

CLIMATE CHANGE & SUSTAINABILITY

We serve government and private clients looking to enact and proactively adapt to evolving climate change regulations

Our position as legal advisor to these entities has given us a unique and leading-edge vantage point on climate change issues. This perspective benefits all our clients, whether public or private. By applying our team's broad perspective, we have been able to advise our clients accurately and efficiently and to represent them successfully in litigation and before regulatory bodies, arbitrators, and mediators.

Analyzing Climate Change Impacts under CEQA and NEPA

Perhaps the biggest climate change policy issue facing our clients is whether and how greenhouse gas (GHG) emissions should be addressed under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). We are recognized as leaders in analyzing GHG and climate change impacts under these two laws as well as how enforcement of California Assembly Bill 32 (AB 32) will change GHG regulation in California. Our work and reputation in this area grew out of our representation of California's harbors, ports, airports, and utility and energy companies—key players who are acutely affected by mandates to reduce emissions of GHGs and other pollutants.

Our expertise in this area includes:

- Advising on the disclosure and quantification of a project's GHG emissions and their potential adverse environmental impacts
- Developing and applying standards to determine if the project's emissions will have a "significant" impact under the law
- Developing effective and enforceable mitigation measures and strategies to reduce emissions
- Advising on the use of exemptions and negative declarations for projects with potential global warming impacts

Reducing GHG Emissions through Local Land Use Choices

Meyers Nave's multidisciplinary structure enables our Climate Change practice to collaborate with other experts in the firm to help clients create climate change programs aimed at reducing GHG emissions locally.

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We advise:

- Cities and counties on the creation of climate action plans
- Local governments on the reduction of GHGs emitted by planned and existing transportation and building projects
- Local governments on the reduction of GHG emissions under broad-based planning policies (e.g., smart growth and transit-oriented development)
- Local governments on resource conservation
- Large emitters, such as ports and utility companies, on emissions reduction

Addressing Special Needs of Utility Companies

Utility companies face unique and significant challenges in complying with AB 32. We know how to help utilities identify and pursue the best available options for AB 32 adherence. We have negotiated and prepared agreements to exchange and purchase emission reduction credits, giving us insight into potential cap and trade programs for carbon emissions. We have also advised clients on constructing renewable energy facilities, such as solar, hydroelectric and cogeneration plants. Our services include preparing contract documents as well as advocating for qualifications-based delivery methods over the lowest-responsible-bidder approach.

Adopting Green Building Programs

We have helped public agencies draft and implement both mandatory and incentive-based green building regulations. This essential background informs our advice to public and private clients on green building programs and sustainable construction. Our advice addresses policy issues, such as enforcement under California's Green Building Standards Code and other regulatory frameworks, while taking into account practical considerations that are essential to the success of modern construction projects.

EXPERIENCE

SANDAG – Cleveland National Forest Foundation v. SANDAG (2017) 3 Cal.5th 497

Helped successfully litigate high-profile challenges to SANDAG's 2050 RTP/SCS EIR: Cleveland National Forest Foundation, et al. v. SANDAG (2017) 3 Cal.5th 497 (California Supreme Court) and Cleveland National Forest Foundation, et al. v. SANDAG (2017) 17 Cal.App.5th 413 (Court of Appeal).

Port of Los Angeles – The Climate MOU

Negotiated the MOU with the California Attorney General's Office that set the greenhouse gas inventory and impact protocols for more than a dozen large-scale projects on Port property, together with the mitigation frameworks agreed with environmental and

community groups. The MOU came out of the Trapac terminal review, and it fixed a working greenhouse gas methodology for the Port years before CEQA practice caught up to it. The community groups and the environmental groups let the analysis stand.

Los Angeles World Airports – Sustainability Action Plan

Real property counsel on the leases that turn LAWA's Sustainability Action Plan into built work. We negotiated the ground lease and the rooftop licenses for photovoltaic systems at Van Nuys Airport, which together will form one of the largest ground-mount solar electric systems in LADWP's service territory, along with a lease for EV charging near LAX and the long-term lease of the Airtel Hotel at Van Nuys.

County of Tulare – Climate Action Plan Litigation

Represented the County in CEQA litigation challenging its climate action plan and negotiated a settlement with conservation groups addressing greenhouse gas emissions.

San Bernardino Regional Greenhouse Gas Reduction Plan

We assisted San Bernardino Associated Governments (SANBAG) in development and adoption of a Regional Greenhouse Gas Reduction Plan and environmental impact report under CEQA. This was the first-of-its-kind effort by a regional agency to develop a plan that could be used by local agencies as the basis for individual GHG reduction plans. Our work involved novel issues relating to GHG reduction measures, CEQA analysis of the impacts of the implementation of reduction measures, and structuring an EIR for use by multiple agencies. The Regional Plan helped implement the GHG reduction goals of AB 32, SB 375, and the RTP/ Sustainable Communities Strategy adopted by the Southern California Association of Governments.

County of Los Angeles 2045 Climate Action Plan and EIR

Meyers Nave attorneys played a key role in providing strategic advice on, and review of, the County of Los Angeles's 2045 Climate Action Plan and its EIR. The 2045 CAP sets greenhouse gas reduction targets through 2045 aligned with state legislative targets, identifies reduction measures across major sectors, and includes a development-review consistency checklist for CEQA streamlining. The firm's compliance reviews included confirming the CAP meets CEQA Guidelines requirements for qualified greenhouse gas reduction plans from which project-level GHG analyses can tier.

Sacramento Municipal Utility District (SMUD) – Carbon Reduction and Electric Vehicle Penetration Policy Representation (CARB, CEC, CPUC)

Developed and advocated for innovative policies to support electric vehicle penetration, including the Low Carbon Fuel Standard, before CARB, the CEC and CPUC.

County of Los Angeles – Our County Sustainability Plan

Successful defense at the trial court and the Court of Appeal of the County's determination that its 2019 OurCounty Sustainability Plan was not a project under CEQA, *Save Our Rural Town v. County of Los Angeles* (2022) B309992.

Imperial County – Lithium Valley Specific Plan

Counsel on the specific plan and EIR for the 51,786-acre framework for geothermal energy, lithium extraction, battery production, and Salton Sea restoration, the ground California's carbon-free grid is being built on.

Refineries and associated terminals and pipelines – Refinery Greenhouse Gas “Source” and “Facility” Determinations Under CARB Programs

Meyers Nave advised on complex “source” and “facility” determinations to implement greenhouse gas requirements of the California Air Resources Board and other regulatory programs.

UC San Diego – Regional Decarbonization Framework CEQA defense

In 2024, the firm's attorneys successfully defended the County and UCSD against a claim that the County violated CEQA by receiving an update from its staff regarding a technical report prepared by the UCSD School of Global Policy and Strategy.

BNSF – Barstow International Gateway (BIG)

Meyers Nave is lead counsel to BNSF Railway Company (BNSF) on the Barstow International Gateway (BIG) project, one of the most significant private freight infrastructure investments in California history.