

Revised Draft of the LA County 2024 Climate Action Plan Fact Sheet

Background

The Revised Draft 2045 Los Angeles County Climate Action Plan (2045 CAP) is LA County's path toward meeting the goals of the Paris Agreement. The 2045 CAP is an update to the 2020 CAP, and it sets new GHG emissions reduction.

The 2045 CAP includes the following elements:

- A GHG emissions inventory from communitywide activities in unincorporated Los Angeles County in 2018, along with a baseline inventory for 2015.
- Projections of future emissions for 2030, 2035, and 2045.
- GHG emissions reduction targets for 2030, 2035, and 2045.
- A long-term aspirational goal for carbon neutrality by 2045.
- Climate strategies, measures, and actions to reduce GHG emissions from major sectors.
- Technical modeling appendix to explain the GHG emissions reduction estimates.
- A consideration of environmental justice and equity concerns.
- Implementation and monitoring measures to ensure successful climate action.
- A new development review consistency checklist to allow future projects to streamline GHG emissions analyses pursuant to the California Environmental Quality Act (CEQA).

Overview of Concerns

The Draft CAP's wind-ranging measures cause unexpected and adverse consequences to housing, jobs, infrastructure and other County priorities. The Draft CAP would create a sweeping, **mandatory** regulatory program applicable to any new project triggering the California Environmental Quality Act.

- The Draft CAP creates an effective moratorium on small business, advanced manufacturing, and dozens of other vibrant and high priority economic development priorities that serve as the employment engine by requiring a "jobs density" of 300 jobs per acre. This job density metric can be met only in exceptional circumstances (e.g., high rise, high service employer like a hospital). It cannot be achieved by small business retailers, modern manufacturing facilities, many hybrid workforces with remote employees, entertainment or religious venues, etc.
- The Draft CAP demands that 90% of all water consumed within the unincorporated County boundaries, and 80% of agricultural irrigation water, be supplied exclusively by local water sources consisting of reclaimed water, graywater, and potable recycled water by 2045, which is well within the life of new housing, commercial and infrastructure projects. Not only is this CAP Measure legally and technically infeasible, it would hamstring County priorities of expanding housing and economic diversification dependent on reliable water supplies.
- The Draft CAP defers numerous requirements to an unknown future date and does not quantify many other measures. As just one example, the Draft CAP defers a centerpiece "Offsite GHG Reduction Program" that is necessary for compliance when local GHG reduction programs are unavailable or infeasible. Recent precedent demonstrates that very few local GHG reduction programs are viable at scale. Even if available, many local programs are extremely expensive and time consuming to implement—effectively rendering the programs prohibitive for many projects. It is

impossible to assess the feasibility and effectiveness of the Draft CAP until this Offsite GHG Reduction Program is adopted by the County and demonstrated feasible.

- The Draft CAP does not quantify GHG emission reductions or the estimated costs and sources of funding for almost all of the myriad mandatory measures. Neither the Draft CAP, its Technical Appendices, nor the 1000+ page PEIR, disclose the quantity, cost, or revenue source for each of CAP measure except for a handful of “core” measures that are largely based on statewide laws and regulations required to be implemented with or without any County CAP. CAP measures, which are fully enforceable General Plan mandates, will impose prohibitively high costs on employers and residents of new housing without any significant GHG reductions beyond those already required by state laws and regulations.
- The Draft CAP includes a web of overlapping documents that are difficult to understand and assess the ramifications on housing, jobs, mobility and infrastructure. For example, the Draft CAP mandates compliance or an infeasibility determination for well over 50 measures that are linked to various “strategies” that may or may not be binding on all projects. What is more, the PEIR includes many Mitigation Measures that further expand the list of mandatory obligations.
- The Draft CAP explains that any project that fails to comply with **all** CAP measures would be inconsistent with the CAP, and under CEQA would accordingly result in a significant adverse GHG impact precluding use of CEQA streamlining tools, and would further need to adopt “all feasible” mitigation measures as well as justify with “substantial evidence in the record” why the project could not comply with each and every CAP measure. Each such substitute measure, and each finding of infeasibility, would invite CEQA litigation known to slow or stop housing and new jobs. The CAP should be revised to include a full assessment of the feasibility of each measure for the myriad of housing, employment, and infrastructure projects required to fulfill other General Plan, economic development, equity and environmental priorities.
- The Draft CAP does not provide meaningful relief through alternative compliance strategies. The limited alternative options are not fully defined or deferred to future development, while the feasibility of achieving “all local” reductions remains unproven.

October 24, 2023

Los Angeles County Department of Regional Planning
Attn: Amy Bodek and Thuy Hua
320 W. Temple Street, 13th Floor
Los Angeles, CA 90012
climate@planning.lacounty.gov

RE: LA County Climate Action Plan: Respectfully Requesting Additional Time

We are contacting you on behalf of the Los Angeles County Business Federation (BizFed), an alliance of over 240 business organizations who represent over 410,000 employers in Los Angeles County. First, we want to reiterate that we strongly support the County's and California's climate leadership. We remain committed to implementing feasible state and local climate GHG reduction measures while advancing complimentary policies to further equality, employment, infrastructure and housing.

As California continues to lead on global climate policies and technologies, any homes and jobs generated in Los Angeles will be among the most sustainable and climate-friendly in the world. Conversely, any unintended consequences that harm housing and job growth in Los Angeles will undercut local and state climate goals.

Our members are deeply concerned about the many unanswered questions raised by the Final Draft 2045 County Climate Action Plan (Draft CAP) and its potentially far-reaching impact on housing, jobs, mobility, and infrastructure. The Draft CAP would create a mandatory regulatory program applicable to any new project triggering the California Environmental Quality Act. Our members and expert environmental consultants have carefully reviewed the lengthy initial draft release documents and technical appendices, and we now continue to review the current draft CAP and PEIR, we have fundamental questions and concerns about the proposal.

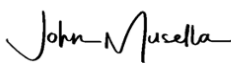
In light of the complexity surrounding the CAP and PIER, coupled with the far-reaching consequences that this proposal entails, it is evident that we are facing a substantial challenge. The intricacies of this plan demand thorough examination, understanding and the opportunity for the public and business community to provide insightful feedback. **To achieve this, it is imperative to extend the review process an additional 60 days.**

Furthermore, it has become increasingly clear that we must conduct a comprehensive Economic Impact Analysis. This analysis is essential to gain a holistic understanding of how this proposal may affect business and its potential implications to meeting the County Approved General Plan/Housing Element Regional Housing Needs Assessment goals. It is crucial to align this endeavor with the County's climate goals, recognizing that the CAP plays a pivotal role in achieving them.

We encourage a thoughtful and inclusive approach to ensure the CAP is developed with full consideration of the impacts to the region. Our commitment to the well being of our community the success of our County's environmental goals necessitates these measures.

We look forward to continuing working with the County on these important issues. Please feel free to reach out to us with any questions. If you have any questions, please contact sarah.wiltfong@bizfed.org.

Best regards,



John Musella
BizFed Chair



David Fleming
BizFed Founding Chair



Tracy Hernandez
BizFed Founding CEO



David Englin
BizFed President

CC:

LA County Board of Supervisors
LA Regional Planning Commissioners

May 15, 2023

Via e-mail at:
climate@planning.lacounty.gov

Thuy Hua
320 W. Temple Street, 13th Floor
Los Angeles, CA 90012

Re: *Comments on Los Angeles County Revised Draft 2045 Climate Action Plan (Draft CAP)*

Dear Ms. Hua,

We are contacting you on behalf of BizFed, the Los Angeles County Business Federation. We are an alliance of over 200 business organizations who represent over 400,000 employers in Los Angeles County, including large and small businesses from a wide range of industries throughout the South Coast Air Basin (SCAB). We are writing to comment on the LA County Revised Draft 2045 Climate Action Plan (Draft CAP).¹ Many of the businesses we represent have or will be writing their own individual comment letters that specifically address the impacts to their industries. Our comments address the impacts to the business community as a whole and include overarching concerns of our diverse membership.

The Draft CAP identifies 10 strategies, 25 measures, and implementing actions to reduce GHG emissions in unincorporated LA County. The Draft CAP requires project applicants to demonstrate compliance with each implementing action. Project applicants that cannot implement these actions would be expected to demonstrate equivalency or participate in the County's proposed Offsite Reduction Program, or their greenhouse gas (GHG) emissions impacts will be determined to be "significant and unavoidable" under the California Environmental Quality Act (CEQA).

Certain actions proposed in the Draft CAP would appear to directly conflict with other significant County priorities, such as economic growth and housing availability, and it is not currently feasible to implement many of the required actions. Additionally, several proposed measures would rely upon State and Federal actions that are outside the County's jurisdiction. The Draft CAP also fails to consider the implementation challenges associated with the proposed Offsite Reduction Plan. As detailed below, the enforceability of the Draft CAP will create significant problems for the County. For these reasons, BizFed recommends that the Draft CAP not be adopted into the General Plan.

We provide the following detailed comments.

¹ LA County Revised Draft 2045 Climate Action Plan. Available at: <https://planning.lacounty.gov/long-range-planning/climate-action-plan/documents/>. Accessed: May 2023.

1. The Draft CAP is inconsistent with the County’s economic goals, and inconsistent with the goals of the General Plan and Housing Element.^{2,3}

The 2045 CAP Consistency Review Checklist (Checklist) provides a list of measures with which project applicants must comply.⁴ These measures are inconsistent with the economic goals and General Plan goals, including those stated in the Housing Element. For example:

- Checklist Item 12, “Achieve a High Jobs/Housing Balance,” would require project applicants to describe how their project will achieve a job density of 300 jobs per acre. This creates an effective moratorium on small business, advanced manufacturing, and other businesses that serve as the employment engine of the County. Such a job density metric can only be achieved in exceptional circumstances (e.g., in a high rise, high service employer like a hospital). It cannot be achieved by small businesses, modern manufacturing facilities, businesses that utilize a hybrid workforce, the goods movement sector, entertainment or religious venues, schools, recreational facilities, or on college and university campuses.

Table 1 provides the average employment densities of common categories of commercial use, none of which come close to the 300 employee per acre requirement in the Draft CAP.⁵

Sector (NAICS Codes)	Mean	Median	Interquartile Range	Sample Size
Manufacturing (31, 32, 33)	18.8	11.0	15.7	217
Transportation and Warehousing (48, 49)	11.2	8.0	10.8	34
Construction (23)	19.4	9.9	18.4	122
Wholesale Trade (42)	12.8	8.0	11.1	132
Retail Trade (44,45)	13.0	7.1	11.6	65
Real Estate and Rental and Leasing (53)	5.7	2.2	5.8	24
Administrative Support and Waste Management and Remediation Services (56)	22.5	20.3	22.0	25

New commercial, manufacturing, infrastructure, tourism, entertainment, church, and educational uses that do not have 300 employees per acre would be inconsistent with the Draft CAP as proposed. The projects would therefore be required to complete a comprehensive GHG analysis which could lead to a costly legal battle about what substitute measure(s) can be implemented to achieve the GHG performance target. The Draft CAP does not include a methodology to demonstrate equivalency with the job density per acre requirement. Therefore, prospective employers would not know how to demonstrate compliance with this CAP mandate.

- The Draft CAP counts GHG emissions that occur within the geographic boundaries of unincorporated Los Angeles county lands in the County’s GHG inventory, and then

² LA County General Plan. Available at: https://planning.lacounty.gov/wp-content/uploads/2023/03/gp_final-general-plan.pdf. Accessed: May 2023.

³ Revised County of Los Angeles Housing Element (2021-2029). Available at: <https://planning.lacounty.gov/wp-content/uploads/2022/11/housing-element-20220517.pdf>. Accessed: May 2023.

⁴ Draft CAP Appendix F: 2045 Climate Action Plan Consistency Review Checklist. Available at: https://planning.lacounty.gov/wp-content/uploads/2023/03/LA-County-2045-CAP_Rev_PublicDraft_AppendixF-Checklist.pdf. Accessed: May 2023.

⁵ Rohan, Catherine. Industrial Zoning & Employment Density: A Missed Connection? June 2020. Available at: https://scholarsbank.uoregon.edu/xmlui/bitstream/handle/1794/26252/CRohan_ExitProj_Final.pdf?sequence=1&isAllowed=y. Accessed: May 2023.

demands that these GHG emissions become net-zero by 2045. When jobs or families move out of the County, the reduction in GHG emissions counts toward meeting the net zero targets. The County's GHG inventory methodology rewards the de-growth of the county, penalizes growth in housing, jobs, and population. This is inconsistent with the County's General Plan, which includes a guiding principle to provide the foundation for a strong and diverse economy. It is also inconsistent with the Housing Element, which includes goals to ensure housing availability, ensure housing affordability, and stabilize the housing supply.

2. The Draft CAP would require project applicants to comply with measures that are infeasible and conflict with other County mandates and policies.

The development of Los Angeles County was and remains dependent on a diverse, resilient water supply that includes imported water. Draft CAP Measure E5, "Increase Use of Recycled Water and Graywater Systems" includes a performance objective that 90% of the water demands of Unincorporated Los Angeles County must be met by recycled water, graywater, or potable reuse, and that 80% of water for agricultural irrigation or and industrial uses must be supplied exclusively by recycled or graywater by 2045. Under this CAP Measure, no imported water source – including water delivered directly to the County, and water purchased and stored for use in the County, and no de-salinization technology or other technology falling outside the three designated technologies, can supply more than 10% of the County's total water demand.

This measure is legally infeasible. The County has and is party to numerous water infrastructure, supply, and management contracts that govern imported water, which is by far the largest source of water to the County and cities within the County. This measure is also technically infeasible. While all three of the exclusively-sanctioned water treatment technologies have already been invented and implemented on a very small scale in limited areas, all of these treatment technologies effectively concentrate nitrate and other residual chemicals in the treated water supply, and these treated waters must be blended with fresh water to be potable.

Finally, this measure conflicts with other County General Plan, policy, and state law legal mandates. The County is required by its own General Plan as well as state law to implement its approved Housing Element, and plan for and approve plan-compliant housing for many thousands of new homes. New homes cannot be built without adequate water supplies. The Draft CAP would cause the County to violate housing laws by disapproving new housing that are not supplied by a minimum of 90% recycled, grey water, and potable recycled water, none of which are currently available to meet the potable drinking water needs of housing built today. The County also cannot achieve its economic diversification goals, including attracting additional advanced manufacturing, battery and climate-tech, aerospace, research, medical, and technology employers, without providing an adequate, secure, and high-quality water supply.

The Draft CAP, if adopted into the General Plan as proposed, applies directly and immediately to the County's own projects, and to the County's approval of project applications. The legal risks and compliance costs of the water mandate will result in immediate challenges to County funded projects (e.g., infrastructure, arts, parks), and County-approved and applicant-proposed housing and job-creation projects that meet other urgent County needs and legal obligations.

The Draft CAP blocks the County's access to innovative, climate-resilient, and clean technologies with mandatory prescriptions for which technologies are acceptable and which are not. In the context of water supply, the Draft CAP locks decades-old recycling, grey water, and potable water re-use technologies into the General Plan, proactively depriving

the County and its residents and businesses from using safe, clean, affordable, and reliable water supply solutions that have not yet been deployed at scale, or even invented.

3. Several measures rely upon State and Federal actions that are outside the County's jurisdiction.

The Draft CAP includes a web of overlapping documents, each of which adds new mandates and complexities to the compliance obligations. For example, the Draft CAP itself lists only 10 high level "Strategies" in 5 sectors for reducing GHG.⁶ The Draft CAP includes 25 "Measures" within those strategies, and "over 90 implementation actions". The Program Environmental Impact Report (PEIR) mitigation measures add dozens of additional mandates to the total CAP measure list.⁷

While the Draft CAP states the County's GHG reduction target will be achieved by successfully implementing five core measures,⁸ it imposes more than 100 additional measures on future County projects. Moreover, the Draft CAP fails to disclose quantified GHG emission reductions, estimated costs, or sources of funding for almost all of the 100 mandatory CAP measures. Even if the County were inclined to allow "equivalent" GHG reductions in lieu of CAP-prescribed measures, the CAP provides no methodology for calculating how much GHG reduction is attributable to each measure.

The Draft CAP explains that any project that fails to comply with all CAP measures would be inconsistent with the CAP, be deemed to have a significant adverse GHG impact and need to adopt "all feasible" mitigation measures as well as justify with substantial evidence why the project could not comply with each and every measure.⁹ However, of the five core measures that result in the bulk of the GHG reductions, only Measure W1, "Institutionalize Sustainable Waste Systems and Practices," falls within the jurisdictional control of the County. The remaining four core measures fall outside of County control:

- Measure T6: "Increase ZEV Market Share and Reduce Gasoline and Diesel Fuel Sales." The County's role in achieving this objective is most clear in the vehicle purchasing decisions by the County, and in mandating ZEV-charging infrastructure. The County cannot lawfully ban the sale or use of non-ZEV vehicles, yet the Draft CAP demands that 68% of all light duty vehicles (pickup trucks, vans, and cars) sold in the County be ZEVs by 2030 and 100% by 2035. This is state law, authorized only with approval by the US EPA, but its inclusion accounts for 30.5% of the GHG reductions stated in the Draft CAP. These reductions would be achieved with or without the Draft CAP.
- Measure ES2: "Procure Zero-Carbon Electricity." The County's performance metrics for this goal rely on state laws that already require a renewable energy electric grid, and state and local utility mandates and programs already in place and slated for expansion. The Draft CAP can commit the County to procure only zero carbon electricity, but the Draft CAP also requires 96% of community participation in this zero-carbon electricity mandate by 2030. The County lacks the legal jurisdiction to mandate this outcome for existing and future residents and businesses.
- Measure E1: "Transition Existing Buildings to All-Electric." The Draft CAP demands that 80% of existing residences, 60% of existing non-residential buildings, and

⁶ Draft CAP. Table 3-1, Page 3-3. Available at: https://planning.lacounty.gov/wp-content/uploads/2023/03/LA_County_2045-CAP_Rev_Public_Draft_March_2023_Chapters.pdf. Accessed: May 2023.

⁷ Draft CAP Recirculated Draft Program Environmental Impact Report, Table ES-2, Page ES-20. Available at: <https://planning.lacounty.gov/wp-content/uploads/2023/04/LA-2045-CAP-Recirculated-Draft-Program-EIR.pdf>. Accessed: May 2023.

⁸ Draft CAP. Page 3-5. Available at: https://planning.lacounty.gov/wp-content/uploads/2023/03/LA_County_2045-CAP_Rev_Public_Draft_March_2023_Chapters.pdf. Accessed: May 2023.

⁹ Draft CAP. Page 1-5. Available at: https://planning.lacounty.gov/wp-content/uploads/2023/03/LA_County_2045-CAP_Rev_Public_Draft_March_2023_Chapters.pdf. Accessed: May 2023.

100% of renovations, include only electric, not natural gas, service. While the County can mandate this transition for its own buildings, the United States Court of Appeals for the Ninth Circuit has recently confirmed that local governments cannot prohibit the use of natural gas in buildings or appliances in new buildings because this has been preempted under federal law.¹⁰ Removing natural gas service from existing structures is likewise preempted. Therefore, this CAP measure is beyond the County's jurisdiction.

- Measure T8: "Accelerate Freight Decarbonization." State and federal litigation is pending over the extent to which the state can mandate heavy duty EV trucks. The County CAP can require measures such as installation of EV chargers to facilitate this transition, but achieving this freight decarbonization outcome will be dependent on legal proceedings that are outside the County's jurisdiction and control.

4. The Draft CAP fails to consider the implementation challenges associated with the proposed Offsite Reduction Plan.

The CAP requires that project applicants that cannot demonstrate consistency with every item in the Checklist instead fund projects that will generate equivalent reductions in LA County via the County's Offsite GHG Reduction Program. The County plans to create its own GHG offsite registry so that project applicants can comply with this requirement. At the time of this Draft CAP publication, the County has not yet created this offset registry, nor provided any details about its methodology or implementation. The Draft CAP has not demonstrated that this offsite GHG reduction program would be available or able to achieve the required GHG reductions.

Appendix F of the Draft CAP provides examples of six offsite project types that would qualify under this program. However, these examples are either already required under existing State or County regulations, or for that matter the Draft CAP. For example, the Draft CAP proposes that project applicants can fund local building solar programs as part of their offsite GHG reduction program. However, the Draft CAP would require that new projects utilize 100% zero-carbon electricity on-site and the Title 24 2022 Building Energy Efficiency Standards already contain mandatory requirements for solar readiness (Note, these are not the same requirement). Therefore, an applicant could not use funding of local building solar programs as part of the offsite GHG reduction program, as the reductions would not be in addition to reductions required by existing requirements.

The Draft CAP also rejects use of the CARB-approved Net-Zero GHG compliance pathway by expressly disallowing GHG reductions achieved by CARB-approved GHG offsets. Instead, the Draft CAP allows for a County-only GHG reduction offset credit program, but includes zero information about the cost, feasibility, schedule, or scale of any such future program. The Draft CAP demands that GHG reductions achieved by projects must be fully additional to federal, state, and local law mandates in order to count as GHG reductions in any future County offset program.

Given the existing comprehensive regulatory requirements, it will be extremely difficult (and expensive) for project applicants to implement GHG reduction programs within the County. The Draft CAP has neglected to report the potential cost of their proposed offsite GHG reduction program, which could potentially be at much higher costs than comparable programs that could be equally effective at reducing GHG emissions.

¹⁰ California Restaurant Association vs. City of Berkeley. No. 21-16278. United States Court of Appeals for the Ninth Circuit, 2022. Available at: <https://cdn.ca9.uscourts.gov/datastore/opinions/2023/04/17/21-16278.pdf>. Accessed: May 2023.

The Draft CAP misleadingly references the Scoping Plan to suggest that only local reductions are recommended. The Scoping Plan recommends a tiered approach that offers applicants some flexibility. The exact language of the Scoping Plan reads:

*"If a project needs further GHG reductions after adoption of all feasible local, off-site mitigation options, **applicants should next consider non-local, off-site mitigation...**"¹¹*

The Scoping Plan prioritizes onsite and local measures but allows non-local measures and offset credits. The Draft CAP should follow the precedent set by the Scoping Plan and allow a tiered approach to offset credit mitigation to address the need for GHG reduction.

5. The Draft CAP should not be adopted as a component of the County's General Plan

The County approved the only major mixed use master planned communities recognized by the California Air Resources Board (CARB) to have achieved Net Zero GHG. The Draft CAP does not create any feasible new Net Zero GHG compliance pathway for any project, undermining CARB's resolution to endorse net zero GHG project outcomes similar to those already achieved. The Draft CAP only creates a net zero GHG compliance pathway for like-kind replacement projects that emit less GHG on the same site. This outcome is easily achieved for replacement projects, but there is no pathway provided for projects that would include new uses on the same site or increase land use densities. The Draft CAP would result in housing projects that are in full compliance with the Housing Element and every existing GHG reduction mandate being in violation of the County's General Plan.

CARB's Scoping Plan encourages local Climate Action Plans to support the State's goals, stating:

"California's overall state goal of achieving carbon neutrality no later than 2045 can also inform GHG reduction targets at individual community levels, and some communities or regions may be able to reach neutrality themselves. However, it is important to design targets in ways that support overall state goals, recognizing that each region has distinctive sources and systems."¹²

The Draft CAP should be revised to exclude measures that are in conflict with other County-approved plans, policies, and projects. Once included in the General Plan, compliance with the Draft CAP would be mandatory. Neither elected officials nor staff could authorize deviations from the Draft CAP without amending the General Plan. Third parties seeking to block funding or approvals of infrastructure, job-creation, and housing projects could also sue the County by alleging failure to fully comply with the General Plan; applicants receiving County approvals for such projects would also be targets for such lawsuits.

Inclusion of the Draft CAP in the General Plan would also create new County obligations and expand litigation risks under CEQA. As the Draft CAP itself explains, any project that failed to comply with all applicable requirements would be deemed to conflict with an environmental component of the General Plan. These conflicts would trigger the necessity for an Environmental Impact Report (EIR), and preclude the County or applicants from making use of less costly, less time-consuming, and less litigious CEQA compliance pathways. The Draft CAP specifies that for each non-compliant CAP measure, the "infeasibility" of such a measure must be demonstrated with substantial evidence. Each one

¹¹ California Air Resource Board, 2022 Scoping Plan. Appendix D – Local Actions, Page 31. Available at: <https://ww2.arb.ca.gov/sites/default/files/2022-11/2022-sp-appendix-d-local-actions.pdf>. Accessed: May 2023.

¹² California Air Resource Board, 2022 Scoping Plan. Appendix D – Local Actions, Page 18. Available at: <https://ww2.arb.ca.gov/sites/default/files/2022-11/2022-sp-appendix-d-local-actions.pdf>. Accessed: May 2023.

of these “infeasibility” findings, as well as the sufficiency of any alternative CAP measure, is also subject to challenge in CEQA and General Plan compliance lawsuits.

The Draft CAP locks county elected and appointed officials, and voters, into rigid and long-term compliance obligations. Once adopted, the CAP cannot be amended without undergoing further CEQA review inclusive of adoption of “all feasible mitigation” to achieve either the same or a modified GHG reduction goal. San Diego County adopted what its Board of Supervisors believed to be an aspirational CAP into its General Plan in 2018.¹³ The CAP was fully-enforceable under the General Plan and was considered a CEQA mandate. Litigants have an unbroken string of lawsuit successes in blocking multiple new housing projects in San Diego County. San Diego County attempted to amend its CAP and allow the use of CARB-approved and other GHG offsets to mitigate GHG emissions, but that was unsuccessful.

An aspirational CAP vote taken decades ago by the San Diego County Board of Supervisors has become one of the most formidable anti-housing, anti-growth tools in California history. Solano County suffered the same fate when its General Plan aspirational CAP also failed to pass a no-growth advocacy CEQA lawsuit challenge. Looking at this woeful record of local agency losses when CAPs were included in General Plans, even the most pro-climate jurisdictions in California (e.g., San Francisco), have recently opted not to include CAPs in their General Plans, while others have carefully drafted CAPs to assure that they are clear, feasible, implementable, and operate in alignment with and support other approved General Plan elements, as well as other policy priorities, plans and obligations.

The County’s current General Plan CAP was carefully crafted to be fully attainable, and the County has prevailed in CEQA lawsuits challenging projects based on alleged inconsistency with the present CAP. In contrast, this Draft CAP’s inclusion of technically and legally infeasible measures, as well as undefined and unquantified measures, and its rejection of lawful and feasible climate compliance mandates, will result in litigation challenging infrastructure, housing, job-creation, and other projects. There is no federal, state or County obligation to approve even an aspirational policy CAP, let alone adopt a CAP into the General Plan.

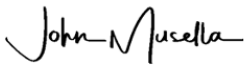
Once adopted into the General Plan, the Draft CAP cannot be modified without additional CEQA review. Future amendments that may make the CAP feasible can themselves be litigated for many years while progress on projects comes to a grinding halt. The Draft CAP should be substantially revised into an aspirational policy document that focuses solely on feasible GHG reduction measures which are within the jurisdiction of the County to implement, operate in full alignment and support of the County’s economic development, housing, and infrastructure goals, and do not increase the cost, time, or litigation risks for the County or applicants. The Draft CAP should separately quantify GHG reductions from the successful implementation of statewide laws and mandates, and present what additional measures, if any, should be undertaken by the County. We ask that the county do an economic impact study prior to any final adoption of the plan.

BizFed supports California’s global climate leadership, and our members are committed to assuring that state and local climate measures can be feasibly implemented in furtherance of other critical California priorities such as the continued growth of the California economy, the increased equity and upward mobility for our working families and employers, the funding and timely completion of urgently needed transportation, water and other infrastructure, and the implementation of the housing elements approved by our cities and counties to solve our regional housing crisis. We look forward to continuing our work with LA County to see progress made in a way that is equitable and lasting.

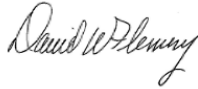
¹³ San Diego County 2018 Climate Action Plan. Available at: <https://www.sandiegocounty.gov/content/sdc/sustainability/climateactionplan/2018cap.html>. Accessed: May 2023.

Thank you for your consideration of our letter and we look forward to meeting with you in the near future to review our letter and talk in detail about our concerns. If you have any questions, please contact Sarah Wiltfong, BizFed’s Director of Policy and Advocacy, at sarah.wiltfong@bizfed.org.

Sincerely,




John Musella
BizFed Chair



David Fleming
BizFed Founding Chair



Tracy Hernandez
BizFed Founding CEO



David Englin
BizFed President