

No Right to Appeal LEA's Certification of EIR for Solid Waste Facilities Permit to Board of Supervisors

In *No Wetlands Landfill Expansion v. County of Marin* the First District Court of Appeal held that community organizations had no right to have the county's board of supervisors hear an appeal of an EIR certification determination by the county's solid waste management agency. The decision addresses the interplay between the CEQA and the Integrated Waste Management Act.

Acting as the designated local enforcement agency under the Waste Management Act, Marin County Environmental Health Services certified an EIR for issuance of a revised solid waste facilities permit to the operator of a landfill adjacent to the Petaluma River

Community groups attempted to appeal the certification decision to the board of supervisors, but county counsel denied the request, stating an appeal to the board was not available.

The community groups then filed a petition for writ of mandate, which the trial court granted, ruling the board of supervisors was required to hear the appeal. The court of appeal, however, sided with the county, concluding the board had no duty to review the certification decision.

Under the Waste Management Act, the court ruled, Marin EHS acting as local enforcement agency had responsibility for issuing the permit and, for this reason, acted as the CEQA lead agency for the EIR. CEQA provides for an appeal to a local lead agency's elected decisionmaking body if a "nonelected decisionmaking body" within that agency certifies an EIR. But because the board of supervisors had no authority to approve or disapprove the permit, or make any decisions under CEQA relating to the permit, it had no power to hear an appeal of Marin EHS's certification decision.

No Wetlands Landfill Expansion v. County of Marin, 204 Cal. App. 4th 573 (2012).

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