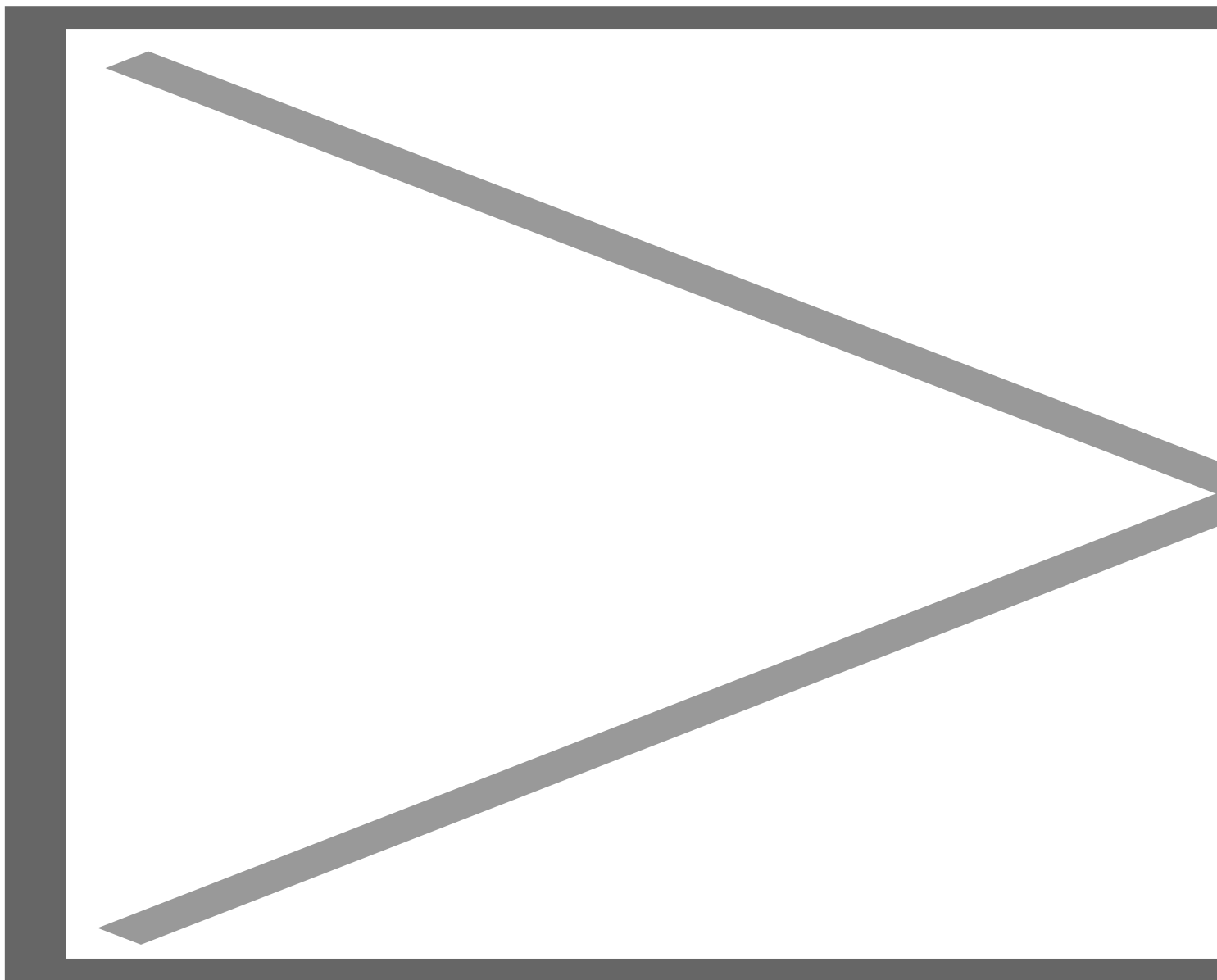


California Supreme Court Holds Governor's Executive Order Setting 2050 GHG Targets Need Not Be Used As CEQA Significance Threshold

In November 2014, [we reported](#) on the controversial court of appeal decision that overturned the environmental impact report for the San Diego Association of Governments' 2050 Regional Transportation Plan and Sustainable Communities Strategy. The court faulted the EIR for failing to assess the plan's consistency with the 2050 greenhouse gas emissions reduction goal contained in an executive order issued by the Governor in 2005. This decision has now been reversed by the California Supreme Court in a 6-1 decision. [Cleveland Nat'l Forest Found. v. San Diego Ass'n of Gov'ts](#), Supreme Court Case No. S223603 (July 13, 2017).



Background of the Plan and SB 375 In 2005, Governor Schwarzenegger issued an executive order establishing

statewide targets to reduce greenhouse gas emissions to 1990 levels by 2020 and to 80 percent below 1990 levels by 2050. The Legislature adopted several laws to address these targets, including AB 32 and SB 375. SB 375 required metropolitan planning organizations like SANDAG to incorporate "sustainable communities strategies" into their regional transportation plans.. The state then set initial targets for the San Diego area: a 7% CO₂ reduction by 2020 and a 13% reduction by 2035. In 2011, the SANDAG Regional Transportation Plan became the first in the state to be adopted with a Sustainable Communities Strategy. SANDAG's EIR found that the plan would reduce greenhouse gas emissions until 2020 but would increase them in later years. Although the EIR discussed the 2050 emissions reduction target in the executive order, it did not treat the order's 2050 emissions reduction target as a standard for assessing the significance of the plan's greenhouse gas impacts. **The Supreme Court Majority Opinion** The majority reversed the court of appeal decision, concluding that SANDAG was not required to use the executive order targets as a standard of significance. The court, however, did not entirely excuse agencies from discussing the executive order in their CEQA analyses of greenhouse gas emissions. According to the court, the goals in executive order express "the pace and magnitude of reduction efforts that the scientific community believes necessary to stabilize the climate" and the information "has important value to policymakers and citizens in considering the emission impacts" of a project. The court found that SANDAG's analysis was adequate in this regard because it "did not obscure the existence or contextual significance" of the executive order, making clear that the executive order's 2050 goals were part of the regulatory setting for the plan. In this case, it was sufficient that the EIR conveyed the "general point" that the upward trajectory of emissions might conflict with the executive order's 2050 emissions reduction goal. The court also upheld SANDAG's use of three different GHG significance thresholds authorized by CEQA Guidelines section 15064.4(b), as these three methods "together adequately informed readers of potential greenhouse gas emissions impacts." The court cautioned, however, against using SANDAG's analysis as a template for future EIRs, observing that GHG analysis under CEQA should reflect improvements in data and methods and should also incorporate new legislation and regulations. **The Dissent** Dissenting from the majority opinion, Justice Cuellar concluded that the EIR was too "vague and shortsighted" to fulfill SANDAG's duty to adequately acknowledge the impact of a transportation and land use plan that would increase, rather than reduce, transportation GHG emissions from the region.

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