

San Diego County CAP: Will it ever become a reality?

Presentation at the 2017 Environmental Summit

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CAP First Promised in 2011 as Part of the General Plan Update

- County promised CAP would be adopted within 6 months.
- It was to be *comprehensive, specific* and *enforceable*, with emission reductions obtained in San Diego County.
- Mitigation Measures adopted State Policy for reduction of emission levels for 2020 and 2050.

2012 CAP Fails To Meet County's Promises

- Sierra Club sues and Judge Taylor holds CAP inadequate because it isn't specific, comprehensive and enforceable.
- County did an Addendum for the analysis of the CAP, when an EIR was required.
- In 2011, County had described the project as a CAP and Threshold of Significance to determine what projects needed what level of review based upon the CAP.
- The County asserted it never adopted the Threshold of Significance.

County Appealed; Court of Appeal Affirmed Trial Court

- In a detailed published decision (231 CA4th 1152) the Court of Appeal held that the County did not fulfill its commitment to provide detailed deadlines and enforceable measure to reduce GHGs.
- Because the CAP failed to incorporate recommended mitigation measures without showing they were infeasible, it had abused its discretion.
- The CAP failed to address post-2020 emissions in order to reach 2050 reduction goals.

Preparation of an EIR Was Required

- Because the CAP and the Threshold were a “Plan Level” Document, which would allow projects to avoid future GHG detailed analysis, an EIR was required.
- The CAP and Threshold Are Not within the Scope of the General Plan EIR.

The County Delays Action

- Despite urging from the Sierra Club to expeditiously prepare the EIR on a new CAP and Threshold of Significance Based upon the CAP, the County petitioned for review to the California Supreme Court.
- Review was denied, but procedural requirements for a remand to the trial court resulted in further delays.
- In the meantime, the Club learned that an “Interim Guidance Document” that constituted a Threshold of Significance was adopted administratively.

Supplemental Petition is Filed to Challenge Threshold of Significance

- Because the County rejected the request to voluntarily set aside the Threshold of Significance, the Club filed a Supplemental Petition requesting such relief.
- After the Supreme Court's denial of review, the County stipulated that the Threshold of Significance Would be Set Aside.
- During proceedings, the Club's counsel voiced concerns about the long time period before the County proposed to adopt a new CAP.
- 6 months turned to at least 6 years.

A Second Supplemental Petition is Filed

- The County adopts 2nd Guidance Document, which the Club challenges.
- The Club Also Seeks to Enjoin Processing of Applications for Further General Plan Amendment Until There is an Adequate CAP.
- The Trial Court Agrees that the 2nd Guidance Document is a Threshold of Significance but Declines to Enjoin Other Project Applications.
- At the same time, the Court Makes it Clear that Progress Needs to be Shown.

The New Draft CAP Is Also Deficient

- It deleted Mitigation Measure requiring a 17% reduction in emissions from County operations from 2006 by 2020 and a 9% reduction in community emissions between 2006 and 2020.
- Authorizes the use of out of County, State, and country offsets. (Note: Newhall development in LA authorizes offsets but with extremely stringent limitations.)
- Erroneously claims that 2014 is the first year data was available for a greenhouse gas (GHG) inventory.

The New Draft CAP Is Also Deficient (cont'd)

- Fails to require a reduction in vehicle miles traveled (VMT's) for new housing projects.
- Provides only a token annual reduction of VMT's for County employees.
- Fails to commit the County to exercising its influence over the San Diego Airport Authority to reduce GHG emissions reductions from airport ground operations, increase public transit to the airport, and reduce emissions from vehicles serving the airport.

Many Other Feasible Mitigation Measures Are Not Included

- Many strong public comments were submitted on the plan.
- If the Plan is not Amended, a further challenge is necessary.
- The Sierra Club would again seek to enjoin further GP Amendments until an adequate plan is in place.