

Ninth Circuit Upholds Environmental Assessment for Highway Project in State Park



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decision is the latest in long-running litigation challenging Caltrans's plans to improve a one-mile section of U.S. 101 through Richardson Grove State Park. In its current condition, the highway section is closed to industry-standard trucks (known as "STAA" trucks because they are authorized by the Surface Transportation Assistance Act of 1982); only shorter "California Legal" trucks are permitted. To safely accommodate STAA trucks, the project would slightly widen the roadway and straighten some curves. Caltrans issued an Environmental Assessment and Finding of No Significant Impact. (Caltrans assumed the role of federal lead agency for the project pursuant to the NEPA assignment program.) The plaintiffs filed a lawsuit in federal district court, alleging, among other claims, that the EA failed to adequately analyze the project's effects on old-growth redwood trees and park visitors, and that Caltrans should have prepared an environmental impact statement because the project would have significant environmental effects. The district court ruled that the EA was inadequate and ordered Caltrans to prepare an EIS for the project. The Ninth Circuit reversed, holding that the district court did not give appropriate deference to Caltrans's conclusions and improperly relied upon inferences and speculation about environmental effects that were unsupported by the record. ***Construction Impacts to Old-Growth Redwood Trees*** The project would involve construction within the structural root zones of 78 old-

growth redwood trees. The project would incorporate design features and mitigation measures intended to protect those trees, which included increasing the roadbed height where possible to avoid severing tree roots, using a special paving material that allowed for greater oxygen circulation to tree roots under the pavement, conducting some excavation by hand, watering trees, and removing invasive plants. Caltrans's arborist assessed each tree individually and determined that the project would not threaten the health or stability of any tree. The appellate court held that the EA adequately analyzed potential effects from construction activity and paving within redwood trees' root zones. The court explained that the record was "replete with Caltrans' comprehensive analysis" on this topic, including its arborist reports, which provided sufficient evidence to support Caltrans' determination that construction would not harm redwood trees. The district court had improperly assumed that paving over more than half of a tree's root zone could threaten the health of the tree; this assumption was based on a misreading of evidence in the record and the argument had not been raised by any comments on the EA. In addition, although a California State Parks handbook recommended that no construction should take place in the structural root zones of protected trees, it was not clear that it applied to the affected redwood trees or that Caltrans was obligated to comply with those guidelines. The court found that Caltrans reasonably refused to follow the State Parks handbook based upon site-specific and project-specific evidence in the record. ***Traffic and Noise Impacts on Park Visitors*** The court held that Caltrans adequately considered potential impacts to park visitors from changes in truck traffic volume and noise. Caltrans' conclusion that total truck traffic would not increase was supported by evidence in the record, including traffic studies, a survey of regional businesses, and Caltrans' expert opinion. Based on that evidence, Caltrans reasonably concluded that traffic noise would not appreciably increase. There was no evidence in the record to support the district court's speculation that STAA trucks' larger tractor units would be noisier than California Legal trucks. ***Truck Collisions with Trees*** The court held that Caltrans was not required to have analyzed potential impacts to trees from truck collisions that could be more frequent (because STAA trucks are longer and more difficult to maneuver) or more severe (because of the weight and shape of STAA truck cabs). As to frequency of collisions, the court noted that the purpose of the project was to widen and straighten the road to make it safe for STAA trucks. The court explained that Caltrans reasonably concluded that vehicle collisions with trees would decrease, and this determination was entitled to deference, especially because it pertained to an area of Caltrans' expertise. As to the severity of damage, the court noted that there was no evidence in the record to support the district court's speculation that STAA trucks could cause more damage to trees than California Legal trucks, and therefore Caltrans was not required to address the issue in the EA.

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