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December 06, 2021

Court Invalidates EIR for Development of Lake Tahoe Resort



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County prepared an EIR for development of the Village at Squaw Valley, a 94-acre resort near Lake Tahoe. Six days after publishing supplemental responses to comments on the EIR, the board of supervisors held a public hearing and voted to approve the project. Sierra Watch challenged the approval of the EIR under CEQA and the Ralph M. Brown Act. The appellate court held that the EIR failed adequately to address Lake Tahoe -- a unique resource -- as part of the environmental setting. The EIR improperly treated Lake Tahoe as a "known quantity" without sufficient direct analysis of project impacts on water quality. The EIR's analysis of impacts from Vehicle Miles Traveled (VMT) was also deficient. Although the EIR discussed various VMT significance thresholds used for projects in the surrounding area, the analysis did not reach a conclusion on the applicable threshold or supply the information necessary to evaluate the impact of an additional 23,842 VMT daily on Lake Tahoe's air quality and water quality. Attempts to supplement the VMT analysis after the final EIR was published came "far too late" in the CEQA process. Finally, the EIR did not properly assess noise impacts. The decision to analyze only noise impacts on sensitive receptors within 50 feet of expected construction activity was an act of "arbitrary line drawing" that improperly foreclosed evaluation of impacts just beyond a project's boundaries. The court, in a separate opinion, also found merit in Sierra Watch's Brown Act claim. The Brown Act requires that documents distributed to the board of supervisors within 72 hours before a board meeting must be made "available for public inspection." Here, on the evening of the board meeting, the clerk emailed a memorandum to board members and placed a copy in the clerk's office. The court ruled that placing the writing in a county office at a time the office was closed did not satisfy the Brown Act's requirement because the writing would not actually be available for public inspection until the office reopened to the public after the board meeting concluded. The court also ruled that posting the document online was not sufficient because the statute required the document to

be made available at a physical location.

Authors