Cara published a terrific summary of a tentative California superior court decision in which the court held that the state's Air Resources Board (CARB) violated the California Environmental Quality Act (CEQA) in implementing AB 32, the state's landmark climate change legislation. The CEQA portion of the ruling — should the judge stick with it when he finalizes his decision — is a setback for efforts to implement California's law. But I think it's worth emphasizing that it's only a temporary setback and one that may not even have the effect of delaying the air board's climate change plan. Here's why:

First, if the judge's decision is finalized, CARB will very likely appeal and will very likely seek (and may well win) a stay of the injunction preventing the Scoping Plan (which sets forth how CARB will implement AB 32) from going into effect;

Second, if CARB succeeds in getting the injunction stayed, it can work during the lengthy appellate process to fix the violations of CEQA so that even if CARB loses on appeal it loses no implementation time. The violations are largely about conducting a more thorough analysis of alternatives to the Scoping Plan.

It's also worth emphasizing a point that Cara made as well: the state ***won*** on all of the plaintifffs' claims that the Scoping Plan violates AB 32 itself. The court decision is, appropriately in my view, highly deferential to the complex decisions CARB has had to make in implementing legislation that requires economy wide limitations on greenhouse gases. The state also won on one of the principal CEQA claims, that the programmatic review CARB conducted is sufficiently detailed.

So the tentative ruling, should it become permanent, will create some bumps in the road toward AB 32 implementation but I predict that the bumps will be only small ones.