

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,

Plaintiffs and Respondents,

v.

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

Defendants and Appellants.

After a Decision by the Court of Appeal
Fourth Appellate District, Division One
Case No. D063288

**SUPREME COURT
FILED**

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Appeal from the San Diego County Superior Court, Case No. 37-2011-00101660-CU-TT-CTL

The Honorable Timothy V. Taylor, Judge Presiding

Frank A. McGuire Clerk

Deputy

APPLICATION FOR LEAVE TO FILE BRIEF AMICI CURIAE AND [PROPOSED] BRIEF OF AMICI CURIAE LEAGUE OF WOMEN VOTERS OF CALIFORNIA, et al. IN SUPPORT OF PLAINTIFFS and RESPONDENTS*



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Center on Race, Poverty and the Environment
Climate Action Campaign
Coalition for Clean Air
Committee for Green Foothills
Communities for a Better Environment
Defenders of Wildlife
Environmental Defense Center
Environment Now
Environmental Protection Information Center
Food & Water Watch
Friends of Harbors, Beaches and Parks
Greenbelt Alliance
High Sierra Rural Alliance
Hills for Everyone
Landwatch Monterey County
League to Save Lake Tahoe
Marin Conservation League
Mono Lake Committee
Mountain Area Preservation
Napa County Farm Bureau
SanDiego350
Save Mount Diablo
Save the Bay
Sierra Nevada Alliance
Sierra Watch
Solano County Orderly Growth Committee

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA	Court of Appeal Case Number: D063288
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APPELLANT/PETITIONER: CLEVELAND NATIONAL FOREST FOUNDATION, et al. RESPONDENT/REAL PARTY IN INTEREST: SAN DIEGO ASSOCIATION OF GOVERNMENTS, et al.	<i>FOR COURT USE ONLY</i>
CERTIFICATE OF INTERESTED ENTITIES OR PERSONS	
(Check one): <input checked="" type="checkbox"/> INITIAL CERTIFICATE <input type="checkbox"/> SUPPLEMENTAL CERTIFICATE	
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1. This form is being submitted on behalf of the following party (name): LEAGUE OF WOMEN VOTERS OF CALIFORNIA, et al.

2. a. There are no interested entities or persons that must be listed in this certificate under rule 8.208.
 b. Interested entities or persons required to be listed under rule 8.208 are as follows:

Full name of interested entity or person	Nature of interest (Explain):
--	-------------------------------

- (1)
- (2)
- (3)
- (4)
- (5)

Continued on attachment 2.

The undersigned certifies that the above-listed persons or entities (corporations, partnerships, firms, or any other association, but not including government entities or their agencies) have either (1) an ownership interest of 10 percent or more in the party if it is an entity; or (2) a financial or other interest in the outcome of the proceeding that the justices should consider in determining whether to disqualify themselves, as defined in rule 8.208(e)(2).

Date: September 8, 2015

Deborah A. Sivas

 (TYPE OR PRINT NAME)



 (SIGNATURE OF PARTY OR ATTORNEY)

Case No. S223603

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

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**APPLICATION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE
LEAGUE OF WOMEN VOTERS OF CALIFORNIA, et al. IN
SUPPORT OF PLAINTIFFS and RESPONDENTS**

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TO THE HONORABLE CHIEF JUSTICE AND JUSTICES OF THE SUPREME COURT:

Pursuant to Rule 8.520(f) of the California Rules of Court, the League of Women Voters of California; Audubon California; Bike San Diego; The California Native Plant Society; California Wildlife Foundation; Center for Race, Poverty & the Environment; Climate Action Campaign; Coalition for Clean Air; Committee for Green Foothills; Communities for a Better Environment; Defenders of Wildlife; Environmental Defense Center; Environment Now; Environmental Protection Information Center; Food & Water Watch; Friends of Harbors, Beaches, and Parks; Greenbelt Alliance; High Sierra Rural Alliance; Hills for Everyone; LandWatch Monterey County; League to Save Lake Tahoe; Marin Conservation League; The Mono Lake Committee; Mountain Area Preservation; The Napa County Farm Bureau; SanDiego350; Save Mount Diablo; Save The Bay; Sierra Nevada Alliance; Sierra Watch; and The Solano County Orderly Growth Committee respectfully request leave to file the attached *amicus curiae* brief in support of Plaintiffs Cleveland National Forest Foundation et al.

I. IDENTITY AND INTERESTS OF *AMICI CURIAE*

From large, statewide organizations to devoted local groups, the thirty-one nonprofit Amici organizations represented here stand for tens of thousands of Californians who work and volunteer to reduce greenhouse

gas emissions, preserve open space, ensure safe and livable conditions in poor communities, and prevent or remediate pollution. They understand the urgent risks of climate change for our state—from drought to flooding, from wildfires to coastal erosion, from species extinction to property loss. They fear the way these risks will fall hardest on vulnerable individuals, high-poverty communities, and fragile ecosystems. Instead of retreating into finger-pointing or powerlessness, they are thinking globally, acting locally, and showing up for one of the thorniest policy challenges of our era. They view robust greenhouse gas emissions reductions at the regional level and a strong, workable interpretation of the California Environmental Quality Act (“CEQA”) as urgent public policy priorities in California. For all of these groups, CEQA has been an important vehicle for public participation and democratic accountability in land-use planning processes. The Court of Appeal’s decision in *Cleveland National Forest Foundation* protects these interests.

The League of Women Voters of California is a nonpartisan political organization that encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy. It does not support or oppose any political party or any candidate. The League believes that responsible government should promote the conservation and development of natural resources in the public interest and share in the

solution of economic and social problems that affect the general welfare.

The League has supported CEQA since it first became law in 1970. A number of local Leagues of Women Voters in California have participated in CEQA proceedings to protect the right of the public to weigh in on community land-use decisions and to ensure that significant environmental impacts of projects are identified and, if feasible, avoided or mitigated.

Audubon California is the California state program of the National Audubon Society, representing tens of thousands of Californians and hundreds of thousands of additional members that are concerned about the conservation of species and biodiversity in California and throughout the Pacific Flyway. Audubon California and its members are concerned about climate change and are working to study and reduce its contributing factors while also improving California's ecological resiliency to a changing climate. Audubon California engages in advocacy on behalf of birds and their habitats, habitat conservation and restoration, scientific monitoring of birds and their habitats, and outreach to and education of Californians to better connect them with nature.

BikeSD (Bike San Diego) is an independent nonprofit organization working to transform San Diego into a world-class city for bicycling through policy analysis, advocacy, and outreach.

The California Native Plant Society (CNPS) is an organization of nearly 10,000 scientists, professionals and lay persons united by an interest

in California plant species and communities. Established in 1965 as a California 501(c)(3) nonprofit public benefit corporation, CNPS's mission is to increase understanding and appreciation of California's native plants and to conserve them and their natural habitats through education, science, advocacy, horticulture and land stewardship. CNPS has relied extensively upon CEQA to ensure potential impacts to native plant resources are publicly disclosed, adequately assessed, and, if necessary, avoided, minimized, and/or mitigated on projects throughout California. CNPS finds that pursuit of this amicus is necessary and proper in order to protect the legal rights of its members that relate to CNPS' public benefit mission and goals as they relate to this project.

California Wildlife Foundation is a statewide nonprofit that administers private and grant funds aimed at conserving, restoring and informing the public about the importance of achieving sustainable wildlife habitat, healthy watersheds, and other natural capital for the well-being of future generations.

Center for Race, Poverty & the Environment (CRPE) was founded in 1989. Its mission is to achieve environmental justice and healthy, sustainable communities through collective action and the law. CRPE is founded on the belief that all people have the right to live, work, play and pray in a healthy environment, regardless of their race, place or income. Its work is focused in California's San Joaquin Valley, where

CRPE actively participates in local land use and planning issues.

Climate Action Campaign (CAC) is a 501(c)(3) nonprofit organization based in San Diego with a simple mission: to stop climate change. CAC is focused on passing and implementing strong Climate Action Plans that assure a 100 percent clean energy future, working with community leaders, grassroots organizations, students, small business owners, and policymakers to protect our quality of life for future generations.

Coalition for Clean Air (CCA) is a California nonprofit corporation. CCA is the only statewide organization exclusively advocating for air quality in California. Founded in 1971, CCA has actively participated in proceedings supporting effective land use and transportation planning to protect public health, improve air quality, and prevent climate change. CCA's mission is to restore clean, healthy air to California by advocating for effective public policy and practical business solutions. CCA maintains offices in Los Angeles and Sacramento.

Committee for Green Foothills is a nonprofit corporation established to protect and preserve the open space, farmlands, and natural resources of San Mateo and Santa Clara counties. Since 1962, the Committee has used advocacy, education, and grassroots action to protect the hills, forests, creeks, wetlands, and coastal lands of the San Francisco Peninsula.

Communities for a Better Environment (CBE) was founded in 1978 and is one of the preeminent environmental justice organizations in the nation. CBE is a nonprofit organization with offices in Huntington Park, California and Oakland, California, with thousands of members throughout the State of California. CBE and its members are dedicated to empowering people in California's communities of color and low-income communities to achieve environmental health and justice with campaigns to thwart pollution, reduce environmental degradation, and promote sustainable community development.

Defenders of Wildlife is dedicated to the protection of all native wild animals and plants in their natural communities. Defenders focuses its programs on what scientists consider two of the most serious environmental threats to the planet: the accelerating rate of extinction of species and the associated loss of biological diversity, and habitat alteration and destruction. Defenders has more than 1,201,283 members and supporters nationwide, 177,582 of whom are in California. Members of Defenders use publicly accessible portions of the Sierra region for recreational, wildlife viewing, scientific, and educational purposes.

Environmental Defense Center (EDC) is a nonprofit public interest law firm that has sought to protect and enhance the environment through education, advocacy, and legal action, since 1977. EDC's program areas focus on climate and energy, the Santa Barbara Channel, preserving open

spaces and wildlife, and protecting human and environmental health, particularly in the counties of Ventura, Santa Barbara, and San Luis Obispo. For thirty-eight years, EDC has represented clients in matters seeking to enforce CEQA, including efforts to ensure that agencies adequately analyze, disclose and consider the impacts of proposed projects on air quality and climate change.

Environment Now (ENOW) is an independent, non-partisan, nonprofit 510(c)(3) charitable organization, founded in 1989 and headquartered in the City of Los Angeles, California. ENOW partners with dozens of nonprofit organizations around the state to secure measurably effective improvements in protecting California's environment. ENOW provides technical and financial support to partners. For instance, in June 2015 ENOW hosted a CEQA webinar attended by over 20 advocates across the state. Through its partners, ENOW represents hundreds of thousands members statewide. Thousands of these members live in and around San Diego County, where the transportation plan at issue in this case arises. Public participation and the introduction of significant information through CEQA review are key to supporting ENOW's mission.

Environmental Protection Information Center (EPIC) is a community-based, nonprofit organization that advocates for science-based protection and restoration of Northwest California's forests. Founded in 1977, EPIC has long been at the forefront of forest protection, ensuring that

state and federal agencies follow their mandate to uphold environmental laws and protect endangered species. EPIC uses an integrated, science-based approach to protect and restore areas within its bioregion. EPIC employs strategies that will strengthen the way conservation laws are interpreted and implemented throughout the state and nation.

Food & Water Watch champions healthy food and clean water for all. We stand up to corporations that put profits before people, and we advocate for a democracy that improves people's lives and protects our environment.

Friends of Harbors, Beaches and Parks (FHBP) is a nonprofit organization formed in 1997 to promote, protect and enhance the harbors, beaches, parks, trails, open spaces, natural preserves and historical sites in Orange County. FHBP promotes policies that guarantee sustainable use of natural resources.

Greenbelt Alliance is a not-for-profit corporation organized under the laws of the State of California with offices in San Francisco, San Jose, Walnut Creek, and Santa Rosa, California. Greenbelt Alliance addresses a single challenge: how the Bay Area handles growth. We shape the rules that govern growth to protect the region's open spaces and to ensure neighborhoods within our cities and towns are amazing places for everyone. Greenbelt Alliance actively supports effective enforcement of CEQA. Greenbelt Alliance has approximately ten thousand supporters in

and around the San Francisco Bay Area.

The High Sierra Rural Alliance is a nonprofit grassroots organization committed to the preservation and enhancement of the rural Sierra experience. Our goal is to promote good local and regional land use planning that will balance economic growth with the preservation of the area's unique natural and scenic resources.

Hills For Everyone (HFE) is a nonprofit organization formed over 35 years ago, with a mission to protect the unique, rare, and disappearing landscapes of four of southern California's most populous counties: Los Angeles, Orange, Riverside and San Bernardino County. HFE members use and enjoy the natural and scenic resources of the Puente Chino Hills and the recreation opportunities there. We remain engaged in issues that threaten these natural lands, from climate change to excessive fires.

LandWatch Monterey County is a California nonprofit public benefit corporation exempt from federal income taxation. Its principal place of business is Salinas, California. LandWatch's organizational purpose is to promote sound land use planning and legislation at the city, county, and regional levels, to combat urban sprawl, and to promote livability in the region's cities and towns, through public policy development, advocacy, and education. LandWatch is dedicated to preserving economic vitality, high agricultural productivity, and environmental health in Monterey County by encouraging effective public

participation in the land use planning process.

The League to Save Lake Tahoe, also known by the slogan “Keep Tahoe Blue,” is Tahoe’s oldest and largest nonprofit environmental advocacy organization. Supported by thousands of members from across the United States, the League has been protecting Lake Tahoe since 1957 and is dedicated to community engagement and education, and collaborating to find solutions to Tahoe’s environmental challenges.

The Marin Conservation League (MCL) is a respected and influential nonprofit environmental organization that has been working for 81 years to preserve, protect, and enhance Marin’s natural assets. Since 1934, MCL has successfully pursued its mission by remaining vigilant and taking prudent actions, including acquisition of lands, advocacy, and conservation. The League helped acquire the land and establish many of the federal, state, and county parklands and open spaces in Marin County. By serving as a countywide advocate for sound environmental policy, MCL studies and analyzes issues; recommends policies; educates and mobilizes citizens; and tracks outcomes. MCL recognizes climate change to be one of the most critical environmental issues of our time and is dedicated to helping the State meet its goals for greenhouse gas emissions.

The Mono Lake Committee is a nonprofit citizens’ group founded in 1978. The group and its 16,000 members are dedicated to protecting and restoring the Mono Basin ecosystem, educating the public about Mono

Lake and the linkages between urban centers and the state's natural resources, and promoting cooperative solutions that protect Mono Lake.

Mountain Area Preservation (MAP) is a California nonprofit corporation whose mission is to preserve the community character and natural environment of the Truckee region for present and future generations. Members of MAP use and enjoy the natural and scenic resources of the Sierra region.

The Napa County Farm Bureau is a nonprofit agricultural trade organization that operates by the philosophy that more can be accomplished for the good of agriculture by working together rather than by working as individuals. Today, the Napa County Farm Bureau represents over 850 local farmers and ranchers, including individuals involved in production agriculture and non-farm members who support our goals, activities, and services. Its mission is to protect, promote and preserve agriculture in Napa County.

SanDiego350 (SD350) is a volunteer-led nonprofit organization of San Diegans from different communities who are concerned about climate change and its very real effects on our livelihood, well-being and the future of our children. We work to increase awareness of climate change and advocate for reducing greenhouse gas emissions. Since our start in 2011, SD350 has led efforts in San Diego County to mobilize community members to take effective actions on climate change.

Save Mount Diablo is a nonprofit corporation dedicated to preserving Mount Diablo's peaks, surrounding foothills and watersheds through land acquisition and preservation strategies designed to protect the mountain's natural beauty, biological diversity and historic and agricultural heritage. To advance this goal, Save Mount Diablo regularly participates in land use planning processes for projects that could impact Mount Diablo and its surrounding foothills.

Save The Bay is the largest regional organization working to protect, restore, and celebrate San Francisco Bay since 1961. Save The Bay engages more than 50,000 supporters, advocates, and volunteers to protect the Bay from pollution and reckless shoreline development and make it cleaner and healthier for people and wildlife.

Sierra Nevada Alliance (Alliance) is a regional coalition of more than eighty grassroots groups, spanning the entire 400-mile long Sierra Nevada, working to protect and restore the natural and community values of California's most cherished mountain range. Alliance programs support the work of grassroots member groups by providing technical assistance, coordination among groups with common interests and objectives, and promoting research and information gathering related to protecting and restoring Sierra watersheds, wildlife habitat, viewsheds, recreational areas, working landscapes and open spaces.

Sierra Watch is a California nonprofit public benefit corporation

working to protect the Sierra Nevada by turning development threats into conservation opportunities. Inspired by the Sierra's mountain ridgelines, deep pine forests, rich meadows, and crystal clear waters, we provide innovative strategic leadership to defend the places we love.

The **Solano County Orderly Growth Committee** is a Political Action Committee dedicated to the protection of farm lands and open spaces. Formed in 1984, we have a long history of political successes. We organized, drafted and ran an initiative campaign to require urban growth within existing cities and not in the unincorporated area of Solano County. Our Orderly Growth Initiative has since been renewed twice. We have backed, or organized, urban growth boundary campaigns in three of our cities and have consistently participated in General Plan updates.

II. HOW THIS BRIEF WILL ASSIST THE COURT

The attached *amici* brief will assist the Court by highlighting critical ways in which the limitations on CEQA review urged by the San Diego Association of Bay Area Governments undermine the text and core purposes of the statute and by elaborating on the practical implications of the Court of Appeal's decision below. Amici collectively have substantial knowledge and experience with such issues, and with state climate law and policy more generally, and offer a unique perspective on the question before the Court. Amici respectfully submit that their brief will provide valuable context for the Court's resolution of this case.


III. STATEMENT REGARDING PREPARATION OF BRIEF

Pursuant to California Rule of Court 8.520(f)(4), Amici certify that no party or counsel for a party in the pending case authored the proposed brief in whole or in part or made a monetary contribution intended to fund the preparation or submission of the brief. Amici further certify that no person or entity other than the undersigned pro bono counsel made a monetary contribution intended to fund the preparation or submission of the brief.

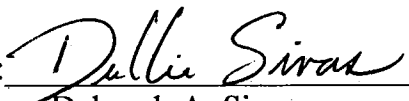
IV. REQUEST FOR LEAVE TO FILE

For the reasons described above, Amici respectfully request that the Court accept the accompanying brief for filing in this case.

DATED: Sept. 8, 2015 Respectfully submitted,

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SUMMARY OF ARGUMENT

With the completion of its Regional Transportation Plan and Sustainable Communities Strategy (the “2050 Plan”), the San Diego Association of Governments (“SANDAG”) committed \$214 billion in transportation expenditures through the year 2050. (Opening Brief at 15.) In the later decades of the planning period, per capita greenhouse gas (“GHG”) emissions from vehicles will increase in the San Diego region. Freeways will be expanded, and as the regional population grows at low density with few other transportation options, auto dependence and traffic congestion will bring a climbing rate of GHG emissions.

Pursuant to the California Environmental Quality Act (CEQA), SANDAG performed an analysis of the 2050 Plan’s environmental impacts, including greenhouse gas emissions. It disclosed (albeit without analysis) that in 2050, the region’s GHG emissions would be higher than they were in 2010. It emphasized that the Plan would enjoy a falling emissions curve between 2010 and 2020 (due in large part to the onset of statewide vehicle efficiency standards and the economic recession), and was consistent with the Air Resources Board’s Scoping Plan to implement AB 32. It also provided a patchwork of raw data on the region’s GHG emissions over the life of the plan. These features of the 2050 Plan’s environmental impact report (“EIR”) contributed to the document’s overall girth, but unfortunately, they added up to an analysis that was quite misleading.

The EIR sent an overall message to the public that the 2050 Plan would create some new emissions, but that the San Diego region was doing its share. SANDAG is still making that case to this Court. In defense of the EIR's emissions analysis, SANDAG wrote: "The message that if implemented, the Plan would contribute to, but not meet the reductions the state would need to meet its goal of reducing GHG emissions 80% from 1990 levels by 2050 was therefore not obscured by the EIR's analysis." (Reply Brief at 20.)

Such claims are not only confusing; they are misleading. By 2050, SANDAG's infrastructure expenditures will only be "contributing" new emissions – no reductions at all. (For graphic depictions of SANDAG's rising emissions, see the People's Answer at 25-30.) State climate policy, however, calls for *reductions* in annual GHG emissions, *not a slower rate of increase*. Our Legislature, Executive, and regulatory agencies have committed to an unwavering trajectory of reductions through mid-century. The goal of those reductions is pegged to a scientifically-based reference point: the emissions levels that will stabilize the climate at 2 degrees Celsius above pre-industrial global temperatures. That figure will still mean dramatic climate disruption and extreme weather events (including drought), but it may avoid the worst dangers of rapid change.

All parties in this case agree that Executive Order S-3-05 sets out to quantify and frame, in public policy terms, the scientific reference point for

climate stabilization. (See Opening Brief at 7; Reply Brief at 23, n.6.) The Order quantified the tolerable load of GHG emissions for a stabilized climate at 80 percent of 1990 levels, and it launched an administrative effort to realize those levels by the year 2050. This case is not about “compliance” with that Order per se. The Executive Order is important to this case not because it somehow sets a mandatory threshold of significance for CEQA analysis, but because it reflects the facts and science of climate stabilization.

Science drove the Executive Order, and the Executive Order, in turn, has driven a generation of California law. The Order’s reference point for climate stabilization at 2 degrees Celsius, and the GHG emissions reductions trajectory needed to avoid passing that point, have become the North Star of our state’s climate policy. With AB 32, SB 375, the Air Resources Board’s Scoping Plan, changes in vehicle emissions standards, and other measures, the Legislature and public agencies have built complex legal systems organized around all three features of the Executive Order’s goal – a 1990 baseline of emissions levels, an 80 percent reductions target, and a 2050 deadline. The typical executive order governs temporarily, solves a discrete agency problem, manages an emergency, or remains only a vague aspiration. By contrast, Executive Order S-3-05 (and now Governor Brown’s Executive Order B-30-15) provides the science-based

policy targets around which climate change law and policy in California have been designed.

With climate stabilization requiring steep reductions of GHG emissions through mid-century, it was prejudicially misleading for SANDAG's EIR to depict its emissions trajectory only in comparison to 2010 levels – a baseline that artificially understates the magnitude of the cuts needed to stabilize the climate – and then emphasize its emissions only against 2020 and 2035 benchmark levels. These decisions distracted from the 2050 Plan's emissions spike in the later decades of the plan. It is little consolation that a reader could figure out the bad news of the 2050 Plan's emissions by crunching numbers that were buried in the EIR's confusing raw data, then comparing them to outside figures.

It is not excessively speculative or experimental to require SANDAG and other regional agencies to conduct an environmental analysis of their emissions for the final years of their transportation plans. Such analysis is feasible, and indeed SANDAG itself uses those environmental planning tools in other contexts. No one disputes that SANDAG retains discretion as to the details of its approach to emissions reductions planning; the position of the People, Plaintiffs, and Amici is simply that for regional transportation plans – which commit such enormous sums of public funds, over such a long period, to build infrastructure that would cost a fortune to later change or remove – a public

agency must disclose when its actions will grossly interfere with the attainment of the emissions reductions needed to stabilize our warming climate.

ARGUMENT

I. This Case Concerns the Nature of CEQA as a Public Information Law and its Relationship to the State Climate Policy First Articulated in Executive Order S-3-05, Not the General Nature or Legal Status of Executive Orders.

The Court's statement of the issue in this case asks whether the EIR for a regional transportation plan ("RTP") must "include an analysis of the plan's consistency with the greenhouse gas emission reduction goals reflected in Executive Order S-3-05 to comply with CEQA?" For Amici, the answer to this question lies not in the legal status of the Executive Order itself, but in its scientific basis. Climate stabilization has been quantified as 2 degrees Celsius above pre-industrial levels by 2050, and the public policy to avoid that temperature threshold has been captured as a baseline metric (1990 emissions levels), a reductions goal (80 percent), and a deadline (2050). The policy of climate stabilization by mid-century, as the Court's issue statement rightly says, is "reflected in" the Executive Order. Under CEQA, a public agency has the duty to measure, disclose, and mitigate environmental impacts, including GHG emissions, against scientific reality. Amici contend that the EIR for a regionwide infrastructure investment plan

must reflect the scientific facts and California's public policy targets for climate stabilization.

The logic behind this position begins with the influence of Executive Order S-3-05. Unlike many executive orders, which react to urgent circumstances or direct an agency to enact a narrow policy change, S-3-05 is an organizing principle for public policy built on science. It depicts a trajectory of California's GHG emissions and thereby a guiding principle for California public policy. *It is written as a policy target, not as a discrete program or policy change.* The Order proclaims that all state actions need to add up to a dramatically-declining GHG emissions trajectory in order to avoid the most dangerous, disruptive effects of climate change.

This case might never have arisen (let alone with an appellate and trial opinion for Plaintiffs and the People below) if Executive Order S-3-05 had fallen into the general sea of lawmaking and never been heard from again. Instead, it has launched a thousand ships. While the Order was not the first state law to address climate change, it quickly became the goal against which state legislation, local land-use planning, local climate action planning, scientific analysis, and the public debate about progress to stall climate change are measured. Because the Order and the research underlying it (by the Intergovernmental Panel on Climate Change) have been prominent in the media and political deliberation over climate policy,

and because the Order sets measurable targets, it is the most well-known accountability measure against which the public and California lawmakers assess their share of credit and blame for our collective emissions trajectory.

Indeed, California's subsequent GHG reductions legislation is fundamentally oriented around the Executive Order's baseline figures, target ratios, and 2050 deadline. Lawmakers have understandably focused on the Order's near-term benchmarks as the first priority, but the Legislature has expressly committed to the 2050 horizon line for emissions reductions. The Court of Appeal, the People, and Plaintiffs described this history well, but a few highlights are worth emphasizing here. (*See Cleveland Nat'l Forest Found. v. San Diego Ass'n of Governments*, 231 Cal. App. 4th 1056, 180 Cal. Rptr. 3d 548, 560 (2014); People's Answer Brief at 13-20; Plaintiffs' Answer Brief at 5-8.)

In AB 32, for instance, the Legislature tasked the California Air Resources Board ("CARB") with quantifying the state's 1990 greenhouse gas emissions level as a baseline for achieving reductions targets. (Cal. Health & Safety Code § 38550.) In a provision called "continuation in effect," the Legislature called for "the statewide greenhouse gas emissions limit [to] continue in existence and be used to maintain and continue reductions of greenhouse gases beyond 2020." (*Id.* § 38551 (b).)

The AB 32 Scoping Plan answers this summons by repeatedly referring to actions needed beyond 2020 and orienting its goals around the Executive Order. The Scoping Plan states, for instance: “we must look beyond 2020 to see whether the emissions reduction measures set California on the trajectory needed to do our part to stabilize global climate. Governor Schwarzenegger’s Executive Order S–3–05 calls for an 80 percent reduction below 1990 greenhouse gas emission levels by 2050. . . Full implementation of the Scoping Plan will put California on a path toward these required long-term reductions.” (CARB, *Climate Change Scoping Plan* 117 (Dec. 2008) (hereafter “2008 Scoping Plan”)¹; see also *Ass’n of Irrigated Residents v. Cal. Air Res. Bd.*, 206 Cal. App. 4th 1487, 1496 (2012) (quoting same); 2008 Scoping Plan at 12-13 (making a similar commitment).)

The Scoping Plan described the state’s need for better transportation and land use planning beyond 2020 in order to “put California on course” to reaching the Executive Order’s 2050 target. (2008 Scoping Plan at 12-13; Administrative Record (hereafter “AR”) 320(5): 27858-27859.) In answer to that need, the Legislature enacted the Sustainable Communities Strategies Law, known as SB 375, in 2008. That law directed CARB to establish an unfolding series of regional GHG emissions reductions targets

¹ Available at http://www.arb.ca.gov/cc/scopingplan/document/adopted_scoping_plan.pdf.

over time. When SANDAG wrote its 2050 Plan EIR, those CARB targets were in place for the region for 2020 and 2035, and SANDAG was on notice that CARB must update these targets at least every eight years until 2050. (Cal. Gov't Code § 65080(b)(2)(A)(iv).) Here, once again, the focal point of climate policy was a trajectory of falling GHG emissions through mid-century.

Other recent laws and agency implementation measures also use Executive Order S-3-05's targets and structure. Governor Brown's recent Executive Order B-30-15 restates the 2050 goal of Governor Schwarzenegger's Executive Order (80 percent of 1990 levels), then sets an interim target to help meet it.² CARB's 2014 Scoping Plan recommits to that same benchmark from the 2005 Executive Order repeatedly; for instance, it states that "California must continue to build on the framework established in the initial Scoping Plan as we look toward meeting our long-term climate goal of GHG emissions of 80 percent below 1990 levels by 2050." (CARB, *First Update to the Climate Change Scoping Plan* 35 (May 2014) ("2014 Scoping Plan").)³ Though these and other recent actions are not narrowly relevant to the facts before the Court (because they post-date

² Available at <http://gov.ca.gov/news.php?id=18938>.

³ Available at http://www.arb.ca.gov/cc/scopingplan/2013_update/first_update_climate_change_scoping_plan.pdf.

SANDAG's 2011 EIR), they confirm the on-going salience of the Executive Order and the issue in this case.

As in its EIR, SANDAG's arguments to the Court obscure and minimize the mid-century horizon lines embodied in AB 32, the Scoping Plan, and SB 375. SANDAG does not dispute that it was obliged to follow these laws. Instead, it argues that Plaintiffs are trying to bind the 2050 Plan to the Executive Order and thereby to bind local governments to executive orders in general.

Whatever the Court makes of this influential Executive Order and the generation of laws that it has organized, this case is not about the 2050 Plan's formal compliance with it or the legal status of executive orders in general. Instead, this is a classic public disclosure case under CEQA. It concerns SANDAG's duty under CEQA to reveal the full measure of the 2050 Plan's environmental impacts – not by disclosing a smattering of data, but by fully explaining the Plan's undisputedly rising GHG emissions curve during the Plan's later years in light of scientifically-rooted benchmarks for climate stabilization that first appeared in state public policy in Executive Order S-3-05. SANDAG mischaracterizes the nature of CEQA review. It is not an enforcement mechanism, but rather a transparency and public input mechanism that requires impact analysis and mitigation planning in reference to scientific facts.

Without belaboring the points made ably by Plaintiffs and the People, Amici agree that SANDAG's EIR understates its rising emissions curve after 2020 in contravention of state climate policy. It does so by: (1) focusing primarily on GHG emission increases from 2010 levels, a more forgiving baseline against which to measure the Plan's rising emissions; (2) focusing on the Plan's technical compliance with 2020 and 2035 benchmark standards, while ignoring the express legislative and regulatory commitment to continued GHG emissions reductions after those dates; and (3) burying the worst news of its rising emissions across the project's later decades in raw data.

The first two flaws make the EIR misleading, while the third makes it incomplete. Taken altogether, these flaws particularly undermine the EIR's greenhouse gas emissions analysis for the period of 2020-2050. Even though SANDAG's 2050 Plan remains the active regional transportation plan during this period, the EIR fails to meaningfully analyze the rising GHG emissions across these thirty years. In other words, the problem with SANDAG's EIR is that the project it analyzes stretches all the way to 2050, but its GHG emissions analysis begins to founder after 2020, and falls off entirely after 2035.

By emphasizing the 2050 Plan's relative "consistency" with 2020 numbers (a benchmark that the 2050 Plan hit in large measure because of the onset of new, statewide vehicle efficiency standards and financial

recession), the EIR gives the impression that SANDAG is on the right track for emissions reductions. It is not. The 2050 Plan will lead to climbing emissions consistently after 2020, but because SANDAG failed to provide a reference point for understanding the significance of those emissions (i.e., by comparing them against the rate of scientifically necessary reductions), the public cannot see how sharply the plan will work against achievement of the state's mid-century climate stabilization goals. As the Court of Appeal explained: "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." (*Cleveland Nat'l Forest Found. v. San Diego Ass'n of Governments*, 180 Cal. Rptr. 3d at 564.)

SANDAG claims that it cannot provide rigorous analysis for the 2020-2050 period because of "uncertainty" that "results in part because state laws related to GHG reduction for electricity, natural gas, and fuel efficiency requirements, and other sectors that contribute GHG emissions only go to 2020 or 2025." (Reply Brief at 44). But once the 2050 Plan's authors opted for a 40-year project period, they became bound under CEQA to analyze the environmental consequences of the project for that whole period. (Cal. Pub. Res. Code § 21083(b); 14 Cal. Code Reg. § 15126.2(a);

see also, e.g., Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova, 40 Cal.4th 412, 431 (2007) (holding that long-term projects require long-term environmental impact analysis).)

So what is the EIR to do for this 2020-2050 window? The CEQA Guidelines are clear: “The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data.” (14 Cal. Code Regs. § 15064(b); *see also* 14 Cal. Code Regs. § 15064.4 (“A lead agency should make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project.”)) As argued above, the state’s climate stabilization targets, as reflected in the 2005 Executive Order (and now the 2015 Executive Order), are part of the “scientific and factual data” SANDAG should have considered in its EIR. Because they are the factual framework that orients state climate legislation and policy, regional agencies like SANDAG cannot ignore them. While SANDAG enjoyed discretion in how to analyze and depict its impacts for the 2020-2050 period, it could not simply show a few scattered numbers, admit to “new emissions,” and leave things at that. Any reader of the EIR, regardless of scientific or legal expertise, would need scientifically-based, empirical comparison points to understand the Plan’s 30-year rise in GHG emissions and put those emissions in context. Put

simply, the EIR had to show how the Plan's rising annual emissions compare to the reductions needed for climate stabilization.

Step one of CEQA analysis is disclosure, of course, and that is the major focal point of this case. It bears noting, however, that Amici care about this case not just because of the EIR's impacts analysis. CEQA's potential to limit environmental harms like climate change comes not only from impacts analysis, but from analysis of how the agency will mitigate those impacts, and what alternatives are available to the project as proposed. (*See, e.g., Lotus v. Dpt. of Transportation*, 223 Cal. App. 4th 645, 658 (2014).) As the Court of Appeal found, when SANDAG minimized the 2050 Plan's climate impacts, it thereby avoided the important step of developing effective mitigation of the Plan's steeply-rising GHG emissions curve or of pursuing alternative allocations of public transportation funds. While SANDAG's mitigation and alternatives analysis are no longer issues before this Court, they are very much at stake in a case that will influence how RTPs in the future disclose and benchmark their GHG emissions impacts.

II. The Kind of CEQA Analysis Required by the Court of Appeal Is Familiar and Feasible.

In the context of increasingly scarce revenues, local and regional public agencies perform some of our most vital service delivery functions, and they bear many of the costs of expanding and maintaining the state's

crucial infrastructure. Amici are sympathetic to these agencies' fiscal interests, the competing political pressures that they face, and the importance of efficient, predictable environmental review processes.

Nevertheless, planning for reductions in GHG emissions and educating the local public about the reductions needed for climate stabilization should be among local governments' important priorities. Public agencies across California agree, and they have made major strides in developing and using tools for environmental analysis of climate impacts. Indeed, it is the laudatory performance of California's regional and local public agencies on modeling climate impacts that lead Amici to the conclusion that the impacts analysis required by the Court of Appeal is feasible and avoids excessive speculation.

Public agencies across the state have conducted analyses of their projects' GHG emissions that are benchmarked to climate stabilization science and policy. SANDAG's own Climate Action Strategy set regional emissions targets through 2050 in reference to the Executive Order targets, and it could readily have done the same for the 2050 Plan. For purposes of this case, SANDAG has distanced itself from this analysis (Reply Brief at 12, 29), but it is unmistakable in the Climate Action Strategy document. The region's Strategy describes, then applies, the Executive Order's benchmarks, saying:

[T]he long-term goal of reducing statewide greenhouse gas emissions to 80 percent below the 1990 level by the year 2050 will require fundamental changes in policy, technology, and behavior. Although California does not set economy-wide reduction targets for specific geographic regions of the state, projections showing the theoretical emissions reductions necessary to reach the 2020 and 2050 targets illustrate the magnitude of change the region needs to make during the next four decades.

(AR 216:17628.) There follows a graph depicting a “business as usual” emissions trajectory and comparing it against both the AB 32 trajectory and the longer term Executive Order trajectory – exactly the kind of representation that makes the challenges readily apparent. So too did the analysis help distill a more transparent and ambitious policy commitment. SANDAG then wrote: “By 2030, the region must have met and gone below the 1990 level and be well on its way to doing its share for achieving the 2050 greenhouse gas reduction level. It should be noted that deep cuts in greenhouse gas emissions required for climate stabilization also must occur during a period of projected growth in regional population and economic output.” (*Id.* at 17629.)

Equivalent modes of analysis are in use elsewhere in the San Diego region, as well. SANDAG member agencies, including the cities of Carlsbad and San Marcos, have adopted the goal of meeting Executive Order No. S-3-05’s emission reduction targets through 2050 as part of their

draft or final Climate Action Plans.⁴ The City of San Diego is considering a draft Climate Action Plan with the same goal, and the San Diego Unified Port District, an advisory member to SANDAG, has adopted a Climate Action Plan that expressly recognizes that Executive Order S-3-05 extends statewide GHG emission reduction goals to 80 percent below 1990 levels by 2050.⁵ As a practical matter, the realization of these local climate policies will require thorough, sound information about the regionwide GHG impacts of long-range transportation investments – analysis that only SANDAG is in the position to provide.

Such analysis is hardly limited to climate action planning. In the Regional Transportation Plan context, staff planners for the Bay Area and Madera County (the later of which has no resources to spare) analyzed their RTPs' trajectories of GHG emissions in reference to the Executive Order's emissions targets for 2050.⁶ The Metropolitan Transportation Commission

⁴ See City of Carlsbad, *Draft Climate Action Plan* (March 2014), available at <http://www.carlsbadca.gov/civicax/filebank/blobdload.aspx?BlobID=23294>; City of San Marcos, *Climate Action Plan* at 3-1 to 3-2 (Sept. 2013), available at <http://www.ci.san-marcos.ca.us/modules/showdocument.aspx?documentid=9922>.

⁵ See City of San Diego, *Climate Action Plan Draft* at 3 (Sept. 2014), available at http://www.sandiego.gov/planning/genplan/cap/pdf/sd_cap_sept_2014_draft_full_093114.pdf; Port of San Diego, *Climate Action Plan Draft* at 7 (2013), available at http://www.portofsandiego.org/environment/clean-water/doc_download/5515-port-of-san-diego-climate-action-plan.html.

⁶ See Madera County Transportation Comm'n, *Presentation Overview, Final Regional Transportation Plan and Sustainable Communities Strategy*

(“MTC”) conducted the analysis for the Bay Area 2040 Regional Transit Plan by identifying emissions, both separately and combined, for operation of land uses and on-road transportation in 2010 and 2040 and by producing trend lines showing the emissions trajectory through 2050.⁷ Based on this analysis, MTC developed a plan that should result in achieving the GHG goals. Large countywide general plans use this technology as well; as part of the EIR for its General Plan update, Riverside County recently analyzed how the County will “keep reducing emissions post 2020 in conformance with Executive Order S-3-05.”⁸

In amicus briefing to this Court regarding the Petition for Review, the California Association of Councils of Governments stated that the Court of Appeal’s opinion “may be right that, as a matter of policy, CEQA documents should assess whether a proposed project or plan is consistent with [the Executive Order’s 2050 emission reduction] targets.” (CALCOG Letter at 10.) Given that this analysis is concededly correct as a matter of

and Program Environmental Impact Report 23-24 (2014), available at <http://www.maderactc.org/wp-content/uploads/2014/07/2014-MCTC-Final-RTP-SCS-and-PEIR-PPT-072314-GV07.pdf>.

⁷ See Metropolitan Transportation Commission, *Draft Environmental Impact Report: Plan Bay Area 2040* at 2.5-42, 2.5-48 to 2.5-49 (April 2013), available at http://planbayarea.org/pdf/Draft_EIR_Chapters/2.5_Climate_Change.pdf.

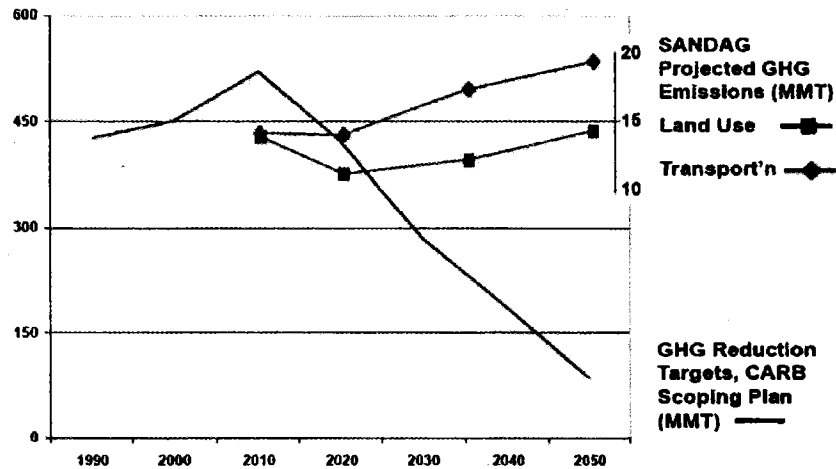
⁸ See County of Riverside, *Draft Environmental Impact Report No. 521: General Plan 2015* at 4.7-46 to 4.7-48 (Feb. 2015), available at http://planning.rctlma.org/Portals/0/genplan/general_plan_2015/DEIR%20521/0407_GreenhouseGases.pdf.

policy and already underway at a number of local agencies, CALCOG Amici's concerns about the practical impact of the Court of Appeal decision are overstated.

It is also telling that SANDAG conducted the very analysis that Plaintiffs request in its recently released EIR for the 2015 Update of the RTP. SANDAG's argument that new technology available only after 2011 made this analysis possible is inconsistent with the record in this case. As Plaintiffs explained, the 2050 Plan EIR at issue here projected its regional emissions going forward in an assortment of data and could have used CARB's standard metric for 1990 emissions as its baseline comparison point. (Plaintiffs' Answer Brief at 51.) Members of the public and a comment letter from the Attorney General both depicted the Plan's rising emissions in comparison with the Executive Order's climate stabilization targets, thus conducting, in abbreviated form, the very analysis that is contested in this case. (People's Answer at 31; AR 185:12684.)

One of the charts submitted by a member of the public puts the availability of this technology and the bad news of the 2050 Plan in such stark relief that it is worth reproducing here. More than any other graphic, it sums up the controversy in this case by showing so simply the kind of information that was missing from SANDAG's EIR.

The Total Emission Picture



(Plaintiffs' Brief at 23; AR 185:12684.)

III. The Kind of CEQA Analysis Required by the Court of Appeal Will Not Create Additional Burdens for Smaller Projects.

Even beyond the feasibility question, SANDAG has argued a grave, slippery-slope danger in this case. Fortunately, SANDAG's argument that, if Plaintiffs and the People prevail, "any project that does not decrease GHG emissions" will need an environmental impact report to estimate climate impacts (Reply, at 43) is hyperbolic and unfaithful to the careful opinion below.

First, it should be noted that proponents of smaller projects may avoid project-specific environmental review of impacts caused by greenhouse gas emissions if they are otherwise exempt, or by incorporating project changes and/or mitigation measures into their projects, or by complying with a qualified GHG reductions plan. (*See* Cal. Pub. Res. Code

§ 21084(b); 14 Cal. Code Reg. § 15064(h)(3).) Second, as this Court knows, it only granted review with respect “the environmental impact report for a regional transportation plan.” These plans are unlike other projects, because *the fundamental purpose of SANDAG’s Plan is to reduce transportation-related GHG emissions*. Given this express purpose, along with the extensive geographic scope and longevity of these regional plans, later courts will have no trouble applying the Supreme Court’s opinion in this case within its reasonable and appropriate limits.

Indeed, as noted by the Court of Appeal, part of the political bargain behind SB 375 was the concession that some projects enacted pursuant to regional transportation plans will “tier” off the program EIR for these plans and thus enjoy streamlined CEQA review. (Opinion at 12.) It is precisely because all small projects will be able to tier to this EIR and *not* have to do this review that the Program EIR for regional transportation plans is so important.

It is unfortunate that SANDAG has fought this case so hard, given that its own Climate Action Plan makes use of these tools. It would be sad and cynical news for future generations if SANDAG deployed these tools in an aspirational and under-enforced setting like a climate action plan, but then withheld them when it came to disclosing the environmental significance of the region’s functionally irreversible, multi-billion dollar infrastructure investments.

IV. California’s Regional Agencies Will Be Critically Important in Climate Stabilization, and State Law Requires Them to Rise to the Occasion of that Role.

Regional land-use and transportation planning – which cuts across the boundary lines of each municipality’s immediate self-interests – is a linchpin of efficiency in metropolitan planning, because it helps to avoid race-to-the-bottom competition among municipalities. It is a linchpin of equity, because it asks municipalities to carry a share of the housing, education, and transportation needs of a region’s low-income residents. And it is a linchpin of climate stabilization, because it allows municipalities to plan and invest in interlocal public transit infrastructure and multimodal transportation that reflect the complex commute and mobility patterns of the modern metropolis.

The Legislature constructed SB 375 around these goals. It found that automobiles and light trucks generate 30 percent of California’s greenhouse gas emissions and thus directed CARB to develop regional greenhouse gas emission reduction targets for these vehicles. (Stats. 2008, ch. 728, § 1, subd. (a); Cal. Gov’t Code § 65080(b)(2)(A).) It required metropolitan planning organizations like SANDAG to enact “sustainable communities strategies” (a telling name) that coordinate their region’s land use and transportation planning in a way that would meet CARB’s targets for reduced GHG emissions.

The regional transportation plan/sustainable communities strategy process now in effect in California is not just about plans. It is about billions of dollars of spending. As SANDAG described to the Court, its RTP was the “investment plan for federal, state, and local transportation funds.” (Opening Brief at 5). With \$214 billion in infrastructure investments to be made over a 40-year period, SANDAG’s 2050 Plan was a powerful instrument indeed. It is therefore disheartening – and fundamentally at odds with state climate policy – to read SANDAG’s protestations here that its “role in stabilizing the climate is small and uncertain” and that meeting the 2050 reductions goal “will require fundamental changes in policy, technology, and behavior” that “are largely outside SANDAG’s control.” (Reply Brief at 35; *see also* Reply Brief at 9, 32, 34, and 36 (repeatedly minimizing SANDAG’s role in GHG reductions due to uncertainty and the need for other sectors to act).) Within SANDAG’s control was funding and plans for infrastructure that could help get people out of cars and traffic jams in one of the state’s largest metropolitan areas – changes that would be as good for equity and quality of life as they would be for our atmosphere.

One more feature of SB 375 is at stake in this case: The regional transportation planning process under SB 375 imbeds a political bargain over CEQA that is undermined by SANDAG’s position. As noted briefly in Section III above, metropolitan planning organizations are charged with

conducting a program EIR for their sustainable communities strategy.

Once the strategy is approved, some transit-friendly development projects are exempt from CEQA requirements and other mixed-use and residential development projects aligned with the strategy are subject to streamlined CEQA analysis. (Cal. Pub. Res. Code §§ 21155–21155.4, 21159.28; 14 Cal. Code Reg. § 15183.3.) A weak model for CEQA review of regional transportation plans will ripple into smaller projects, thus undercutting SB 375 climate stabilization goals.

Needless to say, if all metropolitan planning organizations do what SANDAG does, a key tenet of state climate policy, SB 375, will be fundamentally diluted and undermined. The state cannot reduce emissions without local action, but neither will many local governments act without regional leadership. A second recent case from San Diego demonstrates the problem of collective inaction from intergovernmental buck-passing; in that case, the County of San Diego passed the buck to SANDAG just as SANDAG here passes the buck to higher governments. (*See Sierra Club v. Cnty. of San Diego*, 231 Cal. App. 4th 1152, 1168 (2014), *rev. denied* (Mar. 11, 2015) (describing the County of San Diego’s excuse that it failed to fund GHG-related mitigation measures because it is SANDAG, not the County, that “control[s] regional plans or allocation of regional transportation funding.”).)

Given on-road vehicles' 30 percent share of GHG emissions, given SANDAG's job at distributing billions of dollars in highway funds, and given the CEQA exemptions extended by the regional transportation plan process in a law whose core purpose is limiting those emissions, one must ask: If not SANDAG, then who? In the collective action versus collective paralysis problem that is the central crisis of climate change lawmaking, SANDAG has its role to play – a role assigned to it by SB 375 and the AB 32 Scoping Plan against the background public policy goal (climate stabilization by mid-century) first articulated in the Executive Order. Compliance with CEQA – including disclosure of the RTP/SCS's consistency with state climate policy and science – supports SANDAG in this endeavor by contributing to the public and member agencies' education, awareness, and action.

CONCLUSION

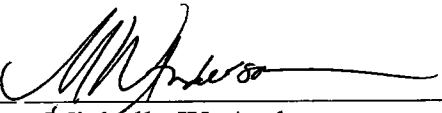
It is unfortunate that SANDAG did not rise to the occasion of organizing regional transportation investments to reduce the region's GHG emissions over the next 40 years. Standing alone, this failure does not violate state law. What SANDAG could not do, however, was falsely characterize that rising emissions curve as consistent with state climate policy. In recognition of the grave consequences of climate change, leadership in all branches of state government has made a serious commitment to reducing California's emissions through mid-century.


SANDAG's 2050 Plan EIR misled the public about the degree to which its investments would increase greenhouse gas emissions above the level necessary for the region to play its part in climate stabilization. It clouded the public debate about a \$214 billion infrastructure investment and the most significant interlocal land-use plan in the region.

The 2011 EIR in this case will soon, as a practical matter, be eclipsed by SANDAG's 2015 EIR for its 2050 Plan Update. The issue taken for review on this case, however, remains of vital public importance to the State of California going forward. Regional transportation plans are one of the rare opportunities for local public agencies to come together to coordinate transportation infrastructure to limit their greenhouse gas emissions. To comply with the public disclosure obligations of CEQA, such plans should be measured against the state's long-term commitment to climate stabilization. Grounded in the best available science, our state's Executive Order No. S-3-05 reflects that commitment.

DATED: Sept. 8, 2015

Respectfully submitted,

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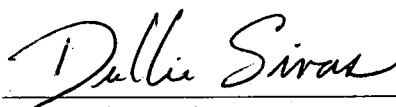
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FOUNDATION; CENTER FOR RACE,
POVERTY & THE ENVIRONMENT;
CLIMATE ACTION CAMPAIGN;
COALITION FOR CLEAN AIR;
COMMITTEE FOR GREEN FOOTHILLS;
COMMUNITIES FOR A BETTER
ENVIRONMENT; DEFENDERS OF
WILDLIFE; ENVIRONMENTAL DEFENSE
CENTER; ENVIRONMENT NOW;
ENVIRONMENTAL PROTECTION
INFORMATION CENTER; FOOD & WATER
WATCH; FRIENDS OF HARBORS,
BEACHES, AND PARKS; GREENBELT
ALLIANCE; HIGH SIERRA RURAL
ALLIANCE; HILLS FOR EVERYONE;
LANDWATCH MONTEREY COUNTY;
LEAGUE TO SAVE LAKE TAHOE; MARIN
CONSERVATION LEAGUE; THE MONO
LAKE COMMITTEE; MOUNTAIN AREA
PRESERVATION; THE NAPA COUNTY
FARM BUREAU; SANDIEGO350; SAVE
MOUNT DIABLO; SAVE THE BAY;
SIERRA NEVADA ALLIANCE; SIERRA
WATCH; THE SOLANO COUNTY
ORDERLY GROWTH COMMITTEE

CERTIFICATE OF WORD COUNT

Pursuant to Rule 8.520(c)(1) of the California Rules of Court, I hereby certify that this brief contains 5,695 words, including footnotes, but excluding the Application for Leave to File, Tables, and Certificates. I have relied on the word count of the Microsoft Word program used to prepare the brief.

DATED: Sept. 8, 2015

A handwritten signature in cursive script that reads "Deborah A. Sivas". The signature is written in black ink and is positioned above a horizontal line.

Deborah A. Sivas

CERTIFICATE OF SERVICE

LYNDA F. JOHNSTON declares:

I am over the age of eighteen years and not a party to this action. My business address is 559 Nathan Abbott Way, Stanford, California 94305-8610.

On September 8, 2015, I served the foregoing **APPLICATION FOR LEAVE TO FILE BRIEF AMICI CURIAE AND [PROPOSED] BRIEF OF AMICI CURIAE LEAGUE OF WOMEN VOTERS OF CALIFORNIA, et al. IN SUPPORT OF PLAINTIFFS and RESPONDENTS** on all persons identified below by placing a true and correct copy thereof in the United States Mail at Stanford, California, addressed to each recipient respectively as follows:

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Court of Appeal

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed September 8, 2015 at Stanford, California


LYNDA F. JOHNSTON

