In the Supreme Court of the State of California

CLEVELAND NATIONAL FOREST FOUNDATION; SIERRA CLUB; CENTER FOR BIOLOGICAL DIVERSITY; CREED-21; AFFORDABLE HOUSING COALITION OF SAN DIEGO; PEOPLE OF THE STATE OF CALIFORNIA,

Respondents and Cross-Appellants,

v.

SAN DIEGO ASSOCIATION OF GOVERNMENTS; SAN DIEGO ASSOCIATION OF GOVERNMENTS BOARD OF DIRECTORS,

Appellants and Cross-Respondents.

Case No. S223603

Fourth Appellate District, Division One, Case No. D063288
San Diego County Superior Court, Case No. 37-2011-00101593-CU-TT-CTL [Consolidated with Case No. 37-2011-00101660-CU-TT-CTL]
The Honorable Timothy B. Taylor, Judge

PEOPLE OF THE STATE OF CALIFORNIA'S ANSWER TO PETITION FOR REVIEW

KAMALA D. HARRIS
Attorney General of California
EDWARD C. DUMONT
Solicitor General
MARK J. BRECKLER
Chief Assistant Attorney General
SALLY MAGNANI
Senior Assistant Attorney General

TIMOTHY R. PATTERSON
Supervising Deputy Attorney General
State Bar No. 72209
*JANILL L. RICHARDS
Principal Deputy Solicitor General
State Bar No. 173817
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
(510) 622-2130
Janill.Richards@doj.ca.gov
Attorneys for People of the State of California, ex rel. Kamala D. Harris, Attorney General

TABLE OF CONTENTS

Page

Introduction 1

Background 3

Argument 4

I. The Court's Holdings Concerning Greenhouse Gas-Related Impacts and Climate Change Do Not Warrant Review 4

A. The Decision Does Not Mandate That Every Lead Agency for Every Project Prepare an EIR Evaluating Greenhouse Gas Impacts Through 2050 4

B. The Decision Does Not Conflict With or Repudiate CEQA Guidelines Section 15064.4, Which Provides Guidance on Determining the Significance of Greenhouse Gas Emissions 9

C. The Decision Does Not Conflict with Prior Court of Appeal Decisions Concerning the Analysis of Greenhouse Gas Impacts 13

D. The Decision Breaks No New Legal Ground Concerning Mitigation or Alternatives for Addressing Greenhouse Gas Impacts 15

II. The Court's Holdings Concerning Localized Air Pollution and Public Health Do Not Warrant Review 19

A. In Rejecting SANDAG's Waiver Arguments, the Decision Applies Established Law 19

B. The Decision Does Not Change the Law on the Degree of Specificity Required in Program EIRs for Long-Term Plans 21

Conclusion 24

TABLE OF AUTHORITIES

Page

CASES

Al Larson Boat Shop, Inc. v. Board of Harbor Commrs.
(1993) 18 Cal.App.4th 729 23

Association of Irritated Residents v. California Air Resources Bd.
(2012) 206 Cal.App.4th 1487 14

Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster
(1997) 52 Cal.App.4th 1165 7

Bakersfield Citizens for Local Control v. City of Bakersfield
(2004) 124 Cal.App.4th 1184 .....21, 22

Berkeley Keep Jets Over the Bay Committee v. Board of Port Comrs.
(2001) 91 Cal.App.4th 1344 7

Cherry Valley Pass Acres and Neighbors v. City of Beaumont
(2010) 190 Cal.App.4th 316 19

Citizens for Responsible Equitable Environmental Development v. City of Chula Vista
(2011) 197 Cal.App.4th 327 13

City of Maywood v. Los Angeles Unified School Dist.
(2012) 208 Cal.App.4th 362 .....19, 23

Communities for a Better Environment v. City of Richmond
(2010) 184 Cal.App.4th 70 16

Friends of Mammoth v. Town of Mammoth Lakes Redevelopment Agency
(2000) 82 Cal.App.4th 511 .....16, 21

Friends of Oroville v. City of Oroville
(2013) 219 Cal.App.4th 832 13

In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings
(2008) 43 Cal.4th 1143 .....21, 23

In re S.B.
(2004) 32 Cal.4th 1287 .....20, 21

Mount Shasta Bioregional Ecology Center v. County of Siskiyou
(2012) 210 Cal.App.4th 184 18

Mountain Lion Foundation v. Fish & Game Com.
(1997) 16 Cal.4th 105 18-19

Neighbors for Smart Rail v. Exposition Metro Line Const. Authority
(2013) 57 Cal.4th 439 .....4, 11

North Coast Rivers Alliance v. Marin Municipal Water District Board Directors
(2013) 216 Cal.App.4th 614 13

People v. Harris
(1989) 47 Cal.3d 1047 14

Preserve Wild Santee v. City of Santee
(2012) 210 Cal.App.4th 260 3

Protect the Historic Amador Waterways v. Amador Water Agency
(2004) 116 Cal.App.4th 1099 11

Rominger v. County of Colusa
(2014) 229 Cal.App.4th 690 12

San Diego Citizenry Group v. County of San Diego
(2013) 219 Cal.App.4th 1 15

Schellinger Brothers v. City of Sebastopol
(2009) 179 Cal.App.4th 1245 17

Town of Atherton v. California High-Speed Rail Authority
(2014) 228 Cal.App.4th 314 23

STATUTES

23 U.S.C. § 134, subd. (c) 2

Code Civ. Proc., § 632.....20

Global Warming Solutions Act of 2006 (AB 32), Health & Saf. Code, § 38500, et seq. ..... passim

Gov. Code, § 65080, subd. (b)(2)(A) 12

Gov. Code, § 65080, subd. (a).....2

Gov. Code, § 65080, subd. (b)(2)(K) 10

Gov. Code, § 65080, subd. (d) 2

Health & Saf. Code, § 38551, subd. (b) 6, 9

Pub. Resources Code, § 21001, subd. (d).....7

Pub. Resources Code, § 21005, subd. (c).....20

Pub. Resources Code, § 21083.05.....7

Pub. Resources Code, § 21168.9, subd. (c).....17

Stats. 2007, ch. 85 (SB 97).....7

Sustainable Communities and Climate Protection Act (SB 375), Stats. 2008, ch. 728; Stats. 2009, ch. 354, § 5 11

COURT RULES

Cal. Rules of Court, rule 8.500(b)(1) 3

OTHER AUTHORITIES

Cal. Code Regs., tit. 14

§ 15000, et seq. 3

§ 15004, subd. (b) 23

§ 15060, subd. (c)(2).....7

§ 15064, subd. (a).....7

§ 15064, subd. (b) 7

§ 15064.4.....9, 13

§ 15064.4, subd. (b) 10, 11, 12

§ 15064.4, subd. (b)(3).....12

§ 15064.7.....5

§ 15125, subd. (a).....5

§ 15151.....21

§ 15152, subd. (a).....16

§ 15168, subd. (b)(4).....23

Executive Order S-3-05 (2005) ..... passim

INTRODUCTION

In January 2012, the People of the State of California, ex rel. Kamala D. Harris, Attorney General (People) filed a petition for writ of mandate in intervention challenging the adequacy of the Environmental Impact Report (EIR) for the 2050 Regional Transportation Plan and Sustainable Communities Strategy (2050 Plan) prepared by the San Diego Association of Governments (SANDAG). (Joint Appendix (JA) {31}.) The decision to bring suit was not made lightly. The People submitted comments that put SANDAG on clear notice that the 2050 Plan EIR failed as a public information and decision-making document in key respects in violation of the California Environmental Quality Act (CEQA), and filed suit only after SANDAG expressly declined to address the People's concerns. (*Ibid*; Administrative Record (AR) 311:25634-25645 [People's comment letter].)

As detailed in the People's comments and its petition, the EIR was deficient in its consideration of the 2050 Plan's longer-term greenhouse gas-related impacts. Specifically, the EIR failed to address that while climate science—and state law and policy reflecting the science—establish that we must continually and substantially *reduce* statewide greenhouse gas emissions through 2050 to preserve our existing climate, the 2050 Plan commits the region to projects that will *increase* total and per capita greenhouse gas emissions from 2020 through 2050. (AR 311:25641-25642; JA {31} 217-218.) Further, the EIR failed to analyze whether and to what extent the Plan's projected increases in vehicle emissions will result in an increase in existing air pollution-related health problems, such as cancer and asthma, particularly in communities adjacent to major roads. (AR 311:25638; JA {31} 215-217.) The EIR's omissions in turn undermined a full discussion of mitigation and alternatives that might reduce these substantial, adverse environmental and public health impacts. (AR 311:25639-25640, 25642; JA {31} 219.) The People prevailed on

their greenhouse gas-related claims before the trial court (which declined to reach the other issues), and on all of their claims before the Court of Appeal. (JA {75} 1046-59; Opinion (Opn.) 1-48.) SANDAG now petitions this Court for review.

The Court of Appeal's decision applies well established CEQA principles to judge the adequacy of the 2050 Plan EIR.[1] While the decision adds to the growing case law on determining the significance of greenhouse gas-related impacts, it will not, as SANDAG suggests, require an EIR for every project with any level of greenhouse gas emissions, or require an analysis of impacts through 2050 for every project, regardless of the project's scale or timeframe. The decision addresses a lead agency's responsibilities in determining the significance of greenhouse gas-related impacts associated with large-scale, long-term planning projects, particularly those with a significant transportation component and substantial, ongoing greenhouse gas emissions. It ensures informed transportation planning decision-making for the residents of the San Diego region, and provides guidance to SANDAG and other regional planning entities for current and future regional transportation plan updates, which by law must occur every four years.[2] The decision is consistent with, and

---

[1] The People in this answer focus on those aspects of the Court of Appeal's decision addressing the People's claims. The Court of Appeal's rulings on the claims advanced by the environmental group petitioners, Cleveland National Forest Foundation, et al., are addressed in those parties' separate answer. The People agree that the Court of Appeal's rulings on the environmental groups' claims are also consistent with established CEQA precedent and do not warrant this Court's review.

[2] (23 U.S.C. § 134, subd. (c); Gov. Code, § 65080, subds. (a), (d).) SANDAG already has commenced the update process for its next regional transportation plan update. (See San Diego Forward webpage at http://www.sdforward.com/about-san-diego-forward/what-san-diego-forward.) The Court of Appeal specifically noted that its decision will not

(continued…)

complementary to, the regulations implementing CEQA (the Guidelines) and previous greenhouse gas-related CEQA cases.[3]

The Court of Appeal likewise broke no new legal ground in ruling on the People's local air pollution claims. Its decision does not change the law on the degree of specificity required in a plan-level "program" EIR. The court held only that the record in this case did not support SANDAG's bare assertion that it was impossible to undertake any analysis of public health impacts at the plan level.

The Court of Appeal's decision requires only that SANDAG analyze and address the 2050 Plan's climate change and public health impacts in accordance with longstanding CEQA precedent. So long as it does that, SANDAG retains substantial discretion to frame its EIR in ways it concludes will best inform the public and decision makers, and to make the policy decisions reflected in its 2050 Plan. At this juncture, the public interest lies in allowing that process to proceed. There is no sound reason for this Court to intervene, and the petition for review should be denied. (Cal. Rules of Court, rule 8.500(b)(1).)

BACKGROUND

The People agree with the procedural background set out in the petition. (See Petition (Pet.) 4.)

(…continued)
necessarily stop any specific construction project encompassed within the 2050 Plan. (Opn. 20, fn. 9, citing *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 286-289.)

[3] The Guidelines are located at Cal. Code Regs., tit. 14, section 15000, et seq.

ARGUMENT

SANDAG's petition contends that the Court of Appeal's decision "essentially disregards all existing legal authority" on the issue of CEQA and climate change and fails to adhere to "basic principles" governing judicial review of the adequacy of EIRs. (Pet. 1.) Citing the dissent, SANDAG further asserts that the decision's "insinuation of judicial power into the environmental planning process and usurping of legislative prerogative is breathtaking." (Pet. 1, citing Dis. Opn. 9.) The shortcoming of the petition and the dissent's strong criticism is that neither is tethered to the actual language of the court's decision, which hews closely to well established CEQA precedent.

I. THE COURT'S HOLDINGS CONCERNING GREENHOUSE GAS-RELATED IMPACTS AND CLIMATE CHANGE DO NOT WARRANT REVIEW

A. The Decision Does Not Mandate That Every Lead Agency for Every Project Prepare an EIR Evaluating Greenhouse Gas Impacts Through 2050

SANDAG asserts that the Court of Appeal's decision mandates that all lead agencies must use Executive Order S-3-05, which established 2020 and 2050 statewide greenhouse gas emission reduction objectives, as the "baseline" for measuring a project's greenhouse gas-related impacts on the environment, or as the "threshold of significance" for determining whether these same impacts are significant, and that this rule will apply to practically every project, even one with "minimal GHG impacts[.]" (Pet. 5, citing Dis. Opn. 1-30, *id.* 7-9; see also *id.* 13.)[4] The decision contains no such mandate.

[4] The "baseline" is the benchmark against which a lead agency measures a proposed project's expected impacts. It consists of the "environmental conditions prevailing absent the project . . . ." (*Neighbors*
(continued…)

First, the decision does not purport to establish any baseline or threshold. It holds that, in appropriate circumstances, an agency in determining significance must at least consider and discuss whether a project's substantial, long-term greenhouse gas emissions are consistent with, or instead may interfere with, the State's long-term objective of ongoing statewide emissions reductions. (Opn. 14-15.) This objective is firmly grounded in policy, law, and science. Executive Order S-3-05, issued in 2005, established for California the objective to reduce statewide emissions substantially by mid-century: reaching 1990 levels by 2020, and 80 percent below 1990 levels by 2050. (Opn. 9.) As the Court of Appeal observed, quoting SANDAG's own 2010 Climate Action Strategy, the Executive Order's 2050 emissions reduction objective "'is based on the scientifically-supported level of emissions reduction needed to avoid significant disruption of the climate and *is used as the long-term driver for state climate change policy development*.' (Italics added.)" (Opn. 14; see AR 216:17616-17672 [SANDAG Climate Action Strategy].)[5] The Executive Order's "goal of ongoing emissions reductions" through 2050 "underpins all of the state's current efforts to reduce greenhouse gas

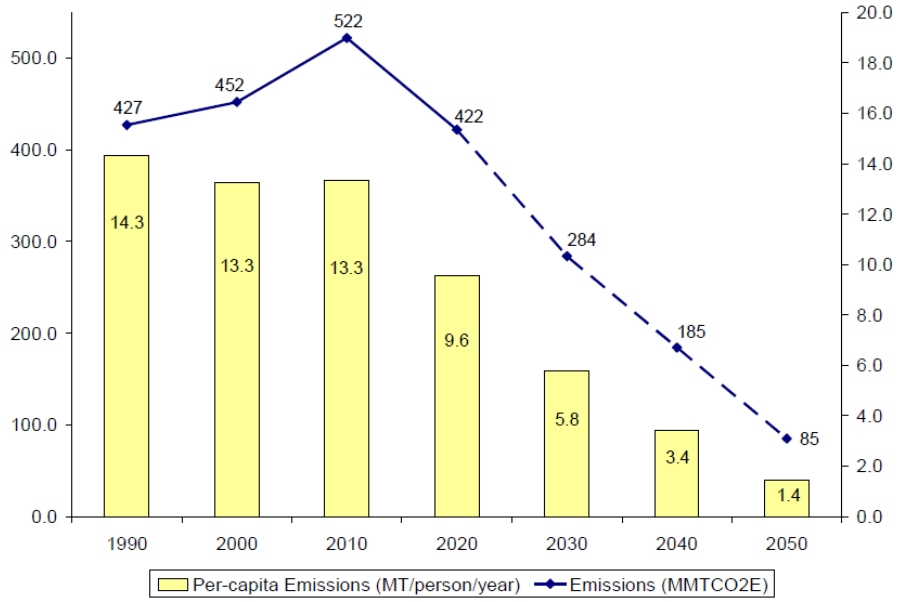
---

(…continued)
for Smart Rail v. Exposition Metro Line Const. Authority (2013) 57 Cal.4th 439, 447.) Employing this baseline, the lead agency must determine whether a project's impacts may be significant. (Guidelines, § 15125, subd. (a).) A "threshold of significance"—a working presumption—can assist in the significance determination. "A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant." (Guidelines, § 15064.7.)

[5] SANDAG issued its Climate Action Strategy in March 2010, well before it issued its draft 2050 Plan EIR in June 2011. (AR 216:17616, 7:227.)

emissions." (Opn. 14.) Its objective is "endorsed" in the Global Warming Solutions Act of 2006, commonly referred to as AB 32 (Health & Saf. Code, § 38500, et seq.), which not only required the California Air Resources Board (CARB) to set a statewide emissions limit for 2020 consistent with the Executive Order, but also stated the Legislature's intent to "'continue reductions in emissions of greenhouse gases beyond 2020.'" (Opn. 10; *ibid.*, quoting Health & Saf. Code, § 38551, subd. (b).) In its 2008 AB 32 Scoping Plan—the roadmap for achieving AB 32's objectives—CARB noted the scientific basis of the Executive Order's 2020 and 2050 benchmarks and charted the continual statewide reductions required though midcentury as follows:

Figure 6: Emissions Trajectory Toward 2050



(See AR 311:25645 [People's comments]; AR 8b:4446 [SANDAG's response to comments].)

Requiring SANDAG to consider "the Executive Order's overarching goal of ongoing greenhouse gas emissions reductions" (Opn. 14-15) in

deciding whether its 2050 regional transportation plan will have significant greenhouse gas-related impacts is consistent with the purposes of CEQA.[6] When the Legislature passed CEQA in 1970, it expressly stated that "[e]nsur[ing] that the *long-term* protection of the environment, consistent with the provision of a decent home and suitable living environment for every Californian, shall be the guiding criterion in public decisions." (Pub. Resources Code, § 21001, subd. (d), emphasis added.) Further, CEQA requires a lead agency in its significance determination to exercise "careful judgment . . . based to the extent possible on scientific and factual data." (Guidelines, § 15064, subd. (b); see also § 15064.4, subd. (a); *Berkeley Keep Jets Over the Bay Committee v. Board of Port Comrs.* (2001) 91 Cal.App.4th 1344, 1367; *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1205-1206.) In its 2009 update to the Guidelines to address greenhouse gas-related impacts, required by SB 97 (Pub. Resources Code, § 21083.05), the Natural Resources Agency reiterated the general principle that "there is no iron-clad definition of 'significance'" and, "[a]ccordingly, lead agencies must use their best efforts to investigate and disclose all that they reasonably can regarding a project's potential adverse impacts.'" (Opn. 18, fn. 8, quoting California Natural Resources Agency, Final Statement of Reasons for Regulatory Action (Dec. 2009) 20; see also Guidelines, §§ 15064, subd. (b), 15064.4, subd. (a).)[7] Here, there is nothing in the record to suggest that SANDAG determined that it was unable to discuss the disconnect between the 2050 Plan's *increase* in greenhouse gas emissions post-2020 and the

---

[6] SANDAG's speculation that the decision will apply to projects that cause no increase in emissions is unfounded. (Pet. 13.) A project that does not cause a change in the physical environment does not trigger CEQA. (Guidelines, § 15060, subd. (c)(2).)

[7] (Stats. 2007, ch. 185 [SB 97].)

State's objective of emissions *reductions* during this same time period, or that it concluded that such a discussion would be unhelpful to the public and decision makers. SANDAG's only response was that no law expressly directed it to engage in this analysis. (AR 8b:4446, 4432; see Opn. 12.)[8] The Court of Appeal reasonably held that such a flat refusal to consider state climate policy grounded in climate science does not reflect an agency's best efforts. (Opn. 15-17.)[9]

Second, SANDAG's assertion that the decision's climate change holding will have virtually universal application is unfounded. (See Pet. 5, 7, 9.) The Court of Appeal's decision concerns a very specific type of project—a regional transportation plan. (See Opn. 15-16.) Such plans are by their nature large-scale and long-term. As the Court of Appeal noted, quoting SANDAG's Climate Action Strategy, "'[o]nce in place, land use patterns and transportation infrastructure typically remain part of the built environment and influence travel behavior and greenhouse gas emissions for several decades, perhaps longer.'" (Opn. 16.) Only a subset of projects

---

[8] The People note that other regional planning entities have not taken such a formalistic view of their CEQA responsibilities. For example, the EIR for the 2040 Bay Area Plan, prepared by the Bay Area Association of Governments and the Metropolitan Transportation Commission, examined whether their regional transportation plan would "[s]ubstantially impede attainment of goals set forth in Executive Order S-3-05 . . . ." (See http://planbayarea.org/pdf/Draft_EIR_Chapters/2.5_Climate_Change.pdf at 2.5-42) The 2040 Bay Area Plan EIR was approved in July 2013.

[9] SANDAG's argument that "the majority decision elevates a governor's executive order to hitherto unprecedented status" is perplexing. (Pet. 7-8.) The policy of ongoing greenhouse gas reductions reflected in the Executive Order is now thoroughly incorporated and reflected in state statute and regulation and, in addition, is grounded in climate science. As noted, a lead agency must address relevant, current science. Scientific data and principles do not become irrelevant to a lead agency's analysis simply because they have also been used to inform an executive order.

will share the attributes exhibited by 30- and 40-year regional transportation plans that give rise to a concern they can interfere with the State's longer-term climate objectives.

Last, the decision does not hold that lead agencies evaluating large-scale, long-term projects must establish greenhouse gas emissions reduction targets that follow in lockstep the statewide emission reduction trajectory described in the Executive Order. (See Pet. 8-9; *id.* 12-13; see also Dissent 5-8.) The court made clear it did "not intend to suggest [a] transportation plan must achieve the Executive Order's 2050 goal or any other specific numerical goal." (Opn. 16, fn. 6.)[10] Where, however, an EIR for a regional transportation plan covering hundreds of future transportation projects in a highly-populated, 4,200 square-mile region over a 40-year period ending in 2050 "does not even discuss the transportation plan's failure to maintain emissions reductions after 2020, which is AB 32's minimum expectation[,]" it fails its purpose as an informational and decision-making document. (See *ibid.*, citing Health & Saf. Code, § 38551, subd. (b).)

B. The Decision Does Not Conflict With or Repudiate CEQA Guidelines Section 15064.4, Which Provides Guidance on Determining the Significance of Greenhouse Gas Emissions

SANDAG asserts that the Court of Appeal's decision conflicts with section 15064.4 of the CEQA Guidelines, entitled "Determining the Significance of Impacts from Greenhouse Gas Emissions," which was added as part of the SB 97 update. (Pet. 9-11.) SANDAG characterizes the decision as "nothing less than a direct repudiation" of subdivision (b), which lists considerations relevant to the determination of significance.

[10] It appears that SANDAG, in its Climate Action Strategy, was in fact able to use the Executive Order's statewide objectives to set regional greenhouse gas reduction goals. (See Opn. 15.)

(See Pet. 11.) Its argument seems to be that if the Resources Agency intended lead agencies to consider the State's objective of ongoing, long-term greenhouse gas emissions reductions set out in Executive Order S-3-05, it would have explicitly cited the Executive Order in this regulation. (*Ibid.*)[11]

> Section 15064.4, subdivision (b) provides in relevant part:
>
> A lead agency should consider the following factors, among others, when assessing the significance of impacts from greenhouse gas emissions on the environment:
>
> (1) The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting[.]
>
> (2) Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project.
>
> (3) The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. . . . If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project.

[11] SANDAG also argues, somewhat inconsistently, that it is the Legislature and CARB that "set specific standards for reduction of greenhouse gas emissions," implying that lead agencies must wait for further direction and, in the interim, have no obligation to examine a long-term, large-scale project's long-term greenhouse gas-related impacts. (Pet. 2; see also *id.* 8, citing Dis. Opn. 12-17.) The Legislature was clear in passing AB 32, however, that the law did not "'relieve any person, entity, or public agency of compliance with other applicable federal, state, or local laws'" which, necessarily, includes CEQA. (Opn. 10, citing Health & Saf. Code, § 38592, subd. (b); see also Gov. Code § 65080, subd. (b)(2)(K).)

The provision is written at a very general level. It does not, for example, refer to AB 32, the Global Warming Solutions Act, even though many lead agencies, including SANDAG, routinely consider this law in making their significance determinations. Similarly, no inference can be drawn from the presence or absence of an express reference to Executive Order S-3-05. In addition, as the Court of Appeal observed, the list begins with the qualifying language, "among others," which "indicates these means are not exclusive." (Opn. 18.)

Perhaps most importantly, section 15064.4, subdivision (b) cannot be read to sanction a significance determination that is incomplete or misleading. (Opn. 18-19; see, e.g., *Neighbors for Smart Rail, supra*, 57 Cal.4th 439 at 457 [agency's exercise of discretion to omit analysis of impacts on existing environment must be justified by showing that such analysis would be misleading or without informational value]; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109 ["notwithstanding compliance with a pertinent threshold of significance, the agency must still consider any fair argument that a certain environmental effect may be significant"].) In this case, SANDAG chose to highlight the 2050 Plan's technical compliance with the car and light truck per capita emissions targets of the Sustainable Communities and Climate Protection Act, commonly referred to as SB 375, even though per capita emissions *increase* after 2020 and SANDAG meets SB 375's 2035 target on a *rising* trajectory.[12] SANDAG further stated that

[12] (Stats. 2008, ch. 729; Stats. 2009, ch. 354, § 5 [SB 375].) The Court Appeal summarized SB 375 as follows: "In enacting SB 375, the Legislature found automobiles and light trucks are responsible for 30 percent of the state's greenhouse gas emissions. (Stats. 2008, ch. 728, § 1, subd. (a).) Accordingly, SB 375 directed CARB to develop regional greenhouse gas emission reduction targets for automobiles and light trucks (continued…)

the 2050 Plan was consistent with AB 32 and SANDAG's own Climate Action Strategy for the year 2020. "By disregarding the Executive Order's overarching goal of ongoing emissions reductions, the EIR's analysis of the transportation plan's greenhouse gas emissions makes it falsely appear as if the transportation plan is furthering state climate policy when, in fact, the trajectory of the transportation plan's post-2020 emissions directly contravenes it." (Opn. 19.)[13] In the particular circumstances of this case, involving a regional transportation plan reaching to 2050, SANDAG was not free to present an incomplete picture of the 2050 Plan's consistency with State long-term climate policy.

The Court of Appeal's decision that SANDAG's analysis was incomplete for its failure to consider the long-term objective set out in the Executive Order is in harmony with section 15064.4, subdivision (b). Under that provision, and consistent with CEQA's informational purposes, SANDAG has an obligation to consider whether the 2050 Plan's long-term greenhouse gas impacts "are still cumulatively considerable notwithstanding compliance with" SB 375 and the asserted short-term consistency with AB 32 and SANDAG's Climate Action Strategy. (See Guidelines, § 15064.4, subd. (b)(3); see also *Rominger v. County of Colusa*

(…continued)
for 2020 and 2035. (Gov. Code, § 65080, subd. (b)(2)(A).) The targets established by CARB for the San Diego region require a 7 percent per capita reduction in carbon dioxide emissions from these sources by 2020 and a 13 percent per capita reduction by 2035 (compared to a 2005 baseline)." (Opn. 11, footnote omitted.) For additional information on SB 375, see CARB's SB 375 webpage at http://www.arb.ca.gov/cc/sb375/sb375.htm.

[13] SANDAG disagrees with the Court of Appeal's determination, based on the court's own review of the 2050 Plan EIR, that the document fails as an informational document. (Pet. 13-14.) That disagreement is not a basis for further review.

(2014) 229 Cal.App.4th 690, 717 [holding that Guidelines addressing the significance determination are not subject to rote application].) The Court of Appeal's decision does not call into question or otherwise undermine Guideline section 15064.4, and its discussion of the regulation suggests no basis for review.

C. The Decision Does Not Conflict with Prior Court of Appeal Decisions Concerning the Analysis of Greenhouse Gas Impacts

SANDAG states broadly that the Court of Appeal's decision "conflicts with every other published appellate court decision concerning analysis of GHG impacts . . . ." (Pet. 11.) It cites, however, only three cases. (Pet. 11-12.) None presents a conflict.

In *Citizens for Responsible Equitable Environmental Development v. City of Chula Vista* (2011) 197 Cal.App.4th 327, 335-336, the Fourth Appellate District, Division 1, held that in determining the significance of greenhouse gas emissions from a retail store replacement project, the city properly exercised its discretion to consider consistency with AB 32. In *Friends of Oroville v. City of Oroville* (2013) 219 Cal.App.4th 832, 841, the Third Appellate District cited *Chula Vista* and held that in determining the significance of the greenhouse gas emissions from a retail center construction project, the city could consider consistency with AB 32, though the city misapplied that standard. Finally, in *North Coast Rivers Alliance v. Marin Municipal Water District Board Directors* (2013) 216 Cal.App.4th 614, 650-653, the First Appellate District, Division 4 held that in determining the significance of a desalination plant's greenhouse gas emissions, the water district could consider whether the project would interfere with the county's AB 32-based goal of reducing greenhouse gas emissions to 15 percent below the 1990 levels by 2020.

None of these cases involved projects on the scale of a regional transportation plan, and none discussed the project's expected lifespan or suggested that the project's greenhouse gas emissions would substantially increase over the life of the project (particularly in the post-2020 time frame). More fundamentally, none of the cases even mentions the Executive Order or suggests that the challengers presented an argument that discussion of AB 32 without discussion of the State's longer-term climate objectives rendered the EIR at issue fundamentally misleading. These cases thus did not "tacitly reject use of EO S-03-05[.]" (Pet. 12.) "It is axiomatic, of course, that a decision does not stand for a proposition not considered by the court." (*People v. Harris* (1989) 47 Cal.3d 1047, 1071.)

On the contrary, the Court of Appeal's discussion of the relationship between AB 32, which SANDAG relied on in its significance determination, and the long-term objective of the Executive Order, sits comfortably with previous case law. In *Association of Irritated Residents v. California Air Resources Bd.* (2012) 206 Cal.App.4th 1487, the Court of Appeal for the Third District, Division 3, rejected a challenge to the 2020 emissions limit set by CARB as required by AB 32 and reflected in the agency's Scoping Plan. In so doing, it held that the 2020 limit "is but a step towards achieving a longer-term climate goal. As the [Scoping Plan] states, 'we must look beyond 2020 to see whether the emissions reduction measures set California on the trajectory needed to do our part to stabilize [the] global climate.'" (*Id.* at 1496.) The Court of Appeal's requirement that SANDAG cannot rely only on AB 32's near-term target but must look beyond 2020 is consistent with this view.

D. The Decision Breaks No New Legal Ground Concerning Mitigation or Alternatives for Addressing Greenhouse Gas Impacts

SANDAG spends a number of pages arguing that, in ruling on the claims relating to the adequacy of the EIR's discussion of mitigation and alternatives to address greenhouse gas emissions, the Court of Appeal erred in its characterization of the record and in its application of the law. (Pet. 14-29.) The People disagree with SANDAG's record-based contentions, for example, that "[t]he majority failed to notice that each of its example [greenhouse gas] mitigation measures is in fact already incorporated" into the 2050 Plan or was "considered and found infeasible" (Pet. 15-16; see also *id.* 18-19) and that "[t]he majority claims, incorrectly, that the EIR alternatives . . . focus on congestion relief" (Pet. 24). These fact-bound allegations of error do not, however, present a basis for review in any event. The People therefore focus on SANDAG's legal arguments.

SANDAG contends that in discussing mitigation, the Court of Appeal diverged from precedent by changing the burden of proof, rejecting the rule that "a petitioner has the burden of demonstrating that an EIR's discussion of mitigation measures is inadequate." (Pet. 17, citing *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 15-17; see also *id.* 18-19.) SANDAG mischaracterizes the Court of Appeal's decision. The court first determined that the EIR's emphasis on asserted compliance with SB 375 and asserted consistency with AB 32 and SANDAG's Climate Action Strategy, together with its failure to note and discuss the 2050 Plan's inconsistency with the State's long-term climate objectives, "deterred the decision makers from devising and considering changes to favorably alter the trajectory of the transportation plan's post-2020 greenhouse gas emissions." (Opn. 16.) Next, it noted that when SANDAG revises the EIR to properly address the transportation plan's consistency

with state climate policy reflected in the Executive Order, it will likely be necessary for the agency to make revisions to related sections of the EIR, "including the EIR's discussion of mitigation measures." (Opn. 23.) Finally, it observed that SANDAG in revising its EIR will not be able simply to restate the limited mitigation measures set out in its current EIR. Rather, it will have an obligation to explore reasonable mitigation measures that could lead to emissions reductions that are sustainable over the longer-term. (Opn. 26-27.) This result is fully consistent with existing case law. (Opn. 23-24 [noting that "once a lead agency recognizes an impact is significant, the agency must describe, evaluate, and adopt feasible mitigation measures to mitigate or avoid the impact[,]" citing *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 91].)

SANDAG also complains that the decision requires it to engage in a level of analysis that is "absurd" and that a first-tier, program-level EIR cannot "attempt to dictate specific programs or establish detailed performance measures for all the various types of individual future projects encompassed in" the 2050 Plan. (Pet. 20.)[14] The Court of Appeal's decision does not require anything more than that SANDAG comply with the "'rule of reason'" in evaluating mitigation. (Opn. at 7, quoting *Friends of Mammoth v. Town of Mammoth Lakes Redevelopment Agency* (2000) 82 Cal.App.4th 511, 533; see also Opn. 26.) If SANDAG on remand determines that certain mitigation measures are infeasible and supports that

[14] "'Tiering' refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the later EIR or negative declaration solely on the issues specific to the later project." (Guidelines, § 15152, subd. (a).)

determination with substantial evidence in the record, it will have complied with CEQA. As the court notes, it cannot and has not purported to "direct SANDAG to exercise its discretion in a particular fashion or to produce a particular result." (Opn. 24, fn. 14, citing Pub. Resources Code, § 21168.9, subd. (c); *Schellinger Brothers v. City of Sebastopol* (2009) 179 Cal.App.4th 1245, 1266.)

SANDAG's arguments concerning the EIR's discussion of alternatives similarly misconstrue the court's holdings. (See Pet. 23-27.) SANDAG contends that the court held the EIR "inadequate because it fails to evaluate an alternative that specifically focuses on a single factor that may contribute to environmental effects—in this case, automobile vehicle miles traveled" and that "[i]f EIRs may be attacked on such grounds, virtually no EIR would be secure against claims that it failed to analyze an alternative dedicated to reducing one of any number of possible individual effects." (Pet. 23, see also *id.* 24-26.)[15] The Court of Appeal did not hold that vehicle miles traveled (VMT) was itself an environmental effect that is subject to a special, dedicated analysis. Rather, the court noted that in the circumstances of this case, VMT was directly linked to an effect that the EIR purported to analyze—greenhouse gas emissions. (Opn. 30-31.) Reviewing the EIR, the court noted that the existing alternatives "focused primarily on congestion relief" (efficient traffic flow) rather than reducing the number and length of trips. (Opn. 31.) As SANDAG's own Climate Action Strategy acknowledges, congestion relief may reduce greenhouse gas emissions in the short term, but may not provide emission reductions that are sustainable over the long term. (Opn. 31-32.) The court reasonably

[15] "Vehicle miles traveled" refers the total miles traveled by all motor vehicles in an identified region, and is affected by trip frequency and trip length.

concluded: "Given the acknowledged long-term drawbacks of congestion relief alternatives, there is not substantial evidence to support the EIR's exclusion of an alternative focused primarily on significantly reducing vehicle trips." (Opn. 32.)

Contrary to SANDAG's argument, the court's determination in this regard does not conflict with "the standards articulated in *Mount Shasta Bioregional Ecology Center v. County of Siskiyou* (2012) 210 Cal.App.4th 184, 199 . . . ." (Pet. 24.) In *Mount Shasta*, the challengers argued that an EIR for a co-generation facility violated CEQA because it contained no discussion of alternatives except for the "no project" alternative. (*Mount Shasta, supra*, 210 Cal.App.4th at 197.) The court rejected the challengers' argument that any EIR that fails to include action alternatives is inadequate as a matter of law, noting that the agency evaluated a number of alternatives during project scoping and found all to be infeasible, and that the challengers identified no feasible action alternative that the agency failed to consider. (See *Mount Shasta, supra*, 210 Cal.App.4th at 196-199.) Here, in contrast, SANDAG failed to address the 2050 Plan's potential contribution to climate change in the longer term, and, as a result, failed even to explore—in the scoping or EIR process—alternatives designed to stabilize or reduce the Plan's greenhouse gas emissions post-2020. It was not the public's or the People's responsibility to fill in this fundamental gap in the EIR. As this Court has held, the public agency at all times "bears the burden of affirmatively demonstrating that, notwithstanding a project's impact on the environment, the agency's approval of the proposed project followed meaningful consideration of alternatives and mitigation

measures." (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 134.)[16]

SANDAG itself acknowledges that an EIR must consider "a sufficient range" of alternatives to "foster informed decisionmaking and public participation." (Pet. 25, citing *Cherry Valley Pass Acres and Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th 316, 354-355.) As the Court of Appeal reasonably held, that is precisely what the 2050 Plan EIR failed to do. (Opn. 32, citing *City of Maywood v. Los Angeles Unified School Dist.* (2012) 208 Cal.App.4th 362, 386.) There is no reason for further review.

II. THE COURT'S HOLDINGS CONCERNING LOCALIZED AIR POLLUTION AND PUBLIC HEALTH DO NOT WARRANT REVIEW

A. In Rejecting SANDAG's Waiver Arguments, the Decision Applies Established Law

In its petition, SANDAG renews its argument that the People and environmental groups have waived all claims that do not relate to greenhouse gas emissions, including the People's claim that the EIR failed fully and fairly to analyze the public health effects of increases in cancer-causing particulate matter pollution. As the People explained in their appellate brief, SANDAG's contention that the People and environmental

[16] SANDAG asserts that "a petitioner must necessarily identify at least one specific additional alternative that should have been included, and provide affirmative evidence that this additional alternative is potentially feasible, would substantially reduce environmental effects, and would be substantially different from alternatives already discussed in the EIR." (Pet. 26.) The People disagree that such a rule should apply where the threshold discussion of impacts is substantially deficient and misleading. But, in any event, alternatives fitting these criteria are set out in SANDAG's own Climate Action Strategy. (See Opn. 31.) On remand, SANDAG will be required to explore these and other alternatives to address long-term greenhouse gas emissions, while retaining discretion to reject any that prove to be infeasible. (See Opn. 24, fn. 14.)

group petitioners "abandoned" all issues in their cross-petitions is not correct. (Pet. 22; see People of the State of California's Cross-Appellant's Reply Brief 5-11.) The People and the environmental groups fully briefed the claims contained in their cross-petitions before the trial court. (JA {46} 356-71; JA {64} 783-91; JA {70} 991.) They were not required continually to re-assert and re-argue their claims, particularly where the trial court judge clearly indicated that he did not wish to consider, and would not rule on, any claims other than those related to greenhouse gas emissions. (JA {70} 987, 995.) Further, the procedural rules that apply to Statements of Decision, relied on by SANDAG, do not apply in this case, where the trial court judge expressly held that no Statement of Decision was required. (JA {75} 1049; see Code Civ. Proc., § 632.)

SANDAG now broadly asserts that the Court of Appeal's decision to hear the claims presented in the People's and the environmental groups' cross-petitions "ignores basic statutory policies governing CEQA litigation[,]" such as the general policies in favor of prompt resolution of CEQA claims, and the certainty of CEQA judgments. (Pet. 22.) SANDAG has not, however, addressed the Court of Appeal's specific holding. The court did not reach the merits of SANDAG's waiver claim but determined that, even assuming there was waiver, a court "may excuse forfeiture in cases presenting an "'important legal issue.'" (*In re S.B.* (2004) 32 Cal.4th 1287, 1293.)" (Opn. 27.) The court held: "We are persuaded the legal issues raised in the cross-appeals are sufficiently important we should exercise our discretion to excuse any forfeiture." (*Id.* 27-28.) Moreover, the court was "mindful of the Legislature's intent 'that any court, which finds, or, *in the process of reviewing a previous court finding, finds*, that a public agency has taken an action without compliance with [CEQA], shall specifically address each of the alleged grounds for noncompliance.' ([Pub. Resources Code,] § 21005, subd. (c).)" (Opn. 28, emphasis added.)

The question whether SANDAG satisfied its obligation under CEQA to fully disclose and address the 2050 Plan's large-scale environmental impacts—including its potential to harm regional public health—was an important one. The court's straightforward application of the rule of *In re S.B.* offers no basis for review.

B. The Decision Does Not Change the Law on the Degree of Specificity Required in Program EIRs for Long-Term Plans

The Court of Appeal held that the mere fact that the 2050 Plan EIR is a program EIR does not excuse SANDAG from analyzing the Plan's public health impacts, and that the EIR on this count fails as an informational document. (Opn. 37-39; *id.* 7; *Friends of Mammoth, supra*, 82 Cal.App.4th at 533.) SANDAG contends that the decision "completely ignores" that "'[t]he level of specificity of an EIR is determined by the nature of the project and the 'rule of reason' . . . rather than any semantic label accorded to the EIR.'" (Pet. 30, quoting *Friends of Mammoth, supra*, 82 Cal.App.4th at 533; see also *ibid.*, citing *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1175 and Guidelines, § 15151.) According to SANDAG, "the majority decision will substantially increase the burden of producing program EIRs at the expense of sound planning, and invite endless litigation on the level of detail or the degree of speculative forecasting that is required to meet the majority standard." (Pet. 28.) SANDAG's sweeping statements are not supported.

As the Court of Appeal correctly noted, every EIR must discuss "'health and safety problems caused by the physical changes that the proposed project will precipitate.'" (Opn. 37, quoting *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1219, internal quotations omitted.) This requires more than a generalized discussion of hypothetical health impacts resulting from a hypothetical

project. Rather, to ensure informed decision making, the EIR should endeavor to "correlate" the project's environmental effects, such as increases in air pollution, to any "resulting adverse health consequences." (*Bakersfield Citizens, supra,* 124 Cal.App.4th at 1219.)

The EIR documented the 2050 Plan's projected regionwide increases in transportation-related air pollution. (See Opn. 38.) It also noted that vehicle air pollution can cause serious health effects, particularly affecting those living along major roads. (Opn. 33-34.) It did not, however, endeavor to link the 2050 Plan's projected air pollution increases to any changes in public health. While the document observed, for example, that "CARB had estimated the region's health risk from diesel particulate matter in 2000 was 720 excess cancer cases per million[,]" it did not attempt to estimate to what extent this figure, already out of date, would change over time under the 2050 Plan. (See Opn. 34.)[17]

Under these circumstances, the court held that the EIR's failure to "correlate" the Plan's air quality emissions with public health impacts violated CEQA's public disclosure and informed decisionmaking purposes. (Opn. 38.) In the court's words: "Although the public and decision makers might infer from the EIR the transportation plan will make air quality and human health worse, at least in some respects for some people, this is not sufficient information to understand the adverse impact." (*Ibid.*, citing *Bakersfield Citizens, supra,* 124 Cal.App.4th at 1220.)

SANDAG contends that it cannot reasonably say anything more about health impacts at the program EIR level, and any further analysis must wait

[17] Similarly, though the final EIR included an air pollution index categorizing highway segments as "high," "medium" and "low," the EIR did not explain what these categories meant, and whether and how these categories corresponded to any projected increases in adverse health effects in the adjacent communities. (AR 8a:2253 [Tables 4.3-6 and 4.3-7].)

for any CEQA review of individual transportation projects contained in the 2050 Plan. (Pet. 30.) It further argues that "[t]his and other courts have specifically approved deferral of more detailed analysis in far less challenging circumstances than presented here." (Pet. 31, citing, without discussion, *In re Bay-Delta*, 43 Cal.4th 1143, 1170-1176, *Town of Atherton v. California High-Speed Rail Authority* (2014) 228 Cal.App.4th 314, 342-347, and *Al Larson Boat Shop, Inc. v. Board of Harbor Commrs.* (1993) 18 Cal.App.4th 729, 746-750.)

There are two flaws in SANDAG's deferral argument. First, it runs counter to CEQA's requirement to consider impacts at the earliest possible stage that will allow for "meaningful" assessment. (Guidelines, § 15004, subd. (b); see also *id.*, § 15004, subd. (b)(1).) Indeed, one of the benefits of a program EIR is that it "[a]llow[s] the lead agency to consider broad policy alternatives and programwide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts." (Guidelines, § 15168, subd. (b)(4).) Second, it is not supported by the record. "While SANDAG contends it is not feasible to provide more definite information at this juncture, we have not located nor has SANDAG identified any evidence in the record supporting this contention. Instead, SANDAG impermissibly relies solely on its own bald assertions of infeasibility contained in the EIR." (Opn. 38.)[18] It is well established that such conclusory assertions do not constitute substantial evidence. (Opn. 38; *City of Maywood, supra,* 208 Cal.App.4th at p. 385.)[19]

---

[18] The court thus did not find it necessary to rule on the People's conditional motion for judicial notice that other regional planning entities have been able to analyze public health impacts at the plan level. (Opn. 39, fn. 17.)

[19] SANDAG asserts summarily in two sentences at the end of its petition that mitigation for air impacts is impossible at the project level. (continued…)

On remand, SANDAG's obligation to undertake a public health impacts analysis will be subject to the rule of reason, and SANDAG will exercise substantial discretion to decide how best to inform the public and decision makers of the 2050 Plan's effects. (See Opn. 8, 24, fn. 14.) At the present juncture, the public interest lies in allowing that process to proceed.

CONCLUSION

SANDAG's petition for review should be denied.

Dated: January 26, 2015

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
EDWARD C. DUMONT
Solicitor General
MARK J. BRECKLER
Chief Assistant Attorney General
SALLY MAGNANI
Senior Assistant Attorney General
TIMOTHY R. PATTERSON
Supervising Deputy Attorney General

/s Janill L. Richards

JANILL L. RICHARDS
Principal Deputy Solicitor General
Attorneys for People of the State of California, ex rel. Kamala D. Harris, Attorney General

---

(…continued)
(Pet. 31.) In the court's words: "[W]e have not located nor has SANDAG pointed to any evidence in the record supporting this contention." (Opn. 41.)

CERTIFICATE OF COMPLIANCE

I certify that the attached PEOPLE OF THE STATE OF CALIFORNIA'S ANSWER TO PETITION FOR REVIEW uses a 13 point Times New Roman font and contains 6,797 words.

Dated: January 26, 2015

KAMALA D. HARRIS
Attorney General of California

/s Janill L. Richards

JANILL L. RICHARDS
Principal Deputy Solicitor General
Attorneys for People of the State of California, ex rel. Kamala D. Harris, Attorney General

DECLARATION OF SERVICE BY FIRST CLASS AND ELECTRONIC MAIL

Case Name: ***Cleveland National Forest Foundation; Sierra Club; Center for Biological Diversity; CREED-21; Affordable Housing Coalition of San Diego; People of the State of California v. San Diego Association of Governments; San Diego Association of Governments Board of Directors***

Case No.: S223603
(California Court of Appeal, Fourth Appellate District,
Division One, Case No. D063288;
San Diego County Superior Court,
Case No. 37-2011-00101593-CU-TT-CTL
[Consolidated with Case No. 37-2011-00101660-CU-TT-CTL])

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On January 26, 2015, I served the attached **PEOPLE OF THE STATE OF CALIFORNIA'S ANSWER TO PETITION FOR REVIEW** by placing a true copy of this document enclosed in a sealed envelope as first class mail in the internal mail collection system at the Office of the Attorney General at 1515 Clay Street, 20th Floor, Oakland, CA 94612-0550, and by sending an electronic version of the same document, addressed as set out in the attachment.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on January 26, 2015, at Oakland, California.

DEBRA BALDWIN	/s Debra Baldwin
Declarant	Signature

SERVICE LIST

Cleveland National Forest Foundation, et al.
v. San Diego Association of Governments, et al.
(Case No. S223603)

Attorney or Recipient	Party
Margaret M. Sohagi Philip A. Seymour The Sohagi Law Group, PLC 11999 San Vicente Boulevard, Suite 150 Los Angeles, CA 90049-5136 Telephone: (310) 475-5700 Facsimile: (310) 475-5707 msohagi@sohagi.com pseymour@sohagi.com	Attorneys for San Diego Association of Governments and San Diego Association of Governments Board of Directors
Julie D. Wiley, Special Counsel San Diego Association of Governments 401 B Street, Suite 800 San Diego, CA 92101 Telephone: (619) 699-6966 Facsimile: (619) 699-1995 JWI@sandag.org	Attorney for San Diego Association of Governments, et al.
Rachel B. Hooper Amy J. Bricker Erin B. Chalmers Shute, Mihaly & Weinberger LLP 396 Hayes Street San Francisco, CA 94102 Telephone: (415) 552-7272 Facsimile: (415) 552-5816 Hooper@smwlaw.com Bricker@smwlaw.com Chalmers@smwlaw.com	Attorneys for Cleveland National Forest Foundation and Sierra Club
Daniel P. Selmi 919 South Albany Street Los Angeles, CA 90015 Telephone: (213) 736-1098 Facsimile: (949) 675-9861 DSelmi@aol.com	Attorney for Cleveland National Forest Foundation and Sierra Club

SERVICE LIST – Contd.

Cleveland National Forest Foundation, et al.
v. San Diego Association of Governments, et al.
(Case No. S223603)

Attorney or Recipient	Party
Marco Gonzalez Coast Law Group LLP 1140 South Coast Highway 101 Encinitas, CA 92024 Telephone: (760) 942-8505 Facsimile: (760) 942-8515 Marco@coastlawgroup.com	Attorney for Cleveland National Forest Foundation and Sierra Club
Kevin P. Bundy Center for Biological Diversity 351 California Street, Suite 600 San Francisco, CA 94104 Telephone: (415) 436-9682 Facsimile: (415) 436-9683 KBundy@biologicaldiversity.org	Attorney for Center for Biological Diversity
Cory J. Briggs Mekaela M. Gladden Briggs Law Corporation 99 East "C" Street, Suite 111 Upland, CA 91786 Telephone: (909) 949-7115 Cory@briggslawcorp.com Mekaela@briggslawcorp.com	Attorneys for CREED-21 and Affordable Housing Coalition of San Diego County
Celia A. Brewer, City Attorney City of Carlsbad 1200 Carlsbad Village Drive Carlsbad, CA 92008-1949 Telephone: (760) 434-2891 Facsimile: (760) 434-8367 Celia.Brewer@carlsbadca.gov	Courtesy Copy

SERVICE LIST – Contd.

Cleveland National Forest Foundation, et al.
v. San Diego Association of Governments, et al.
(Case No. S223603)

Attorney or Recipient	Party
Clerk of the Court California Court of Appeal Fourth District, Division One Symphony Towers 750 B Street, Suite 300 San Diego, CA 92101 Telephone: (619) 744-0760	California Court of Appeal Fourth Appellate District, Division One, Case No. D063288
The Honorable Timothy B. Taylor San Diego County Superior Court Hall of Justice – Dept. 72 330 West Broadway San Diego, CA 92101 Telephone: (619) 450-7072	San Diego County Superior Court, Case No. 37-2011-00101593-CU-TT-CTL [Consolidated with Case No. 37-2011-00101660-CU-TT-CTL]