Under the California Environmental Quality Act (CEQA), local governments and state agencies in California must analyze the environmental impacts of any permit to approve a new development project, and must identify and promise to implement mitigation to the extent feasible, before approving the project. Over the last two years, it has become clear that climate change impacts – specifically, a project's contribution to greenhouse gas emissions that cause climate change – must be included in this analysis.

This use of CEQA has been at least partly responsible for an important trend among local governments and land developers toward more robust planning, analysis, and mitigation around GHG emissions – specifically, reduction in energy consumption relating to project-related construction, operations, and transportation. (I may do another post soon explaining this in more detail. This page from the California Attorney General's Office does a good job explaining some of what's going on; Attorney General Jerry Brown has been very aggressive in pushing governments to factor climate change into their CEQA analysis.)

While our state and local officials are grappling with how to accomplish this analysis, some organizations – notably the Center for Biological Diversity – are moving forward to challenge large projects that have inadequately analyzed (Disclosure: I'm on the advisory board for the Center for Biological Diversity's new Climate Law Institute.) Yesterday, there was an interesting trial court ruling in a case brought by CBD that will force a local government and Wal-Mart to go back to the drawing board in analyzing GHG emissions before the Wal-Mart can be approved.

The ruling, by the Superior Court of San Bernardino County, California (Hon. Barry Plotkin), held that a proposal to build a Wal-Mart in the City of Yucca Valley (near Joshua Tree National Park) could not move forward because the City's pre-approval environmental review did not adequately analyze the contributions of project-related greenhouse gas emissions to climate change. The court found, among other things, that the environmental impact report for the project did not adequately consider the argument that there would be a significant impact on climate change from the project, based on recent, high-quality analysis and guidance from a consortium of state air quality agencies.

The court will require the City and Wal-Mart to analyze and take public comment on an "environmentally superior 'green' Wal-Mart Supercenter alternative" and, if the City concludes that alternative is infeasible, to justify any decision not to implement

it. Here is CBD's media release about the decision.

This decision is part of a significant trend. Cities and businesses will have to take greenhouse emissions very seriously under CEQA and other laws; the municipalities and businesses that are ahead of the curve will benefit greatly.