussion focuses on the legal standard for significance determinations and consistency requirements, as articulated in the *Newhall Ranch* decision.

SUPREME COURT'S RULING IN *NEWHALL RANCH* REGARDING SIGNIFICANCE THRESHOLDS AND CONSISTENCY REQUIREMENTS FOR GREENHOUSE GAS EMISSIONS

On November 30, 2015, the court issued a highly-anticipated decision regarding Department of Fish and Wildlife's (DFW) assessment of GHG emissions under CEQA for a mixed-use 20,000 residential and commercial development in Southern California (Newhall Project). The court addressed whether the EIR's reliance on the "business-as-usual" model as the applicable significance threshold was legally defensible, and provided the following guidance regarding "potential pathways to [CEQA] compliance":

- The Business-As-Usual Model is an Appropriate Significance Threshold. The court held that the "business-as-usual" approach (BAU Threshold) may be appropriate to determine the required reduction percentages needed in comparison to other baseline goals for regional and statewide reductions. Adoption of this threshold model should include "a reasoned explanation based on substantial evidence" regarding the EIR's significance determination in relation to the selected threshold, *i.e.*, support that demonstrates why the percent reduction used is appropriate for the particular project at issue in light of project density, location, etc. (*Newhall Ranch*, p. 227.)

¹ The *Newhall Ranch* decision was published on November 30, 2015, nearly nine months after the Mobility Plan 2035 (MP 2035) Draft EIR was recirculated in February 2015.

² Sirius Environmental is the environmental consultant that oversaw the preparation of the Mobility Plan 2035's Final Environmental Impact Report and all underlying environmental documents, and is thus familiar with the methodologies used therein.

³ All references to the underlying environmental documents for MP 2035 refer to the FEIR. For ease of reference, specific page numbers and citations to the FEIR's GHG emissions and other analyses refer to the Recirculated Draft EIR (Recirculated DEIR), which in conjunction with the Response to Comments document comprise the FEIR.

- Reliance on Qualified GHG Reduction Plans as a Significance Threshold is Consistent with CEQA Guidelines Section 15064.4(a)(3). The court further held that DFW’s reliance on AB 32 and the policies set forth in the Scoping Plan generally conforms with CEQA, noting that “‘a discussion of a project’s consistency with the State’s long-term climate stabilization objectives . . . will often be appropriate . . . under CEQA,’ provided the analysis is ‘tailored . . . specifically to a particular project.’” (*Newhall Ranch*, p. 223.) Thus, lead agencies can rely on local climate change action plans or other thresholds of significance that are based on an assessment of whether the project would impede California’s ability to meet GHG reduction targets set forth in AB 32.
- Numerical GHG Emission Levels, Though Not Required, Can Be Used as a Bright Line Threshold. The court expressly noted that though the use of numerical thresholds is not required per se, lead agencies should make a good-faith effort to describe, calculate, or estimate the amount of GHG emissions resulting from a project. (*Newhall Ranch*, p. 230.) “Thresholds, it should be noted, only define the level at which an environmental effect ‘normally’ is considered significant; they do not relieve the lead agency of its duty to determine the significance of an impact independently.” (*Newhall Ranch*, pp. 230-231 citing CEQA Guidelines, § 15064.7(a).) This approach has been widely adopted by various air districts, including the Bay Area Air Quality Management District and Sacramento Metropolitan Air Quality Management District.
- Lead Agency Discretion to Select Appropriate Model or Methodology for Significance Determinations. In accordance with CEQA Guidelines Section 15064.4(a)(1), the court affirmed that “[a] lead agency enjoys substantial discretion in its choice of methodology. But when the agency chooses to rely completely on a single quantitative method to justify a no-significance finding, CEQA demands the agency research and document the quantitative parameters essential to that method.” (*Newhall Ranch*, p. 228, emphasis added.) Thus, lead agencies have discretionary authority to select a particular model to assist in the quantification of GHG emissions specific to a project or, in the alternative, rely on a qualitative analysis or other performance-based standard.
- Consistency with Qualified GHG Reduction Plans. The court also endorsed the consistency approach as an appropriate method to determine the level of significance for GHG emissions. This consistency threshold determines whether a project is consistent with regional and local GHG reduction plans, in line with CEQA Guidelines Section 15183.5 and other statewide reduction plans and policies identified in AB 32 and SB 375.

THE GHG ANALYSIS IN THE MP 2035 EIR IS REGION-SPECIFIC AND CONFORMS WITH THE COURT-APPROVED BAU THRESHOLD OUTLINED IN *NEWHALL RANCH*

The environmental review and supporting analysis set forth in the MP 2035 FEIR are consistent with the court’s holding in *Newhall Ranch*. Section 4.4 of the Recirculated Draft EIR (Recirculated DEIR) states that “the City determined that GHG emissions resulting from the proposed project would be significant if the Project condition caused an increase over Existing or Future No Project (Business-As-Usual) conditions”. (Recirculated DEIR, p. 4.4-8.)

Pursuant to the City’s adoption of a “no increase compared to BAU” significance threshold (which is equivalent to the MP 2035 EIR’s “No Project Alternative”), the Recirculated DEIR contemplated the appropriate baseline for this type of general plan project, and concluded that “when

dealing with project areas that are large in scale, a regional model is the most appropriate method of quantifying transportation-related effects.” (Recirculated DEIR, p. 4.4-9.)

The updated City of Los Angeles Transportation Demand Forecasting (TDF) model was used to generate the baseline (existing) and future conditions data for the MP 2035⁴. The TDF model is based on the City’s Transportation Specific Plan (TSP) model that was initially calibrated to 2008 conditions. Given the programmatic nature of the impact analysis and large study area, the City’s TDF model reflects the most recent and applicable data at a Citywide level to report baseline and future transportation characteristics. “As part of the MP 2035, the SED for the City’s TDF Model were updated to reflect the most recent growth forecasts in 2012-2035 RTP/SCS. In addition, the roadway and transit networks have been updated to reflect the assumptions contained in the 2012-2035 SCAG RTP.” (Recirculated DEIR, p. 4.1-24.) Toward that end, the City evaluated and based its calculations on the entire Citywide vehicle fleet. Therefore, the City’s TDF model is consistent with the growth and transportation improvements in the adopted the 2012-2035 RTP/SCS, which reflects both local (City of LA) and region-specific (SCAG) reduction goals.

It’s important to bear in mind that the regional VMT assessment was estimated using the updated TDF, and that, “[t]he model-estimated changes in circulation system conditions are conservative, vehicle-centric estimates based on historical travel behavioral patterns and do not account for changes in demographics, vehicle ownership patterns, energy prices, and migration to alternate modes (pedestrian, bicycle and transit) that would lead to decreasing vehicular volumes.” (Recirculated DEIR p. 4.4-9.)

Based on CARB’s EMFAC2014 model and projected emission rates, the model estimates “that GHG emissions under Future With Project conditions would be 7 million metric tons per year less than under Existing conditions (38 percent reduction)” and “GHG emissions under Future with Project conditions would . . . be 22 thousand metric tons per year less than under [the] Future No Project conditions [also known as the Business-As-Usual] (<1 percent reduction).” (*Id.*, see also, Tables 4.4-4 and 4.4-5 showing quantitative reduction in GHG emissions under the Future with Project and Future No Project scenarios.) Thus, based on the BAU Threshold and the Citywide assessment of GHG emissions, intrinsically linked to the City’s TDF Model, the finding of less than significant impacts is supported by substantial evidence, consistent with the court’s decision in *Newhall Ranch*.

⁴ The model simulates existing conditions and can forecast future year conditions for the network, with and without the effects of the proposed project, allowing for evaluation of a range of automobile and transit performance measures. Because the travel demand model itself is not sensitive to certain effects of TDM policies or of changes in bicycle and pedestrian infrastructure to be implemented as part of the MP 2035, a mode split adjustment tool (MSAT) is applied to the model results to quantify the effect of these programs and projects on automobile travel. The MSAT applies mode share elasticities and vehicle trip reduction factors gathered from relevant academic and practitioner literature at the TAZ level to calculate the effects of the MP 2035’s TDM policies and active transportation network improvements on mode share and the level of vehicle trip-making. Used together, the travel demand model and mode split adjustment tool outputs provide information on the performance of the transportation system at the APC level, including:

- Travel mode shares (“mode split”);
- Transit boardings;
- Vehicle trips;
- Vehicle miles traveled;
- Vehicle hours traveled; and
- Volume-to-capacity ratios.

MP 2035 IS CONSISTENT WITH STATEWIDE, REGIONAL, AND LOCAL GHG REDUCTION GOALS OUTLINED IN AB 32, SB 375, 2012-2035 RTP/SCS, AND THE CITY'S COMMUNITY PLANS AND LOCAL GREEN LA CLIMATE ACTION PLAN

A. Consistency with the 2012 SCAG RTP/SCS

In accordance with SB 375, the Regional Council of the SCAG adopted the 2012-2035 RTP/SCS on April 4, 2012.⁵ (See discussion under heading "Senate Bill 375 Analysis" Recirculated DEIR, p. 4.4-12.) The 2012-2035 RTP/SCS provides a regional plan to meet region-specific GHG reduction targets, with the goal of reducing per capita emissions by 8 percent below 2005 levels by 2020 and 13 percent below 2005 levels by 2035. The 2012-2035 RTP/SCS identifies transportation corridors and transit routes, High Quality Transit Areas (HQTAs), and a variety of strategies to be employed across the region to link transportation and land use planning in order to reduce GHG emissions.

Consistent with 2012-2035 RTP/SCS's regional goals, the City prepared MP 2035 for the purpose of implementing numerous policy initiatives to target GHG reductions. According to CARB, it is estimated that in 2010, transportation accounted for more than 34% of California's GHG emissions, the largest by far of any sector, with 80% of the transportation-related emissions stemming from passenger vehicles, equivalent to 160 million tons of carbon dioxide per year. (MP 2035, p. 134.)

To reduce the level of GHG emissions as compared to the "No Project Alternative", MP 2035 incorporates definitive reduction goals and general strategies to encourage safe alternatives to driving, such as "walking, biking, and transit . . . [to make] walking, biking, and transit viable options" and integrating clean truck corridors to promote healthy and environmentally safe communities. (MP 2035, Policy 5.1, pp. 136-137.) Specifically, the proposed project would encourage non-motorized transportation, including bicycling and walking by providing programs focused on streamlining the public transit network through increased information flow to ensure timely and up-to-date bus and train arrival times. (2012-2035 RTP/SCS, p. 21 and p. 53.) Increased reliance on public transportation and active transportation, in lieu of single-occupancy vehicles, will reduce the level of GHG emissions.

The MP 2035 includes the same land use assumptions as the Future No Project conditions. In order to analyze project impacts, a set of Future With Project transportation network assumptions was developed by modifying the transportation network for Future No Project to incorporate new facilities associated with the MP 2035. In addition, Table 4.1-16 lists the modeling assumptions applied to the roadway network in areas covered by each of the MP 2035's enhanced networks. (See Recirculated DEIR, p. 4.1-25.)

In furtherance of these transit-oriented objectives, Chapter 6 of the MP 2035 (Action Plan) contains a variety of programs (which are listed below with a few sample policies that will facilitate the reduction of VMTs and GHG emissions):

⁵ A complete copy of the 2012 RTP/SCS can be downloaded on the SCAG website at: <http://rtpscs.scag.ca.gov/Documents/2012/final/f2012RTPSCS.pdf>.

MOBILITY PLAN 2035	PROGRAMS
Topics	Program No./Description of Program
Communication	C.4. Car Free Days. Coordinate a Car-Free Day on a regular basis each month. Provide information and incentives for drivers to leave the car behind for a day. Work with Metro and City Council offices to provide incentives and disseminate materials to event participants. (MP 2035, p. 160.) <i>This program will encourage the use of ride-sharing and other alternatives to driving, which will serve to reduce the overall level of GHG emissions, consistent with the RTP/SCS's regional 2020 and 2035 goals.</i>
Data and Analysis	D.7. GHG Emission Tracking Program. Qualify total reduction in GHG from vehicle miles traveled reductions . . . Maintain a database of completed infrastructure projects; track and apply offset credits (resulting from GHG and VMT reductions) towards the city's compliance with SB 375, AB 32 and the region's Sustainable Community Strategy. (MP 2035, p. 161.) <i>This program will ensure the accurate and timely transmittal of information for incorporation into the City's TDM Program and regional VMT analysis.</i>
Enforcement	ENF.4. Speed Limit Enforcement. Execute speed limit enforcement checks 48 hours prior to calculating prevailing speeds in Engineering and Traffic Surveys used for adjusting speed limits. (MP 2035, p. 163.) <i>This program will ensure the accurate and timely transmittal of information for incorporation into the City's TDM Program and regional VMT analysis.</i>
Engineering	ENG.3. Transit Enhanced Network. Collaborate with transit providers to implement the TEN, an approximately 300 mile network of roadway improvements to provide a frequent and reliable bus system that interfaces and supports the fixed-transit lines. (MP 2035, p. 163.) <i>This program will encourage the use of ride-sharing and other alternatives to driving, which will serve to reduce the overall level of GHG emissions, consistent with the RTP/SCS's regional 2020 and 2035 goals.</i>
Funding	F.2. Congestion and Cordon Pricing. Evaluate potential revenues and performance improvements in congestion relief from the implementation of congestion or cordon pricing. (MP 2035, p. 165.) <i>While the primary goal of cordon pricing is to reduce traffic congestion and mitigate impacts, additional benefits include providing a revenue source for improvements to alternative modes. This could occur in the form of enhancements to transit service and bike/pedestrian improvements, which will help alleviate VMT and GHG emissions.</i>
Legislation	L.1. Advocacy for Funding Multi-Model Infrastructure Programs. (MP 2035, p. 165.) <i>This program will facilitate a more comprehensive approach to streamlining traffic patterns for both freeway and surface street networks, with the goal of reducing GHG emissions.</i>
Maintenance	MT.1 Bicycle Path Maintenance Program. Regularly inspect and maintain Class 1 bicycle paths. (MP 2035, p. 166.) <i>Systematic maintenance programs for safe and user-friendly bicycle paths will encourage the alternative use of newly-formed bicycle and walking trails in lieu of single-occupancy vehicles.</i>
Management	MG.3 Off-Peak Deliveries. Identify and implement incentives to encourage off-peak hour delivery operations. (MP 2035, p. 167.) <i>This program will serve to alleviate traffic congestion during peak hours to reduce the overall level of GHG emissions and is consistent with the RTP/SCS's regional 2020 and 2035 goals.</i>
Operations	O.8. Shuttle Bus. Work with . . . employers and community-based organization to identify and implement shuttle bus programs to serve as a first-mile, last-mile solution between transit stations and special events . . . (MP 2035, p. 168.) <i>This program will encourage the use of ride-sharing and other alternatives to driving, which will reduce the overall level of GHG emissions, consistent with the RTP/SCS's regional 2020 and 2035 goals.</i>
Parking/Loading Zones	PK.16 Park and Ride. Expand the park and ride network. <i>This program further supports increased public transit needs, which will reduce the overall level of GHG emissions, consistent with the RTP/SCS's regional 2020 and 2035 goals.</i>

In summary, MP 2035’s programs and policy initiatives would protect the environment and health of residents by improving air quality and encouraging active transportation. This would also be consistent with the RTP/SCS goal of encouraging land use and growth patterns that facilitate transit and nonmotorized transportation. (See Recirculated DEIR, Impact 4.4-2, p. 4.4-12.) As shown in Table 4.4-6 of the Recirculated DEIR, the proposed project would be consistent with the 2012 RTP/SCS. (See also, Table 4.1-17 (Transportation), Table 4.2-3 (Land Use), and Table 4.4-6 (Consistency with SCAG 2012-2035 RTP/SCS Goals) for a more detailed discussion.)

B. Consistency with the Policies Set Forth in SB 375 (Sustainable Communities and Climate Protection Act of 2008)

As stated in the Recirculated DEIR, the transportation analysis for MP 2035 is based on projected 2035 VMT levels. The 2012-2035 RTP/SCS concluded that in 2035, regional SB 375 per capita CO₂ emissions would be 20.5 pounds per day. (Recirculated DEIR, p. 4.4-16.) This assumes the non-implementation of Pavley mileage regulations and other yet-to-be-implemented low carbon fuel standards, which were determined to be consistent with the SB 375. (*Id.*) It is anticipated that passenger vehicles and light trucks will represent 79% of the VMT estimated in the City in 2035. Therefore, the CO₂ emissions related to passenger vehicles and light trucks would be 84,458,309 pounds per day (without Pavley emission reductions). SCAG projects that the population of the City of Los Angeles will be 4,416,000 in 2035.

Based on this information, the per capita emission rate *for passenger vehicles and light trucks only* (using the older emissions model to match that used in the 2012-2035 RTP) under MP 2035 would be 19.1 pounds per day. This City-specific per capital emission rate is less than the SCAG projection of 20.5 pounds per day. (Recirculated DEIR Table 4.4-9 (Greenhouse Gas Section).) Thus, consistent with SCAG’s regional reduction goals, the MP 2035 would result in a less-than-significant impact and would not conflict with applicable plans, policies, or regulations adopted for the purpose of reducing the emissions of GHG. (Recirculated DEIR, p. 4.4-12; *see also*, FEIR, p. 32 [“The MP 2035 focuses on multi-modal improvements, consistent with SB 375 and the Sustainable Communities Strategy, and therefore would be expected to contribute to decreasing regional vehicle miles traveled, vehicle trips, and greenhouse gas emissions.”].)

TABLE 4.4-9: SB 375 ANALYSIS			
	RTP/SCS (2035) /a/	Future No Project (2035)	Project (2035)
Resident Population (per 1,000)	21,773	4,416	4,416
CO ₂ Emissions (per 1,000 Pounds) /b/	445,800	84,320	84,458
Per Capita Emissions (Pounds)	20.5	19.1	19.1
<small>/a/ RTP/SCS data is presented for the entire SCAG region. The RTP/SCS does not present the data by City. /b/ The RTP/SCS analysis did not account for Pavley emission reductions, which are now anticipated to occur. The RTP/SCS emissions were based on EMFAC2011 which included CO₂ emission rates without Pavley reductions. EMFAC2014 does not include CO₂ emission rates without Pavley reductions. It only provided CO₂ emission rates with Pavley reductions. In order to assess consistency with the RTP/SCS SB 375 analysis, this analysis used the EMFAC2011 CO₂ emission rates without the Pavley reductions. No other component of EMFAC2014 affects the SB 375 analysis, and EMFAC2011 provides the correct comparison. SOURCE: City of Los Angeles Travel Demand Model, 2015; CARB, EMFAC2014; SCAG, 2012-2035 RTP/SCS, April 4, 2012.</small>			

i. Construction-Related GHG Emissions

The Recirculated DEIR indicates that “there are no specifically planned construction projects that are part of the MP 2035”, but rather that “enhancements to the transportation networks are identified at a conceptual level of detail.” (Recirculated DEIR, p. 4.4-8.) The Project Description describes the types of improvements (enhancements) anticipated to occur in accordance with MP 2035. (Recirculated DEIR pp. 3-7 to 3-15.) As indicated in the Air Quality discussion, “[m]any of the treatments would have minimal, or no, construction emissions.” (Recirculated DEIR, pp. 4.3-15.) The GHG analysis points out that, “[f]or example, the 2012-2035 RTP/SCS construction emissions [for all construction projects] presented for 2035 conditions in Los Angeles County were approximately 0.3 percent of mobile source emissions.” Therefore, the amount of construction-related emissions anticipated for these minor roadway enhancements would be negligible both from a local and regional perspective given that the MP 2035 does not envision any major excavation or construction projects.

ii. Operations-Related GHG Emissions

Based on the City’s TDF, MP 2035 and emission rates from CARB’s EMFAC2014 model, MP 2035 would result in a net decrease in GHG emissions that represents a reduction in CO2 emissions from the No Project Alternative, netting a reduction of approximately 22,000 metric tons of GHG emission per year. (Recirculated DEIR, p. 4.4-9; *see also*, Table 4.4-5.) As noted above, the TDF model is conservative, in that it underestimates reductions in vehicle trips that are anticipated to result from changing demographics and other factors. Similarly, the GHG estimates do not account for these reductions in vehicle trips and associated GHG emissions. The MP 2035 Recirculated DEIR indicates that (using conservative vehicle-centric assumptions) “GHG emissions Citywide would incrementally decrease compared to Future No Project conditions”, thereby resulting in an overall reduction of GHG emissions Citywide. (Recirculated DEIR, p. 4.4-10.) This is consistent with and meets the BAU Significance Threshold, and is qualitatively and quantitatively consistent with the SB 375 and 2012-2035 RTP/SGS’s GHG-reduction goals.

C. Qualitative Consistency with City’s Local GHG Emissions Reduction Initiative

In May 2007, the City released its climate action plan that sets a goal of reducing the City’s GHG emissions to 35 percent below 1990 levels by the year 2030 to 35.1 million metric tons per year. (Recirculated DEIR, pp. 4.4-4 and 4.4-5.) The City Green LA Action Plan outlines the City’s goals and actions established to reduce the generation and emission of GHGs from both public and private activities, including but not limited to the increase of renewable energy sources and generation; improved energy conservation and efficiency standards; and enhancements to the transportation and land use patterns to reduce dependence on automobiles. To support this initiative, the City has identified over 50 action items, several of which coincide with the programs identified in the MP 2035. (*See* Table 4.4-10 above.)

The projected GHG emissions reduction when comparing the Project to the No Project alternative would reduce emissions Citywide. (*See* Recirculated DEIR, Table 4.4-4, p. 4.4-10. The projected reduction is consistent with the City’s local climate action initiative, and would likely be more than quantified in the MP 2035 FEIR.

CONCLUSION

Based on the analysis set forth above, the MP 2035 EIR falls squarely within the framework for assessing project-specific and cumulative GHG impacts detailed in *Newhall Ranch*. As set forth above, the MP 2035 project will decrease the level of overall GHG emissions, consistent with local, regional and statewide objectives, including but not limited to AB32, SB 375, 2012-2035 RTP/SCS, and the City's Community Plans and Local Green LA Climate Action Plan, to reduce overall GHG emissions. Therefore, the project would not conflict with any applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of GHGs, and project-specific impacts with regard to climate change would be less than significant.

Please feel free to contact me if you have any questions or concerns.

Sincerely,

A handwritten signature in blue ink that reads "Wendy". The signature is written in a cursive style with a large, looping 'y' at the end.

Wendy Lockwood
Principal