

# County of San Diego's Adopted Climate Action Plan Violates CEQA: Fails to Include Enforceable GHG Reduction Measures

Article By:

Jeffrey W. Forrest

Jennifer L. Gunsch

---

[Sierra Club v. County of San Diego](#) (10/29/14, D064243)

On October 29, 2014, the **Fourth District California Court of Appeal unanimously affirmed the trial court's decision in favor of Sierra Club**, agreeing that the **County of San Diego's adopted Climate Action Plan (CAP) violated CEQA**. First, the court held the County's adopted CAP failed to provide sufficiently detailed deadlines and enforceable measures to ensure specified greenhouse gas (GHG) emission reductions by 2020 or to put the County on a trajectory to achieve 2050 GHG emission reductions identified in Executive Order S-3-05 as required by the County's General Plan Update. Second, it held the County failed to analyze the environmental impacts of the CAP itself or to incorporate mitigation measures directly into the CAP as required by CEQA Guidelines 15183.5(b)(1)(D) and Public Resources Code 21081.6(b). Accordingly, the court granted the Sierra Club's petition to require enforceable mitigation and ordered the County to prepare a supplemental EIR.

As part of its 2011 General Plan Update, the County adopted Mitigation Measure CC-1.2 which committed the County to preparing a CAP that would include comprehensive and enforceable mitigation measures to ensure specified GHG reductions by 2020. However, when adopting the CAP, the County described its strategies as recommendations rather than requirements and specifically acknowledged the possibility that "communitywide inventories will indicate that the community is not achieving its reduction targets" and that the CAP "does not ensure reductions." While holding that this violated CEQA, the Court of Appeals did not address CEQA Guidelines 15183.5(b)(1)(E), which acknowledges the same risks and therefore requires a CAP to establish a monitoring mechanism and to require amendment "if the plan is not achieving specified levels." In the author's view, this type of adaptive management in a mitigation plan is generally believed to be an effective means of implementing a mitigation plan, and not as undermining the commitment to achieving the mitigation targets. Even so, the court also held that the CAP relied on unfunded programs and cooperation from local government agencies, such as the San Diego Association of Governments, without any evidence showing that such agencies or other individuals would be likely to participate to the extent necessary to achieve the asserted GHG emission reductions. Additionally, the County acknowledged that the General Plan Update would likely increase, rather than reduce,

GHG emissions after the 2020 target date, making it difficult for the court to understand how the CAP could be used to mitigate the cumulative impacts of GHG emissions for projects with post-2020 GHG impacts.

The court also held that the County failed to issue a written environmental impact determination before approving the CAP, based on the County's assumption that the CAP was covered by the General Plan Update EIR. The court found this assumption erroneous, determining the CAP was itself a plan-level document facilitating further development and thus required a supplemental EIR. As part of the supplemental EIR process, the County will be required to consider the feasibility of climate mitigation measures offered by members of the public, and to incorporate those it finds feasible. Finally, the County argued that it was too speculative to evaluate the environmental impacts of the CAP beyond 2020 because the state's scoping plan did not go further than 2020. However, when the County acknowledged other agencies had already done, the court held there was no substantial evidence to support a "too speculative" finding.

This case highlights the difficulty of adopting long-range planning documents for large geographic areas of the state which purport to mitigate the GHG impacts of any project that complies with the plan's requirements, when there is not a clear connection to what requirements a project must comply with and the substantial evidence in support of the mitigation is limited to achieving the 2020 GHG target. Yet when a public agency can demonstrate that it is too speculative to prove mitigation beyond a certain time period (and successfully rebut claims that analysis is feasible beyond that time period), the CEQA Guidelines instruct the agency to terminate the analysis. CEQA Guidelines 15145. This can lead to a conflict where the public agency has ambitiously committed the plan to achieving long range GHG reduction targets found in Executive Order S-3-05, yet accepted the practical limitations for such analysis. The CEQA-mandated adaptive management plan for each CAP may be a viable solution because the agency is required to periodically amend the CAP. Where monitoring reveals the agency is not meeting the targets, it triggers a requirement for the agency to reevaluate its mitigation strategies. Public agencies would essentially periodically amend their CAP, each time moving the territory in their jurisdiction closer and closer to the Executive Order's GHG emissions targets based only on analysis that was non-speculative at the time.

Coupled with the decision in *Cleveland National Forest Foundation v. San Diego Association of Governments*, the courts have raised some significant new obstacles to drafting CEQA-compliant Climate Action Plans. Accordingly, until courts affirm that (1) CEQA's adaptive management scheme for CAPs provide the necessary enforceability for a CAP's mitigation measures or (2) public agencies can properly document the point at which it becomes too speculative to analyze a CAP's environmental impact, individual development projects may not want to justify their GHG significance conclusions based on their consistency with an unadjudicated CAP. Instead individual development projects may want to justify their GHG significance conclusions based on the project's compliance with CEQA Guidelines 15064.4, which (1) allows a public agency to make a good-faith effort to estimate a project's GHG emissions to the extent possible based on scientific and factual data; and (2) grants a public agency considerable discretion when establishing a GHG threshold the agency determines applies to the project

Finally, we note that the California Supreme Court is currently reviewing *California Building Industry Association v Bay Area Air Quality Management District*, in which a Court of Appeal held that a public agency's adoption of a CEQA threshold of significance was not subject to separate CEQA review. If affirmed, then many public agencies could adopt and apply a GHG significance threshold without adopting a comprehensive, but speculative CAP.

---

Copyright © 2025, Sheppard Mullin Richter & Hampton LLP.

---

National Law Review, Volume IV, Number 345

Source URL: <https://natlawreview.com/article/county-san-diego-s-adopted-climate-action-plan-violates-ceqa-fails-to-include>