November 16, 2018

Los Angeles County Board of Supervisors
856 Kenneth Hahn Hall of Administration
500 W. Temple Street
Los Angeles CA, 90012

Submitted electronically to: firstdistrict@bos.lacounty.gov, SecondDistrict@bos.lacounty.gov, sheila@bos.lacounty.gov, fourthdistrict@bos.lacounty.gov, Kathryn@bos.lacounty.gov
CC: rruiz@planning.lacounty.gov, sackett@planning.lacounty.gov

Re: Centennial Specific Plan Final Environmental Impact Report and Attachment H-Updated Greenhouse Gas Calculations

Dear Los Angeles County Board of Supervisors,

These comments are submitted on behalf of the California Native Plant Society, Center for Biological Diversity, Defenders of Wildlife, Earthjustice, Idle No More Southern California, SoCal 350 Climate Action, and Wild Heritage Planners regarding the Updated Greenhouse Gas Calculations ("Attachment H", dated August 13, 2018) and the Final Environmental Impact Report ("FEIR") for the Centennial Specific Plan. Importantly, Attachment H includes a revised accounting of greenhouse gas ("GHG") emissions that result from the construction and long-term operation of the project. Attachment H, also asserts that the state's Cap-and-Trade Program covers 96% of Centennial's GHG emissions. We disagree with the claim that Cap-and-Trade would mitigate nearly all of the Centennial's GHG emissions. The FEIR does not provide an adequate analysis of GHG emissions and does not provide mitigation for them, as is required under the California Environmental Quality Act ("CEQA"). As presented in Attachment H, the project's proposed reliance on the Cap and Trade program is improper. Recently, World Logistics Center ("WLC"), a large warehouse and distribution project in the City of Moreno Valley, proposed to similarly use Cap-and-Trade to offset their GHG emissions. In September

2018, the California Air Resources Board ("CARB") submitted a comment letter on WLC ("CARB WLC", available online[1], and attached here for reference), which details why Cap-and-Trade does not mitigate GHG emissions from land use projects and cannot be used for that purpose. CARB's conclusions regarding the insufficiencies of WLC's Cap-and-Trade-centered CEQA analysis are directly applicable to the Centennial FEIR's GHG analysis as well. We hereby incorporate CARB's conclusions about the intersection of Cap-and-Trade and land use projects as our own (see Attachment 1). Consequently, a supplemental FEIR must be prepared to address Centennial's current GHG analysis deficiencies, which we describe below.

I. Centennial cannot rely upon the statewide Cap-and-Trade Program for mitigating its GHG emissions

Centennial justifies their use of Cap-and-Trade based on the CEQA appellate court case, Association of Irritated Residents v. Kern County Board of Supervisors, et al. (Alon USA Energy, Inc., et al., Real Parties in Interest) (2017) 17 Cal.App.5th 708 ("AIR v. Kern County[2]"). Cap-and-Trade covers GHG emissions associated with large stationary sources, such as electricity production, oil refineries, transportation fuel suppliers, etc. (for a complete list of Covered Entities see CAL. CODE REGS. tit. 17, § 95811[3]). The relevance of AIR v. Kern County to Centennial, a mixed residential and commercial development project, is dubious. Importantly, the project in AIR v. Kern County, Alon Energy, is an oil refinery, and is thus a covered entity under Cap-and-Trade. Centennial is not a Cap-and-Trade covered entity.

Centennial claims that emissions from a variety of sources (Attachment H, Table 3) totaling 150,808 MTCO2e/yr, 96% of all emissions, are covered by Cap-and-Trade. Centennial's assertion is that if their GHG emissions are covered by Cap-and-Trade somewhere upstream, then they don't need to mitigate for or otherwise reduce these emissions. This is a misinterpretation of the scope of the Cap-and-Trade Program and presents an erroneous analysis of the proposed project's GHG emissions and mitigations. Quite clearly, the Cap-and-Trade Program was never intended to achieve greenhouse gas reductions associated with mixed-use development projects like Centennial.[4] Simply put, it is not safe to assume that emissions from any given project have been mitigated for just because they are covered by the statewide cap. In their assessment of GHGs, Centennial makes errors at several levels, from the use of Cap-and-Trade altogether to assumptions about how this relates to GHG reductions required by state law.

CARB WLC emphasizes that the misapplication of Cap-and-Trade to non-covered entities has, "Enormous implications for other projects across the state: it would amount to a determination that massive logistic centers, sprawling far-flung residential developments, and other types of remote greenfield development need not do anything to address and mitigate their GHG emissions because those emissions are already "taken care of" by the Cap-and-Trade Program. This is simply not true."

---

[1] CARB WLC
[2] AIR v. Kern County
[3] § 95811
[4] CARB WLC contends that, "just because emissions are 'covered' by Cap-and-Trade doesn't mean all of those emissions from any particular covered entity are mitigated or reduced. It simply means they are included in the cap." See attached letter from CARB to WLC at [page #].

II. The project's reliance on Cap-and-Trade is inconsistent with CEQA Guidelines

According to CEQA § 15064.4 a lead agency should consider the following factors, among others, when assessing the significance of impacts from greenhouse gas emissions on the environment:

> (1) The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting;
> (2) Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project.
> (3) The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. Such requirements must be adopted by the relevant public agency through a public review process and must reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project.

As is emphasized in § 15064.4 (3) a primary provision of the CEQA guidelines is for projects to reduce or mitigate GHG emissions in line with existing local, regional, and state plans (e.g. AB 32, SB 375). Also, quite clearly, the CEQA Guidelines highlight the importance of assessing GHG emissions at the project level. Along those lines, mitigation for GHG emissions must also be demonstrated at the project level. The assumption that 96% of Centennial's emissions have already been "taken care of" by Cap-and-Trade, and that Centennial only needs to account for a very small amount of their GHG emissions is flawed and must be addressed through a supplemental FEIR analysis. In Attachment H, Centennial contends that based on AIR v. Kern County, "compliance with the Cap and Trade program was upheld as a lawful CEQA mitigation measure to reduce GHG emissions to a less-than-significant-level." This assumption is simply not true for projects like Centennial that are not Cap-and-Trade covered entities.

III. **Centennial inappropriately proposes to use Cap-and-Trade to reduce GHG emissions in line with legal mandates**

The FEIR (Vol. 1, 2-338) states that "the Project takes a very aggressive approach to reducing GHG emissions arising from the Project." In the section titled "Compliance with GHG Reduction Laws and Regulations Threshold" the FEIR notes that components of the project are "required to reduce GHG emissions based on adopted laws and regulations designed to achieve emissions reductions required under AB 32 and under other greenhouse gas reduction laws and regulations." The FEIR (Vo. 1, 2-342) cites the ruling from Newhall that states that "to the extent a project's design features comply with or exceed the regulations outlined in the Scoping Plan and adopted by the Air Board or other state agencies, a lead agency could appropriately rely on their use as showing compliance with 'performance based standards' adopted to fulfill 'a statewide…plan for reduction or mitigation of greenhouse gas emissions.'"

Likewise, the FEIR (Vol 1, 3-341) extrapolates that, for example, “legal mandates to reduce greenhouse gas emissions from the energy production sector that will serve the project likewise reduce project-related GHG emissions from electricity consumption.” The legal mandates being relied upon here to reduce GHG emissions do not apply directly to Centennial. The table beginning on 2-342 of the FEIR details the applicable laws that apply to the project’s GHG emissions. The emission sources that are supposedly offset by Cap-and-Trade parallel those that are presented in Table 3 in Attachment H, and cover approximately 96% of the total emissions. The recognition that Cap-and-Trade cannot be used to reduce GHG emissions to comply with state laws, including AB 32, renders the mitigation measures detailed in the FEIR inadequate. These inadequacies must be addressed through a supplemental analysis and provided to the public for review and comment.

Conclusion

None of the Project’s GHG emissions are subject to regulation under the state’s Cap-and-Trade Program. As a result, Centennial has failed to adequately analyze, reduce, and mitigate for GHG emissions in compliance with state laws and regional initiatives. This represents a fatal flaw in the FEIR that must be corrected. We strongly urge the Board of Supervisors to delay making a decision on the Centennial Specific Plan until this inadequacy is fully corrected. At a minimum, this should precipitate the need for a revised, supplemental FEIR with a public comment period in compliance with CEQA Guidelines.

Thank you once again for the opportunity to provide comments on this very important component of the Centennial Specific Plan FEIR. Please feel free to contact us with any questions.

Sincerely,

Nicholas Jensen, PhD
Southern California Conservation Analyst
California Native Plant Society

Kim Delfino
California Program Director
Defenders of Wildlife

J.P. Rose
Staff Attorney
Center for Biological Diversity

Adrian Martinez
Staff Attorney
Earthjustice

Lydia Ponce
Co-Director
Idle No More Southern California
Member, American Indian Movement

Sabina Virgo
Steering Committee
SoCal 350 Climate Action

Jack Eidt
Director
Wild Heritage Planners