

The California Supreme Court issued an order today that allows the California Air Resources Board (CARB) to continue implementing its cap and trade program.

The history here is somewhat convoluted. The state's plan (called the scoping plan) to implement the California Global Warming Solutions Act contains within it a cap and trade program. A group of environmental justice advocates has long opposed cap and trade as a means to reduce greenhouse gases and voiced that opposition consistently throughout the process leading to the adoption of the scoping plan. After CARB adopted its scoping plan containing the cap and trade program, the advocates then sued the state on behalf of a group called the Association of Irrigated Residents (AIR) alleging that the cap and trade program violated state law in a number of ways. The trial court in the case, *Association of Irrigated Residents v. CARB*, issued a ruling upholding much of the state's plan but also held that the board's environmental review of the scoping plan was flawed. More specifically, the trial court held that CARB had failed to thoroughly analyze alternatives to the cap and trade program, including a carbon tax. For more detail on the original trial court ruling see Cara's post [here](#). The court also prohibited the Board from proceeding with the implementation of cap and trade until the appeals were exhausted.

The state then appealed both the substance of the trial court order and, separately, the decision not to allow the Board to proceed in implementing cap and trade pending the outcome of the appeal. The California Court of Appeal has not yet decided the substantive portion of the case but it [overturned](#) the trial court ruling and allowed the state to move forward with cap and trade implementation. AIR then appealed the court of appeals decision to the Supreme Court. The Supreme Court sided with the Court of Appeal, thus allowing the state to continue with the business of implementing cap and trade.

In the mean time, the state has completed a new environmental review that more extensively analyzes alternatives to cap and trade (see my post [here](#) for an explanation) and [approved](#) both the new assessment and a new scoping plan in late August. CARB has also continued with the implementation of the cap and trade program, though has [slowed down](#) full implementation just a bit. The Supreme Court's ruling won't change anything for now but it does mean that the only legal hurdle that CARB now faces for full cap and trade implementation is the pending decision by the Court of Appeal on the substance of the AIR v CARB case.