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EIR For Railyard Did Not Adequately Analyze Air Quality Impacts

Rejecting most challenges to the environmental impact report for a new railyard near the Port of Los Angeles, a court of appeal nevertheless held that the EIR must be decertified because it did not adequately address air quality impacts in the vicinity of the new yard. *City of Long Beach v. City of Los Angeles*, 19 Cal. App. 5th 465 (1st Dist. 2018). When BNSF Railway Company proposed the project, the port was served by on-dock railyards, one near-dock railyard five miles north of the port, and two off-dock railyards 24 miles north. Trucks are used to transport cargo containers between the port and the near-dock and off-dock railyards. One of the effects of the new near-dock railyard would be to substitute four-mile trips on surface streets for many existing 24-mile trips via freeway to and from the off-dock railyards. Project opponents concerned about the impacts of this shift in port truck traffic sued under CEQA. The court held that crucial information regarding air quality was omitted from the EIR. The EIR showed that total particulate matter emissions from trucks would be reduced by the project compared to the no project alternative, because a four-mile truck trip is shorter than a 24-mile trip. But the court concluded the EIR did not adequately explain that in the vicinity of the proposed railyard, air quality would be substantially worse with the railyard than without it, and that the vicinity included homes and schools. In addition, the EIR did not estimate how frequently or for what length of time the level of particulate air pollution in the area surrounding the new railyard would exceed the EIR's standard of significance. Rejecting the port's argument that it would be impractical to run the air quality model for every year of the railyard's projected operation, the court found that selecting a reasonable number of benchmark years for analysis might be acceptable, but that in this case, "the decision to perform only a single modeling run with a 50-year analysis range does not comply with CEQA." The court also rejected one element of the EIR's analysis of cumulative air quality impacts, holding that the EIR did not adequately focus on the combined impacts of the proposed project and another large railyard expansion proposed by Union Pacific adjacent to the proposed project. The fact that independent CEQA analysis of the Union Pacific project had been delayed did not excuse the port from a focused, rather than general, discussion of two large railyard expansions proposed to be located next to one another. As to another challenge to the EIR, the court upheld the analysis. Plaintiffs argued that the EIR was defective because it did not describe in its project description, or analyze as an indirect impact, the near-dock rail project's effect of freeing capacity at BNSF's existing off-dock "Hobart" railyard. They argued that the EIR was required to account for truck trips to and from the Hobart railyard that would result from its new excess capacity. The court was not persuaded, stating that the record supported the EIR's conclusion that a predicted level of economic growth would occur over the decades with or without the near-dock rail project, and that the project was not necessary to enable BNSF to service anticipated growth at Hobart. Accordingly, the court concluded, any growth at Hobart would not constitute an indirect impact of the near-dock railyard. The City of Long Beach case is consistent with a long line of CEQA decisions that focus with particular intensity on claims of air quality impacts to communities located near proposed emitters of diesel particulate and other toxic air contaminants.

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