

CEQA Year in Review 2014

A Summary of Published Appellate Opinions Under CEQA

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In 2014, courts, regulators and public agencies continued to struggle with the relationship between CEQA and California's efforts to reduce greenhouse gas emissions. Courts of appeal held that San Diego County's regional transportation plan, sustainable communities strategy and climate action plan all violated CEQA, concluding that public decisionmakers had not done enough to analyze and mitigate GHG impacts from vehicles. Another court held that EIRs must provide detailed discussion of a proposed project's energy use. And under the mandate of Senate Bill 743, the Office of Planning and Research proposed sweeping CEQA Guidelines changes that would shift the focus of CEQA transportation analysis from traffic congestion to reduction of vehicle GHG emissions.

The year also saw a surprising conflict in decisions regarding the analysis of impacts to agricultural resources, with one court reaffirming a lead agency's ability to identify its own significance thresholds and another court taking a much more hands-on approach. Turning to mitigation for impacts to agricultural land, a third court confirmed earlier cases holding that CEQA does not require agricultural conservation easements as mitigation.

Court decisions tackling the nuts-and-bolts operation of CEQA were equally interesting.

During the year four appellate courts discussed the functions and uses of program EIRs versus project EIRs; these cases may help lay to rest persistent misconceptions about program EIRs. One court addressed the circumstances under which a city commission can approve a CEQA document. Another delved, with uncertain results, into the distinction between a proposed project element and a mitigation measure.

The California Supreme Court issued only one CEQA decision in 2014. The court held that CEQA compliance is not required where a city council is presented with an initiative measure and a short Elections Code deadline to either adopt or reject it.

Finally, the Legislature's key contribution in 2014 was Assembly Bill 52, which adds tribal cultural resources to the categories of cultural resources in CEQA, provides for tribal consultation, and requires lead agencies to consider mitigation measures for impacts to tribal cultural resources.

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