



California Appellate Court Upholds CEQA Greenhouse Gas Emissions Methodology

09.26.2023 | By [Derek J. Kliewer](#)

A recent court decision provides guidance to lead agencies seeking to comply with CEQA requirements related to greenhouse gas (GHG) emissions. In *Tsakopoulos Investments, LLC v. County of Sacramento*, the Third District Court of Appeal held that sector-specific thresholds of significance for GHG emissions that are based on local emissions data are a model of CEQA-compliant significance thresholds. Specifically, the court upheld the GHG impacts analysis in an Environmental Impact Report (EIR) prepared for a mixed-use master planned community because the County of Sacramento relied on county-specific and sector-specific significance thresholds, rather than on statewide GHG emission reduction standards to evaluate the significance of project emissions.

The challenged project was the Mather South Community Master Plan, an urban growth project in Sacramento County that would result in thousands of residential dwelling units, public parks, schools and commercial retail spaces. The County of Sacramento certified the EIR for the project in 2020. Subsequently, Tsakopoulos Investments, LLC challenged the EIR on multiple grounds, including that the methodology underlying the GHG thresholds of significance relied on by the County.

Tsakopoulos Investments, LLC argued that the County's EIR was invalid under the California Supreme Court's and the Fourth District Court of Appeal's decisions in *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204 and *Golden Door Properties, LLC v. County of San Diego* (2018) 27 Cal. App.5th 892, respectively.

In *Center for Biological Diversity*, the California Supreme Court rejected an EIR because the agency, in establishing GHG thresholds of significance, failed to include substantial evidence demonstrating that statewide 'business-as-usual' environmental baselines applied to the project under review. In *Golden Door Properties*, the Fourth District Court of Appeals further held that a quantitative threshold of significance for GHG emissions "developed in reliance on statewide standards must be justified by substantial evidence to

explain why it is sufficient for use in projects in the County [of San Diego].” (27 Cal.App.5th at 904–05.)

The *Tsakopoulos* court distinguished the County’s approach from the GHG impacts analyses at issue in *Center for Biological Diversity* because the County did not employ a hypothetical and generalized ‘business-as-usual’ emissions model as a means of comparing the project’s projected emissions to a statewide target.

The court also distinguished the County’s approach from the approach rejected in *Golden Door Properties* because:

- the County used county-specific data rather than statewide data (as the agency relied upon in *Golden Door*), and
- as discussed above, the County developed different thresholds for different sectors rather than applying the same threshold across all types of projects.

Thus, the court determined that the record contained ‘substantial evidence’ showing that the methodology used by the County was based on the local GHG inventory and also applied specifically to the project at issue.

The opinion summarizes California’s legislative efforts to reduce GHG emissions and the State CEQA Guidelines standard for determining the significance of impacts from GHG emissions. Under CEQA Guidelines section 15064.4(a), a lead agency is required to “make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate, or estimate the amount of greenhouse gas emissions resulting from a project. A lead agency shall have discretion to determine in the context of a particular project, whether to

- [q]uantify greenhouse gas emissions resulting from a project; and/or
- [r]ely on a qualitative analysis or performance-based standards.” CEQA Guidelines section 15064.4(b) provides a number of factors that lead agencies are to take into account when assessing the significance of GHG emissions, and section 15064.4(c) permits a lead agency to use discretion “to select the model or methodology it considers most appropriate to enable decision makers to intelligently take into account the project’s incremental contribution to climate change.”

Regardless of the methodology used, the lead agency “must support its selection of a model or methodology with substantial evidence.” (*Id.*)

As a result of this decision, lead agencies evaluating a project’s GHG emission should consider employing a methodology based on local and sector-specific thresholds, and must include “substantial evidence” demonstrating how those thresholds apply to the project under review.