



A Handrail in the Dark? Superior Court Rules No Legal Requirement to Evaluate Climate Change Under CEQA

On January 29, 2008, Riverside County Superior Judge Thomas Cahraman rejected Petitioners' claim in *Highland Springs Conference & Training Center v. City of Banning*, that the California Environmental Quality Act ("CEQA") mandates an evaluation of claimed greenhouse gas emissions for a proposed 1,453 unit project located in the City of Banning. The claim was brought by a number of environmental groups including the Center for Biological Diversity ("CBD"), which alleged the City and project applicant failed to assess and mitigate greenhouse gas ("GHG") emissions as part of the EIR certification for the residential housing project. CBD has filed similar lawsuits throughout California attempting to force local governmental agencies to assess and mitigate claimed GHG and climate change impacts under state and federal laws.

Judge Cahraman ruled as follows: "...[T]he court understands the importance of greenhouse gas emissions, but as pointed out in the opposition brief and at oral argument, no law required the Banning City Council to consider global warming at the time it approved this project ..."

While the court's ruling omits any detailed discussion or analysis of climate change law and the Petition was granted on other grounds, the case presents an important legal development in the land use and development context. In response to a spate of recent claims asserting that GHG must be addressed during the EIR certification process, there has been a flurry of activity by state and local governments to attempt to meaningfully address claimed GHG emissions and climate change impacts associated with a variety of development projects.

Last year the California legislature approved SB 97 which directs the California Office of Planning & Research to develop guidelines to become effective by no later than January 1, 2010 regarding how to address GHG and climate change under CEQA during the EIR certification



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process.

Many state and local agencies continue to grapple with how to address climate change. Until definitive legal standards, guidelines and CEQA thresholds of significance are adopted and implemented, the court's decision in *Highland Springs Conference & Training Center v. City of Banning* represents one trial court's view that no climate change or GHG analysis is currently required under CEQA.



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