

Appendix G of CEQA Guidelines Cannot Require Analysis of Effects of Environment on Project

Provisions of Appendix G of the CEQA Guidelines that purport to require analysis of the effects of environmental hazards on a proposed project have been declared invalid by California's Second District Court of Appeal. The court held that such impacts are not encompassed by CEQA, rejecting a claim that an Environmental Impact Report was required to evaluate the impacts of potential [sea level rise](#) on the project. Whether CEQA requires an analysis of impacts of the existing environment on people or structures introduced to a site by new development has been a continuing source of uncertainty in the environmental review process. Much of the confusion has arisen from language in the Guidelines on the types of impacts that should be evaluated. Guideline section 15126.2(a), for example, states in part: "an EIR on a subdivision astride an active fault line should identify as a significant effect the seismic hazard to future occupants of the subdivision. The subdivision would have the effect of attracting people to the location and exposing them to the hazards found there." The confusion is compounded by language in Appendix G to the CEQA Guidelines. Most agencies use the Appendix G checklist to determine not only the issues to cover in an environmental analysis but also the significance of environmental impacts. For example, Appendix G includes a question asking whether the project would expose people living or working in the project to potential hazards from aircraft. In [Ballona Wetlands Land Trust v. City of Los Angeles](#), the court resolved the confusion, making it clear that neither questions on the Appendix G checklist nor provisions of the CEQA Guidelines can properly require assessment of the impacts of existing environmental hazards on the project. The opinion drew an explicit distinction between the "project's exacerbation of environmental hazards" on the one hand, and "the effects on users of the project and structures in the project of preexisting environmental hazards" on the other. It held that "to the extent that such questions may encompass the latter effects, the questions do not relate to environmental impacts under CEQA and cannot support an argument that the effects of the environment on the project must be analyzed in an EIR." The court applied its ruling to an issue regarding analysis of sea level rise. The petitioners alleged that an EIR for a mixed-use development was invalid because it failed to evaluate the impact on the project of potential sea level rise resulting from global climate change. The court ruled that the EIR was not required to discuss the impact of sea level rise on the project. The opinion provides much-needed guidance to agencies in determining the focus and scope of the impact analysis required by CEQA. It reduces the uncertainty created by Appendix G regarding the mandated scope of analysis and should reduce the complexity, scope, size and cost of environmental documents.

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