

2011 Cal. App. Unpub. LEXIS 8987, *

NATURAL RESOURCES DEFENSE COUNCIL, INC. et al., Plaintiffs and Appellants, v.
CALIFORNIA DEPARTMENT OF TRANSPORTATION, REGION 7, Defendant and
Respondent, ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY, Real Party in
Interest and Respondent.

B228048

COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION
SEVEN

2011 Cal. App. Unpub. LEXIS 8987

November 22, 2011, Filed

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PRIOR HISTORY: [*1]

APPEAL from a judgment of the Superior Court of Los Angeles County. Los Angeles County Super. Ct. No. BS122539. John A. Torribio, Judge.

DISPOSITION: Affirmed.

CORE TERMS: emission, environmental, traffic, guidelines, climate, health risk, lead agency, transportation, methodology, mitigation measures, air quality, port, air, truck, feasible, public comments, sensitivity, expressway, regional, quantitative, cumulative, recirculation, proposed project, commentor's, analyzed, bridge, new information, traffic impacts, pollutant, qualitative

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JUDGES: JACKSON, J.; PERLUSS, P. J., WOODS, J. concurred.

OPINION BY: JACKSON

OPINION

INTRODUCTION

Appellants Natural Resources Defense Council, Inc., East Yard Communities for Environmental Justice, and Coalition for a Safe Environment appeal from a judgment in favor of respondents California Department of Transportation, Region 7, and Alameda Corridor Transportation Authority after issuance of an order denying appellants' petition for a writ of administrative mandamus. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

In 2009, respondent California Department of Transportation, Region 7 (Caltrans) approved a project for the Schuyler Heim Bridge Replacement and the [*2] State Route 47 (SR-47) Expressway, a new diesel truck expressway, to improve the transportation system serving the Ports of Long Beach and Los Angeles and the surrounding neighborhoods. This appeal concerns only the approval for the SR-47 Expressway (the Project).

The Project is a joint endeavor by Caltrans and the Federal Highway Administration. The Project is subject to environmental review under the California Environmental Quality Act (CEQA, [Pub. Resources Code, § 21000 et seq.](#))¹ and the National Environmental Policy Act ([42 U.S.C. § 4321 et seq.](#)). Caltrans is the lead agency under CEQA. Pursuant to federal law, the Federal Highway Administration has delegated its responsibilities under the National Environmental Policy Act to Caltrans. Respondent Alameda Corridor Transportation Authority (ACTA) is a responsible agency under CEQA, in that it will construct the Project.²

FOOTNOTES

¹ In place of specifying Public Resources Code for all further statutory references to sections of CEQA, we shall use the abbreviation CEQA. Regulations guiding application of CEQA are found in [title 14 of the California Code of Regulations, section 15000 et seq.](#) They are often, and will be here, referred to as the [*3] Guidelines. "In interpreting CEQA, we accord the Guidelines great weight" [Citation.]" (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319, fn. 4.)

² ACTA is a joint powers authority formed by the Cities and Ports of Los Angeles and Long

Beach pursuant to [Government Code section 6500 et seq.](#)

Appellants promptly filed a petition for writ of mandate, challenging the approval of the Project on the basis of failure to comply with CEQA. The trial court issued a written decision denying the petition in August 2010.

SR-47 is an existing roadway that connects Terminal Island, where many of the ports' cargo terminals are located, to the mainland via the Commodore Schuyler F. Heim Bridge (Bridge). The Project is for a four-lane, limited-access, elevated roadway which is approximately 1.7 miles in length. The Project is planned to start at the southern end of the Bridge and extend beyond the northern end of the Bridge above surface streets, connecting Terminal Island to the Alameda Street corridor. Its purpose is to improve north-south connectivity between the ports and the regional freeway system in order to reduce traffic congestion [*4] on surface streets, improve safety by providing a route to bypass signalized intersections and railroad crossings, as well as an improved emergency service route.

At the time the environmental impact report (EIR) was certified, the ports were projecting that the amount of cargo entering the ports would almost double between 2010 and 2020. Most of the traffic in the port area involves cargo containers moving via truck, rail or a combination of both. Currently, traffic on SR-47 travelling between Terminal Island and the Interstate 405 freeway is significantly congested and proceeds on local streets, passing through three signalized intersections and five railroad crossings.

The environmental review of the Project began when Caltrans published a Notice of Preparation (NOP) for the project on February 1, 2002. In 2004, a scoping notice to the public appeared in local newspapers. Thereafter, respondents conducted scoping meetings. Caltrans approved the draft EIR (DEIR) on August 13, 2007 and released it for public review and comment on August 17. Appellants submitted extensive comments on the DEIR.

The DEIR included several technical appendices, including a 2007 traffic study and an air quality [*5] impacts technical study. A public meeting on the DEIR was held on September 25, 2007. The 60-day public review period for the DEIR was extended until November 2007. Caltrans received over 40 written comments. In response to public comments on the DEIR, ACTA authorized the preparation of a health risk assessment to further study the Project's potential public health impacts.

Caltrans determined the health risk assessment constituted new information and recirculated the DEIR on November 14, 2008. A public meeting on the recirculated DEIR was held in January 2009. The public review period for the recirculated DEIR was extended beyond the required 45-day period. Written comments were accepted through February 13, 2009. Appellants submitted comments on the recirculated DEIR.

On May 12, 2009, Caltrans approved and certified the final EIR (FEIR). On May 28, Caltrans circulated the FEIR for public review. One of the appellants, Natural Resources Defense Council, submitted comments on the FEIR on June 1. Caltrans filed a Notice of Determination

for the FEIR on August 12.

The FEIR included responses to each public comment previously received. One of the responses included a "sensitivity analysis" [*6] regarding certain health risks under an assumed traffic model which took into consideration two proposed near-dock rail expansion projects: an expansion approximately doubling the existing Union Pacific Intermodal Container Transport Facility (ICTF) and a new facility, the Burlington Northern Santa Fe Southern California International Gateway (SCIG). ACTA performed the analysis in response to one of the public comments.

Appellants filed a petition for writ of mandate in September 2009 challenging Caltrans' certification of the FEIR and Project approval, asserting claims under CEQA. Appellants alleged noncompliance with CEQA with respect to the sufficiency of the FEIR provisions regarding greenhouse gas (GHG) emissions and associated climate change, traffic and health risk impacts, as well as feasible mitigation measures and the analysis of feasible alternatives. Appellants also alleged that Caltrans was required to recirculate the FEIR prior to its approval, in that the "sensitivity analysis" regarding health risks added significant new information.

In its written decision issued in August 2010, the trial court determined that Appellants' claims were factual in nature and subject to [*7] assessment under the substantial evidence test. The trial court denied each claim of the petition.³

FOOTNOTES

³ Additional facts relevant to each contention raised by appellants on appeal are set forth below in the discussion of the contention.

DISCUSSION

Appellants contend that Caltrans' approval and certification of the Project must be reversed due to violations of CEQA in connection with the FEIR, as follows: inadequate assessment of GHG impacts, failure to adequately analyze and mitigate traffic impacts, underestimating air pollution and health risks, failure to mitigate significant Project impacts, inadequate analysis of alternatives to the Project, and failure to recirculate the certified FEIR after Caltrans included the "sensitivity analysis" in its response to a public comment. We disagree.

A. CEQA Overview

An expressed Legislative intent underlying CEQA is "that all agencies of the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living [*8] environment for every Californian." (CEQA, [§ 21000, subd. \(g\).](#)) The

furtherance of a legislative policy to ensure that protection of the environment is "the guiding criterion in public decisions." (*Id.*, § 21001, subd. (d).) "CEQA's fundamental objective is 'to ensure "that environmental considerations play a significant role in governmental decision-making"' in order to enable "the decision-makers and the public to make an 'independent, reasoned judgment' about a proposed project." (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935.)

In reviewing a trial court's denial of a writ of mandate to overturn an agency's decision for compliance with CEQA, we review the administrative record⁴ to determine whether the agency prejudicially abused its discretion. (CEQA, § 21168.5; *Sierra Club v. State Bd. of Forestry* (1994) 7 Cal.4th 1215, 1236.) An agency abuses its discretion if it "has not proceeded in a manner required by law," which we determine de novo, or if the agency's "determination or decision is not supported by substantial evidence"⁵ in the administrative record. (CEQA, § 21168.5; *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.) [*9] An abuse of discretion is prejudicial if it arises from "noncompliance with the information disclosure provisions of [CEQA] which precludes relevant information from being presented to the public agency [and the public], or noncompliance with substantive requirements of [CEQA]." (CEQA, § 21005, subd. (a).)

FOOTNOTES

⁴ The administrative record is sometimes referred to herein simply as "the record."

⁵ For CEQA review purposes, "'[s]ubstantial evidence' . . . means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. . . . Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence." (Guidelines, § 15384, subd. (a).)

We review "the agency's action, not the trial court's decision; in that sense" our review "is de novo." (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova, supra*, 40 Cal.4th at p. 427.) We presume the correctness [*10] of the agency's decision (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564) and draw all reasonable inferences from and resolve all conflicts in the evidence in favor of the decision⁶ (*Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 571).

FOOTNOTES

6 "A court's task is not to weigh conflicting evidence and determine who has the better argument when the dispute is[, for example,] whether adverse effects have been mitigated or could be better mitigated. We have neither the resources nor scientific expertise to engage in such analysis, even if the statutorily prescribed standard of review permitted us to do so. Our limited function is consistent with the principle that 'The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind. CEQA does not, indeed cannot, guarantee that these decisions will always be those which favor environmental considerations.' [Citation.]" ([Laurel Heights Improvement Assn. v. Regents of University of California \(1988\) 47 Cal.3d 376, 393.](#))

Subject to limited exceptions, CEQA requires that a public agency complete an EIR whenever the agency proposes [*11] to approve or to carry out a project that may have a significant effect on the environment. (CEQA, § 21100; Guidelines, § 15002, subd. (f)(1); [Laurel Heights Improvement Assn. v. Regents of University of California, supra, 47 Cal.3d at pp. 390-391.](#)) A "significant effect on the environment" is defined as "a substantial, or potentially substantial, adverse change in the environment." (CEQA, § 21068; see also Guidelines, § 15002, subd. (g).) The EIR must "identify and focus on the significant environmental effects of the proposed project." (Guidelines, § 15126.2, subd. (a).)

An EIR is an "informational document" (CEQA, § 21061) which "is the heart of CEQA" ([In re Bay-Delta etc. \(2008\) 43 Cal.4th 1143, 1162.](#)) The purpose of an EIR is to provide public agencies and the public in general with detailed information about the significant effects which a proposed project is likely to have on the environment; to list ways to mitigate the effects; and to evaluate alternatives to the project with respect to significant effects and mitigation. (CEQA, § 2106.) We do not review the correctness of the EIR conclusions but only whether the EIR is sufficient as an informational document. ([Laurel Heights Improvement Assn. v. Regents of University of California, supra, 47 Cal.3d at pp. 392-393.](#)) [*12] "An evaluation of the environmental effects of a proposed project need not be exhaustive[. T]he sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. . . . The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure." (Guidelines, § 15151.)

To satisfy CEQA requirements, an "EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed . . . in the full environmental context." (Guidelines, § 15125, subd. (c); see also [Citizens to Preserve the Ojai v. County of Ventura \(1985\) 176 Cal.App.3d 421, 431-432.](#)) If the EIR fails to include information needed for ""informed decisionmaking and informed public participation,"" the statutory goals of the CEQA process are thwarted and, therefore, the error is prejudicial; as a result, we must

overturn the agency's decision. ([Save Our Peninsula Committee v. Monterey County Bd. of Supervisors \(2001\) 87 Cal.App.4th 99, 118.](#))

The EIR process begins with the issuance to the public of a notice of an NOP of a DEIR. (CEQA, §§ 21092, 21092.1.) After the lead agency circulates the DEIR for public comment, [*13] the agency evaluates the DEIR in light of public comments received and issues responses to significant environmental points raised in the comments. (Guidelines, §§ 15087, 15088.) The lead agency then prepares a final FEIR which incorporates the public comments and the response, as well as changes or additions based upon them. (Guidelines, §§ 15090, 15132, subs. (b)-(d).) "The lead agency must certify that the final EIR has been completed in compliance with CEQA and that the information in the final EIR was considered by the agency before approving the project. (Guidelines, § 15090.) Before approving the project, the lead agency must also find either that the project's significant environmental effects identified in the EIR have been avoided or mitigated, or that unmitigated effects are outweighed by the project's benefits. ([CEQA.] §§ 21002, 21002.1, and 21081; Guidelines, §§ 15091-15093.)" ([Laurel Heights Improvement Assn. v. Regents of University of California, supra, 47 Cal.3d at p. 391.](#))

B.GHG Emissions and Climate Change Impacts

In the FEIR, Caltrans made determinations required by CEQA of whether potential environmental impacts of each of the alternatives identified for the Project [*14] would be significant or less than significant.² For the approved alternative, Alternative 1, Caltrans determined that the GHG emissions impacts and the associated climate change impacts were less than significant. Appellants' primary contention is that the FEIR inadequately assesses GHG emissions impacts and climate change impacts associated with the emissions.³ Appellants acknowledge that the FEIR includes qualitative analyses of GHG emissions and climate change. They argue that, to comply with CEQA, the FEIR should include analyses of GHG emissions and climate change impacts that are quantitative, rather than qualitative. According to appellants, quantitative methodologies are available and, therefore, Caltrans failed to "use its best efforts to find out and disclose all that it reasonably" could regarding GHG emissions and climate change, as required by CEQA. (Guidelines, § 15144.) Appellants maintain that the FEIR does not "demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context," as required by Guidelines [*15] section 15125, subdivision (c). We disagree.

FOOTNOTES

² Significance analyses for individual impacts are set forth in detail in the FEIR in the Summary in Table S-1, Chapter 3.0. Determinations of significance under CEQA are in Chapter 4.0. (See, e.g., section 4.7 on GHG emissions and climate change, and Table 4-1.)

³ The FEIR identifies carbon dioxide, a GHG emission of motor vehicles, as the major source

of potential climate change impact. Appellants do not challenge that point. Hence, the two types of impacts are necessarily intertwined for this project. The FEIR sections on GHG emissions and climate change impacts consistently discuss the one impact in the context of the other impact.

Appellants apparently do not distinguish between a reasonable effort to disclose and exhaustive disclosure of all possibilities. To satisfy CEQA, "[a]n evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible." (Guidelines, § 15151.) Review of the FEIR reveals extensive detailed GHG emissions and climate change qualitative analyses supported by quantitative data.⁹

FOOTNOTES

⁹ The FEIR discusses GHG emissions [*16] and climate change in, for example, section 3.13.2.2.3, Greenhouse Gases; section 3.13.3.4.4, Greenhouse Gases (methodology); section 3.13.3.5, Evaluation of Alternatives (Criteria Pollutant Impacts), section 4.7, Climate Change (significance of GHG emissions); Table 4-4, Climate Change Strategies. Additional discussion of GHG emissions and climate change appears in various written responses by Caltrans to public comments.

Caltrans primarily used a qualitative approach for assessing GHG emissions and related climate change impacts. The approach was one of six possible approaches endorsed by the Association of Environmental Professionals (AEP) in its March 5, 2007 White Paper entitled "Recommendations by the Association of Environmental Professionals on How To Analyze Greenhouse Gas Emissions and Global Climate Change in CEQA Documents" (M. Hendrix et al.) (AEP White Paper).¹⁰ Caltrans provided evidence that commentators have acknowledged that such a qualitative approach has been utilized by other agencies, citing the paper by Michael Zischke and Sarah Owsowitz entitled "Climate Change and the California Environmental Quality Act" (Oct. 10, 2007). Appellants provide no argument or authority [*17] discrediting a qualitative approach. An agency such as Caltrans does not abuse its discretion by simply choosing one methodology over another. (Guidelines, § 15204.)

FOOTNOTES

¹⁰ The AEP White Paper stated, "In the absence of regulatory guidance, and prior to the

resolution on various legal challenges for global climate change analysis, CEQA documents must address GHG emission on a case-by-case basis using ad-hoc methods and individual judgment of existing CEQA guidance. The following section explores the various methodologies that could be used in CEQA documents to address global climate change impacts analysis"

Appellants assert that the claimed inadequacy of the FEIR is not excused by the fact that, as Caltrans states in the FEIR, "No federal, state or regional regulatory agency has provided methodology or criteria for GHG emissions and climate change impact analysis." Appellants imply that Caltrans did not consider other available analytical methodologies. They cite several entities that have identified various analytical methodologies to forecast GHG emissions and/or assess associated climate change impacts for specific environmental settings,¹¹ but they do not identify any specific [*18] methodology which would produce an analysis that would satisfy CEQA requirements. Appellants note that Caltrans explained that, in the absence of regulatory guidance, quantitative analysis of "GHG emissions levels . . . at the project level is not currently possible," and "it is too speculative to make a determination regarding the project's direct impact and its contribution on the cumulative scale to climate change."

FOOTNOTES

¹¹ As sources, appellants cite publications from the California Air Resource Board (CARB), the Governor's Office of Planning and Research, the California Air Pollution Control Officers Association (CAPCOA), the International Council for Local Environmental Initiatives, state colleges and universities. Appellants also cite the *quantitative* methodologies presented in the AEP White Paper and the CO₂ analysis ACTA provided in a funding application to the United States Secretary of Transportation.

The implication that Caltrans presented only these conclusory statements and did not consider methodologies from these or other sources is soundly refuted by review of the FEIR and related reports included in the administrative record. While it is true that Caltrans explained its selection [*19] of a primarily qualitative analysis based upon the absence of regulatory standards and definitive scientific information for quantifying GHG emissions and the related direct and cumulative impacts on climate change for the Project, there is ample evidence that Caltrans adequately disclosed the Project's GHG emissions and climate change impacts.¹² In the FEIR, Caltrans discussed information from the same sources and other sources. Caltrans explained, at length, the shortcomings of various available quantitative methods in the context of the Project.

FOOTNOTES

¹² Caltrans explained in the FEIR that "accurate modeling of GHG emissions levels, including carbon dioxide," as well as quantitatively "modeling and gauging the impacts associated with an increase in GHG emissions levels, including carbon dioxide, at the project level is not currently possible. No federal, state or regional regulatory agency has provided methodology or criteria for GHG emissions and climate change impact analysis. Therefore, Caltrans is unable to provide a scientific or regulatory based conclusion regarding whether the project's contribution to climate change is cumulatively considerable."

Caltrans noted that the Project itself—i.e., [*20] the SR-47 Expressway—will not generate any emissions from a stationary source such as a manufacturing plant might; rather, the only emissions associated with the Project will be mobile source emissions from trucks and other motor vehicles that use the expressway. According to Caltrans, most of the available quantitative methods for assessing environmental effects were for stationary source emissions and Caltrans found none that had been recognized as accurate or reliable for the type of mobile source emissions associated with the Project. While other entities had made efforts to quantify GHG emissions, Caltrans explained, the projects to which they applied had been on a large scale. Caltrans specifically discussed the methodology and data from the CARB 2008 updated GHG inventory for California, which included projections up to 2020 on a statewide scale, and the climate change analysis from a 2008 draft environmental impact statement completed by the National Highway Traffic Safety Administration covering the entire national passenger car and light truck fleet.

Appellants mischaracterize applicable law when they assert that, "CEQA is clear: even if a 'sophisticated technical analysis [*21] [is] not feasible, if some reasonable, albeit less exacting, analysis' could be performed, an agency is required to perform that analysis and report the results." Guidelines section 15204, subdivision (a), provides, "CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR."

The two judicial opinions cited by appellants are distinguishable from the instant case and, thus, do not support appellants' contentions with regard to the inadequacy of the analysis of the Project's GHG emissions and related climate change impacts. The opinions are [*Communities for a Better Environment v. City of Richmond* \(2010\) 184 Cal.App.4th 70](#) and [*Berkeley Keep Jets Over the Bay Com. v. Board of Port Cmrs.* \(2001\) 91 Cal.App.4th 1344](#). In both cases, the lead agency made only conclusory statements as to an impact, without further explanation of how or

why they reached the conclusions.¹³ The [*22] courts in both cases acknowledged that CEQA requires that an agency use its best efforts to disclose information as it reasonably could. (Guidelines, § 15144.) Neither case, however, mandates that a lead agency such as Caltrans must determine that a particular impact such as a GHG emissions or a climate-change impact is significant under CEQA. Nor does either case require a lead agency to use any methodologies identified by CAPCOA or any other entity. In the instant case, Caltrans provided much more information than a brief conclusory statement about the GHG emissions and the climate change impacts. Rather, Caltrans discussed its efforts to identify analytical methodologies, reasons the methodologies were inadequate in the particular setting of the Project, and rationale for the conclusions it reached regarding the significance of the impacts.

FOOTNOTES

¹³ In [Communities for a Better Environment v. City of Richmond, supra, 184 Cal.App.4th 70](#), the court observed that "[t]he proposition that climate-change impacts are significant environmental impacts requiring analysis under CEQA was bolstered by several ongoing developments." ([Id. at pp. 90-91.](#)) The court *mentioned* that the CAPCOA 2008 White Paper [*23] discussed different approaches for determining GHG significance. ([Id. at p. 91.](#)) The problem addressed by the court was the complete omission of an environmental impact analysis and evaluation of possible mitigation measures for the project's "estimated new emissions of 898,000 metric tons per year of GHGs." The court's holding was that the city prejudicially abused its discretion by approving that portion of the FEIR addressing mitigation measures for GHG emissions, in that the FEIR deferred the determination of mitigation measures until a study was completed *after* the City approved and certified the FEIR. ([Id. at pp. 91-95.](#))

In [Berkeley Keep Jets Over the Bay Com. v. Board of Port Cmrs., supra, 91 Cal.App.4th 1344](#), the lead agency claimed it could not analyze health effects from air toxins because there was no "approved, standardized protocol for assessing the risk," ([id. at pp. 1367-1368](#)) and repeated only a conclusory "statement throughout [the EIR] . . . that no adequate analytical tools are currently available for performing a health risk assessment for aircraft emissions" ([id. at p. 1369](#)). The *Berkeley* court noted that, during the EIR preparation process, the lead agency had [*24] received a sample health risk assessment, with an explanation of methodologies

used, and the lead agency had access to guidelines issued by CAPCOA, but had not addressed them in the EIR. The court determined that the EIR did not comply with CEQA as to the health risk disclosure, in that the lead agency had not identified any reasonably conscientious efforts it had made to collect data or make further inquiry of environmental or regulatory agencies that had expertise with respect to performing a health risk assessment. (*Id.* at pp. 1369-1370.)

Appellants are mistaken in their assertion that Caltrans claimed that an individual project cannot have a significant effect on climate change. Caltrans pointed out that the AEP arrived at that conclusion in its 2008 White Paper on climate change analysis for CEQA purposes.

Appellants contend that the conclusion that the Project will decrease GHG emissions lacks support.¹⁴ The FEIR, however, includes substantial evidence that supports Caltrans' conclusion. For example, noting that the "highest level of carbon dioxide from mobile sources, such as automobiles, occurs at stop-and-go speeds (0 to 25 miles per hour) and speeds over 55 miles per hour, [*25] Caltrans concluded that relieving congestion by enhancing operations and improving travel times in high congestion travel corridors will lead to an overall reduction in GHG emissions." As the FEIR explains, the Project will result in a net decrease in GHG emissions in the Project area, in that the Project will accomplish its purpose of reducing traffic congestion even though port traffic is projected to increase substantially. Furthermore, when completed, the Project will not generate any GHG emissions in and of itself, that is, no stationary source emissions. The associated GHG emissions will come solely from mobile sources that will utilize the expressway, i.e., cars and trucks.

FOOTNOTES

¹⁴ Appellants advance arguments, however, based upon an unsupported assumption that the Project is expected to result in increased GHG emissions. They assert that, in *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 720-721 and *Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1025, the courts rejected an agency's argument that environmental analysis is not required if "the contributions of a project to a large scale problem are small." In the absence [*26] of any showing of a probability that GHG emissions are likely to increase, however, appellants' reliance on the cases is misplaced. In *Kings County* and *Los Angeles Unified School Dist.*, the facts were undisputed that an impact would increase, but the lead agency failed to consider the effect of the increase.

Appellants claim that the extensive quantitative analysis of criteria air pollutants included in the FEIR is not sufficient to support Caltrans' conclusions that GHG emissions are expected to decrease.¹⁵ Caltrans explains that the emissions decrease may be greater than the levels projected by the quantitative analysis for criteria air pollutants due to efforts independent of the Project to reduce mobile source emissions. Such mobile source emissions, for example, are subject to regulation by public entities other than Caltrans. The CARB sets motor vehicle and fuel standards to reduce emissions. (See [Health & Saf. Code, §§ 39002, 43000 et seq.](#)) As Caltrans details, GHG emissions reductions are expected from implementation of planned motor vehicle emissions regulations by CARB and the United States Environmental Protection Agency (EPA), as well as implementation of the ports' clean [*27] truck program. The volume and patterns of use of the Project by motor vehicles will be affected by area transportation planning by public agencies aimed at reducing emissions and maintaining air quality standards set by such agencies as CARB and the South Coast Air Quality Management District (SCAQMD). The Project has been determined to be consistent with the federally-approved 2008 Southern California Association of Governments' Regional Transportation Plan and Regional Transportation Improvement Program and meets regional transportation conformity requirements.¹⁶ One of the purposes of such plans and programs is to decrease traffic congestion.

FOOTNOTES

¹⁵ Appellants claim Caltrans developed the criteria air pollutants quantitative data for some litigation purpose. Whether that is the case or not is irrelevant. The data are presented in the FEIR for purpose of quantifying GHG-related emissions in furtherance of CEQA's disclosure requirements. (See, e.g., Guidelines, §§ 15144, 15145.)

¹⁶ Appellants assert that the FEIR does not show that the Regional Transportation Plan and Regional Transportation Improvement Program are designed to reduce GHG emissions and that the FEIR does not provide data to [*28] show that implementation of the plan and program will "overtake the increases in traffic" predicted in the FEIR. Contrary to appellants' claim, the FEIR includes lengthy explanations of the ways in which the transportation conformity process and the regional transportation plans and improvement programs are structured to reduce emissions from transportation sources and assure that the related projects conform to the federal Clean Air Act and the California Clean Air Act. For example, the FEIR explains that because the Project will be in conformance with the Regional Transportation Plan, it will be consistent with SCAQMD's Air Quality Management Plan for the area. The

specific data appellants claim should be included goes beyond the scope of the Project and the role of Caltrans. That the FEIR does not itself include the data does not render the FEIR inadequate for CEQA purposes. (Guidelines, § 15151 [EIR need not be exhaustive].)

Lastly, review of the FEIR readily refutes appellants' contention that Caltrans ignored construction-related emissions in its qualitative analysis of GHG emissions and climate change. The quantitative data for criteria air pollutants included data for the construction [*29] phase, as well as the operational phase.¹⁷ Caltrans not only identified anticipated air quality impacts during the construction phase, but also specified corresponding mitigation measures. Caltrans determined that some of the impacts could be anticipated to be significant, but they would be short-term temporary impacts and would be eliminated once the Project became operational.

FOOTNOTES

¹⁷ In the FEIR Summary chapter, for example, there is a list of potential construction impacts for each alternative, as well as the avoidance, minimization and mitigation measures related to them. (Table S-1, Potential Project Effects and Avoidance, Minimization, and/or Mitigation Measures, for section 3.13. Air Quality.) One of the effects listed is that "[t]otal emissions (direct plus indirect) of CO, NOX, ROG, SOX and PM10 [which are among the criteria air pollutants] are predicted to exceed daily significance thresholds during project construction." What appears in the table is only a summary of a more complete discussion of the subject in other chapters of the FEIR. Whether particular relevant data or discussion appears under the heading of GHG emissions rather than climate change (or vice versa) does not [*30] affect the fact that the data or discussion is included in the FEIR in furtherance of the goal of CEQA to enable informed decision making.

In sum, as the foregoing discussion shows, review of the administrative record reveals substantial evidence to support Caltrans' determination that the Project's anticipated GHG emissions and climate change impacts would be less than significant. Contrary to appellants' contentions, the record shows that the FEIR was "'prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences'" related to GHG emissions and climate change. ([*Citizens to Preserve the Ojai v. County of Ventura, supra, 176 Cal.App.3d at 429.*](#))

C. Traffic Impacts

Caltrans determined that traffic impacts associated with Alternative 1 were less than significant.¹⁸ Appellants contend that Caltrans did not adequately analyze and mitigate traffic impacts of the Project, in that the FEIR's traffic projections substantially understate the actual expected traffic increases along the SR-47 Expressway and the traffic analysis does not include impacts from the proposed [*31] ICTF and SCIG projects. We disagree.

FOOTNOTES

¹⁸ Analyses for significance of traffic impacts are set forth in the FEIR in section 3.5 "Traffic and Transportation," section 4.4 "Significant Environmental Effects of the Proposed Project;" and Chapter 5.0 "Cumulative Impacts" with those associated with other port-area projects, in section 5.3.5 "Traffic and Transportation." Additional discussion appears in responses by Caltrans to public comments.

The administrative record includes substantial evidence that Caltrans evaluated the Project's traffic impacts to the extent reasonably feasible, as CEQA required. (See Guidelines, § 15151.) Caltrans consultants performed a comprehensive traffic study that analyzed current and forecasted traffic conditions and the potential traffic effects of each of the Project alternatives.¹⁹ Review of the FEIR's discussion of the sources of data used in the study supports a conclusion that the expected traffic increases were more likely to have been overstated than understated. The basis for the study was data and models from existing planning studies, including growth projections, primarily by the Ports of Long Beach and Los Angeles, as well as the Southern California [*32] Association of Governments. As explained in the FEIR, the ports' projections regarding traffic volume were "based upon the estimated upper limit of the combined ports' physical capacities to handle additional containers," and the physical capacities were not likely to increase over time, in that the port areas were already built out. When, as here, an "EIR evaluates the 'reasonable worst-case scenario' . . . [or otherwise] 'comprehensively, if not perfectly, analyze[s] the issue,'" a specific omission from the analysis, such as omission of the proposed ICTF and SCIG projects here, does not constitute a prejudicial abuse of discretion in violation of CEQA. (*Planning & Conservation League v. Castaic Lake Water Agency* (2009) 180 Cal.App.4th 210, 246.) Because the traffic study was based on the upper limit of the ports' capacity over the life of the Project, Caltrans explained, any traffic increases resulting from the proposed, but not yet approved, ICTF and SCIG projects had already been addressed in the comprehensive traffic analysis.

FOOTNOTES

¹⁹ According to Caltrans, the *Traffic Study: Schuyler Heim Bridge Replacement and SR-47 Expressway Project* (Meyer, Mohaddes Associates, 2007) evaluated traffic [*33] effects from replacement of the bridge, either alone or in association with the proposed SR-47 Expressway or the extension of State Route 103. The study assumed that growth would occur as the Ports of Long Beach and Los Angeles had projected to the year 2030.

The traffic study addressed impacts during the construction phase, as well as the operational phase, of the Project and included impacts on surface streets, as well as nearby freeways. Each alternative was analyzed as to volume flow on the mainline, as well as through intersections. The analysis also included impacts on parking and safety of pedestrians and motorists. Because of the extensive nature of the traffic study, it was necessary to provide only a summary in the FEIR. Caltrans provided additional analysis, incorporating specific data from the study, in Caltrans' responses to public comments questioning traffic impacts.

In any event, the ICTF and SCIG projects did not meet the FEIR's requirements for related projects to be included in the cumulative impact analysis required by CEQA. Guidelines section 15130, subdivision (a), requires that an EIR discuss cumulative impacts of a project where the incremental effect of the project, [*34] evaluated with related impacts of other projects in the affected area, is "cumulatively considerable." A lead agency has discretion to set a reasonable cutoff date for projects subject to cumulative impacts analysis—for example, only projects which had filed for regulatory environmental review. (*Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1128.)

Early in the CEQA process, Caltrans determined that the FEIR would include in its analyses only those other projects that were "proposed by formal public notices (Notice of Intent, Notice of Preparation)" when the preparation of the DEIR began. Appellants do not claim error with respect to the cutoff criteria adopted by Caltrans. The cutoff criteria are consistent with the foreseeability principle governing EIR content; "[a]n impact 'which is speculative or unlikely to occur is not reasonably foreseeable.'" (Guidelines, § 15064, subd. (d)(3).) (*Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1182.) An EIR must analyze only those environmental impacts of a proposed project which are direct or indirect, but reasonably foreseeable, and which are significant. (Guidelines §§ 15064, subd. (d), 15126.2; *Anderson First Coalition, supra*, at p. 1182.)

Neither [*35] the ICTF project nor the SCIG project came within the cutoff criteria for projects to be considered with respect to cumulative impacts analysis. The NOP for the ICTF project was not issued until after the DEIR and the recirculated DEIR were circulated for public review. The

NOP for the SCIG project was issued in 2005, three years after the NOP for the Project was issued. In addition, the SCIG project NOP did not indicate potential changes in traffic patterns which might result from the project and, thus, did not signal a possible relationship to the primary environmental focus for analysis in the Project's EIR. Nevertheless, Caltrans disclosed the existence of the proposals for the project in the DEIR and the FEIR. Caltrans included the SCIG and ICTF projects in the list of related projects in the cumulative impacts chapter but with a footnote explaining that they were not included in the cumulative impacts analysis, in that they were not reasonably foreseeable at the time of issuance of the NOP for the Project alternatives. The footnote also explained that each project had not been approved, was not included in the air quality plan or traffic modeling, and that, in any event, exclusion [*36] of the project represented a worst-case scenario with respect to traffic.

Substantial evidence, therefore, supports the conclusion that Caltrans' analysis of traffic impacts of the Project, including the proposed ICTF and SCIG projects, was sufficient to satisfy CEQA requirements. Under CEQA, there are two alternatives to determining elements "necessary to an adequate discussion of significant cumulative impacts." (Guidelines, § 15130, subd. (b).) The alternative employed by Caltrans in the FEIR is "[a] summary of projections contained in an adopted local [or] regional . . . plan, or related planning document, that describes or evaluates conditions contributing to the cumulative effect." (*Id.*, § 15130, subd. (b)(1)(B).) The discussion "need not provide as great detail as is provided for the effects attributable to the project alone [and] . . . should be guided by the standards of practicality and reasonableness." (*Id.*, § 15130, subd. (b).) It is evident from the record, which we have very briefly summarized, that the FEIR "comprehensively, if not perfectly, analyzed the issue" of traffic, including the potential traffic effects associated with the proposed SCIG and ICTF projects. [*37] (*Planning & Conservation League v. Castaic Lake Water Agency*, *supra*, 180 Cal.App.4th at p. 246, quoting *Schaeffer Land Trust v. San Jose City Council* (1989) 215 Cal.App.3d 612, 631.)

D. Air Pollution and Health Risks

As to information about air quality in the FEIR, Caltrans determined that, even with required mitigation measures, there would be a temporary significant impact to air quality during construction, in that criteria pollutants emissions were predicted to exceed daily significance thresholds established by SCAQMD. During operation, the only significant air quality impact that could not be fully mitigated related to the Bridge rather than the Project.²⁰ Caltrans determined that cancer risk impacts associated with air quality would be significant at a limited number of residences, but required mitigation measures would be expected to reduce the impact to less than significant. Caltrans acknowledged ACTA's finding in its independent health risk assessment that cancer risk impacts associated with air quality would be significant during operations at a limited number of homes, and that ACTA would require mitigation measures consisting of installation of heating, ventilation and air [*38] conditioning equipment at the homes.

FOOTNOTES

²⁰ More specifically, Caltrans determined that Bridge traffic and marine vessel detours would

result in an increase in significant daily emissions of the criteria pollutant nitrogen oxide (NOx) which exceed the threshold established by the SCAQMD.

Appellants make the general claim that Caltrans violated CEQA by underestimating the impacts of air pollution and public health risks associated with the Project. Appellants correctly point out that Caltrans and ACTA did not agree with respect to the health risk assessment for the Project. However, appellants' statement that Caltrans "disavowed the health risk assessment" is misleading to the extent it implies that Caltrans did not perform an adequate evaluation of health risks. The FEIR gives a detailed explanation of the reasons Caltrans determined that, for CEQA purposes, the adverse health impacts associated with operation of the Project were less than significant, contrary to the conclusion reached by ACTA. As a result of Caltrans' detailed approach, the public and decision makers received the benefit of the health risk information developed by not just the lead agency, Caltrans, but also a responsible [*39] agency, ACTA.

Appellants cite comments from other sources, such as the EPA and SCAQMD, as pointing out specific deficiencies. Appellants ignore, however, the detailed responses provided by Caltrans, based upon federal and California law, as well as third-party sources such as air quality agency standards and rules and the Clean Air Action Plan for reducing emissions from trucks. Caltrans' responses rectify commentators' misunderstandings of the FEIR, which are evident from their comments, and the responses reiterate the sources for related Caltrans' assumptions and analytical methodologies.

The health risk assessment information in the FEIR constitutes substantial evidence that the FEIR complied with CEQA with respect to health risks and achieved the goal of assuring informed public participation and informed decision making. (*Save Our Peninsula Committee v. Monterey County Bd. of Supervisors, supra, 87 Cal.App.4th at p. 118.*) To some extent, appellants' claims appear to relate to content of the conclusions reached by Caltrans. As previously noted, we do not review the correctness of the EIR conclusions but only whether the EIR is sufficient as an informative document. (*Laurel Heights Improvement Assn. v. Regents of University of California, supra, 47 Cal.3d at pp. 392-393.*) [*40] "Disagreement among experts does not make an EIR inadequate" (Guidelines, § 15151.)

E.No Recirculation Due to Inclusion of the "Sensitivity Analysis"

Another air quality analysis deficiency claimed by appellants relates to the supplemental traffic "sensitivity analysis" which ACTA prepared. The analysis was included in a response to a commentor's suggestion, made when the FEIR was circulated after it was approved, that the FEIR should address the health risk impacts that might arise if the proposed ICTF and SCIG projects ever were built out in the configuration as proposed at that time. The accuracy of the analysis was subject to question, in that it was based upon an assumed traffic model if the proposed ICTF and SCIG projects were ever actually built.²¹ One of the findings was that there would be an increase in cancer risk at some residential receptors ranging from 2.0 chances in a million to 7.9 chances in a million. Appellants claim the "sensitivity analysis" constituted significant new information which required recirculation of the FEIR. For a number of reasons,

we disagree.

FOOTNOTES

²¹ ACTA explained in the "sensitivity analysis" that "there was not enough information available to [*41] predict the exact number of containers [the proposed ICTF and SCIG projects] would handle nor the routes the trucks might take to move the intermodal containers."

First, the FEIR had already been approved and certified by the time the "sensitivity analysis" was added. Appellants cite no provision of CEQA requiring recirculation of an FEIR after it has been approved and certified, and we know of none. Appellants point out that CEQA section 21092.1 requires recirculation of an EIR "[w]hen significant new information is added to" the EIR; however, they ignore the statute's limitation to only situations where the information was added "prior to certification." (See also Guidelines, § 15088.5.) The "sensitivity analysis" was not added prior to certification of the FEIR. As supporting authority for their claim that, nonetheless, recirculation was required in this case, appellants cite [*Save Our Peninsula Committee v. Monterey County Bd. of Supervisors*, supra, 87 Cal.App.4th 99](#), but they provide no explanation of how the case supports their position. In our view, the case provides no support. The issue in *Save Our Peninsula* was whether failure to recirculate an EIR with new information that [*42] became available prior to the agency approving the EIR violated CEQA. ([Id. at p. 132.](#)) The court ruled that it was a violation and affirmed the trial court's grant of a writ of mandate requiring the preparation of an EIR that properly analyzed the new information. ([Id. at pp. 132-133.](#))

In addition, interpreting CEQA section 21092.1 to require recirculation after EIR approval would run afoul of the principle that "CEQA is not to be interpreted 'in a manner which imposes procedural or substantive requirements beyond those explicitly stated in [the CEQA statutes] or . . . guidelines.' [Citation.]" ([Martin v. City and County of San Francisco \(2005\) 135 Cal.App.4th 392, 402.](#)) "[T]he Legislature did not intend to promote endless rounds of revision and recirculation of EIR's [by enacting CEQA section 21092.1]. Recirculation was intended to be an exception, rather than the general rule. . . . In our interpretation of section 21092.1, we have given consideration to both the legislative goals of furthering public participation in the CEQA process and of not unduly prolonging the process so that the process deters development and advancement." ([Laurel Heights Improvement Assn. v. Regents of University of California \(1993\) 6 Cal.4th 1112, 1132.](#))

Lastly, [*43] the new data on cancer risk in residential areas provided by the "sensitivity analysis" did not constitute significant new information for CEQA purposes. The new data was consistent with the results from the more extensive health risk assessment of the Project included in the DEIR and, prior to its approval, the FEIR and did not disclose any potential for any new traffic and/or health risk impacts that were not otherwise disclosed or analyzed in the FEIR. The "sensitivity analysis" showed that the cancer risk did not exceed 10 chances in a million, the CEQA threshold which Caltrans applied for qualifying a risk as significant under CEQA in its

more extensive health risk assessment.²² Caltrans concluded that the maximum incremental residential health risk associated with the SCIG and ICTF projects was less than significant under CEQA. Even if the facts in the instant case were different and CEQA section 21092.1 recirculation requirements could apply, failure to recirculate the FEIR would not violate CEQA, in that no recirculation is required "when the new information merely clarifies or amplifies the previously circulated draft EIR." (*California Oak Foundation v. Regents of University of California* (2010) 188 Cal.App.4th 227, 266; [*44] Guidelines § 15088.5, subds. (a), (b).) The "sensitivity analysis" did no more than clarify and confirm that cancer risk impacts were not significant even if the proposed ICTF and SCIG projects were included in the health risk assessment.

FOOTNOTES

²² The measure was taken from the CEQA thresholds established by the City of Los Angeles and the SCAQMD. The threshold is that "health risk is considered significant if the incremental increase of cancer risk due to a project exceeds ten in one million"

F.Mitigation

The FEIR lists 12 air quality mitigation measures for use during the Project construction phase. Caltrans concluded that, even using these measures, unavoidable significant, but temporary, environmental effects on air quality would occur during construction. According to appellants, Caltrans violated CEQA by not acting on public comments by SCAQMD, EPA and others about the air quality analysis and mitigation measures. The commentors suggested Caltrans should have used a particular SCAQMD method for assessing health risks from emissions,²³ should have further evaluated the equipment identified in the FEIR to be used to mitigate the significant air pollution-associated health risks to [*45] the small number of residences affected and/or should have expanded the number of homes to receive the equipment. SCAQMD also recommended the addition of a mitigation measure requiring trucks used for Project construction to meet, at a minimum, 2007 EPA emissions standards.²⁴

FOOTNOTES

²³ Caltrans responded at length to the comments regarding methodology and mitigation. Had Caltrans applied the analysis suggested by SCAQMD, there would have been no homes which suffered a significant health risk impact and, therefore, no homes to which mitigation measures would apply. Caltrans pointed out that its analysis was more conservative, representing a worst case scenario, in comparison to the SCAQMD analysis.

²⁴ Appellants make the misleading claim that Caltrans perfunctorily dismissed SCAQMD's suggested emissions measure as infeasible. Caltrans addressed the suggestion at length and explained that, to require construction vehicles to have 2007 or newer engines from the beginning of the construction would be a restriction greater than imposed by law on the contractors, and it would not be economically feasible for them to replace their existing trucks before starting construction. Caltrans also made clear, [*46] however, that eventually the suggested mitigation goal would be met due to the expected incremental phase-in of relevant CARB standards, which would encompass the EPA standards.

In its response regarding the comments on the suggested air quality assessment methodology and the mitigation measures based upon the original methodology, Caltrans gave reasons why, if the suggested methodology had been used, the impact would have been determined to be less than significant. That result would have rendered the FEIR-incorporated and the commentors' suggested mitigation measures moot. Caltrans explained that the approach used for the FEIR represented a "worst-case scenario" and, thus, satisfied CEQA requirements.

Guidelines section 15204, subdivision (a), provides that commentors should be aware that "the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project," and that CEQA does not require a lead agency to act on every recommendation by commentors. It is sufficient for CEQA purposes if an "EIR evaluates the 'reasonable [*47] worst-case scenario' . . . [or otherwise] 'comprehensively, if not perfectly, analyze[s] the issue.'" (*Planning & Conservation League v. Castaic Lake Water Agency, supra, 180 Cal.App.4th at p. 246.*) An EIR need not be exhaustive. (See Guidelines, § 15151.) Caltrans adequately responded to the cited comments suggesting additional analyses and extension of mitigation measures. Thus, we conclude that Caltrans' responses to the comments raised by appellants were sufficient for CEQA compliance.

G.Alternatives

As to air quality and GHG emissions impacts, appellants claim that, in selecting the alternatives to be analyzed in the EIR, Caltrans failed to consider zero-emissions (non-truck) alternatives. In addition, according to appellants, Caltrans failed to justify the exclusion of the zero-emissions alternatives proposed by several commentors that could have substantially reduced the Project's significant adverse impacts associated with transporting cargo via trucks in such close proximity to residences.²⁵

FOOTNOTES

²⁵ The commentators' proposed zero-emissions based alternatives included increasing movement by rail, such as by replacing truck transport with rail transport altogether or by rail lines connecting [*48] the ports to alternative truck routes, and using electric trucks or other zero-emissions transport systems.

As appellants acknowledge, CEQA places the burden of identifying feasible alternatives for the Project on the lead agency, not on the public. (*Laurel Heights Improvement Assn. v. Regents of University of California, supra*, 47 Cal.3d at p. 406.) "CEQA establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR. Each case must be evaluated on its facts, . . . reviewed in light of the statutory purpose. . . . [A]n EIR for any project subject to CEQA review must consider a reasonable range of alternatives to the project . . . which: (1) offer substantial environmental advantages over the project proposal ([CEQA], § 21002); and (2) may be 'feasibly accomplished in a successful manner' considering the economic, environmental, social and technological factors involved. ([CEQA], § 21061.1; Guidelines, § 15364)"²⁶ (*Citizens of Goleta Valley v. Board of Supervisors, supra*, 52 Cal.3d at p. 566.) In the EIR, the lead agency "should set forth the alternatives that were considered . . . and rejected as infeasible during the scoping process, and [*49] the reasons underlying the agency's determination." (*Id. at p. 569.*) CEQA does not require that the lead agency set forth in the EIR any analysis of the feasibility of the various project alternatives considered or selected or of the mitigation measures that it identifies. (*Sierra Club v. County of Napa (2004) 121 Cal.App.4th 1490, 1503*; accord, *Citizens of Goleta Valley, supra*, at p. 569.) In determining the alternatives to be analyzed in the EIR, the lead agency must base its decision on substantial evidence, but the evidence may be found anywhere in the record. (CEQA, § 21081.5; *Citizens of Goleta Valley, supra*, at p. 569; *Sierra Club, supra*, at p. 1503.)

FOOTNOTES

²⁶ CEQA section 21002 states that "it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects [I]n the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof." CEQA defines "feasible" [*50] as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." (CEQA, § 21061.1; accord, Guidelines, § 15364.) Guidelines section 15126.6, subdivision (a), provides that an

EIR must "describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives."

The [*51] FEIR extensively addressed the alternatives development process Caltrans used, as well as the project alternatives considered together with reasons for withdrawing some alternatives from consideration and selecting the five project alternatives analyzed in the FEIR. As Caltrans explained in its responses to the commentors, the project alternatives selected involved only truck transport of cargo because the purpose of the Project related only to motor vehicles. The basic objective of the Project was limited to improving traffic pathways for vehicles between Terminal Island and area freeways.²⁷ Caltrans' explanation is consistent with the CEQA requirement that an EIR must describe only those reasonable alternatives "which would feasibly attain most of the basic objectives of the project." (Guidelines, § 15126.6, subd. (a); see also *id.*, subd. (f).) "[A]n EIR need not study in detail an alternative that is infeasible or that the lead agency has reasonably determined cannot achieve the project's underlying fundamental purpose." (*In re Bay-Delta etc., supra*, 43 Cal.4th at p. 1165.)

FOOTNOTES

²⁷ Summarizing the FEIR sections S.4.2. and 1.2.1, Project Purpose, the purpose of the SR-47 Expressway Project [*52] is to improve north-south vehicular connectivity between the ports and the regional freeway system in order to reduce traffic congestion on surface streets, improve safety by providing a route to bypass signalized intersections and railroad crossings, as well as providing an improved emergency service route. The Project "would build upon a network of local streets by constructing a high-capacity expressway . . . thereby providing a missing link in the local transportation system."

Caltrans also explained why the non-truck alternatives were not feasible, as required by CEQA. (*Citizens of Goleta Valley v. Board of Supervisors, supra*, 52 Cal.3d at p. 569.) In the explanation of the need for the Project in the FEIR, Caltrans stated that the Project was only one of several transportation improvement projects to help alleviate freeway system congestion being developed independently by various governmental entities seeking to address the projected doubling of the amount of cargo entering the ports between 2010 and 2020. Caltrans responded further that the implementation of large-scale modern container transportation systems, such as the non-truck rail systems or zero emissions systems mentioned [*53] by the commentors, was

beyond the scope of an individual project such as the SR-47 Expressway Project and not within Caltrans' authority, control or financial capability. (CEQA, § 21081.5; [Citizens of Goleta Valley, supra, at p. 569](#); [Sierra Club v. County of Napa, supra, 121 Cal.App.4th at p. 1503](#).)

In sum, the record shows that the FEIR identified the alternatives that were considered by Caltrans, as well as those rejected as infeasible, and explained the reasons for its determination of alternatives, as required by CEQA. ([Citizens of Goleta Valley v. Board of Supervisors, supra, 52 Cal.3d at p. 569](#).) Substantial evidence also shows that Caltrans adequately justified its exclusion of the zero-emissions alternatives proposed by the commentors. CEQA does not require that the FEIR include a feasibility analysis as part of the reasons for rejecting any alternative as infeasible, whether the alternative was considered in the original selection process or presented later in the public comment process. ([Sierra Club v. County of Napa, supra, 121 Cal.App.4th at p. 1503](#); accord, [Citizens of Goleta Valley, supra, at p. 569](#).)

H. Conclusion

We may overturn Caltrans' approval and certification of [*54] the FEIR only if we determine that it constituted a prejudicial abuse of discretion. (CEQA, § 21168.5; [Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova, supra, 40 Cal.4th at pp. 426-427, 435](#).) For each of the claims raised by appellants, we have determined that substantial evidence supports the conclusion that Caltrans complied with CEQA. Caltrans did not abuse its discretion and, therefore, there is no authority to support overturning Caltrans' approval of the FEIR, as appellants contend. (CEQA, § 21168.5.) "The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind. . . . [Citation.]" ([Laurel Heights Improvement Assn. v. Regents of University of California, supra, 47 Cal.3d at p. 393](#).)

DISPOSITION

The judgment is affirmed. Respondents are awarded their costs on appeal.

JACKSON, J.

We concur:

PERLUSS, P. J.

WOODS, J.

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