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In Limited Circumstances an EIR's Alternatives Analysis Can Be Confined to the No Project Alternative

In *Save Our Access v Watershed Conservation Authority*, 68 Cal. App. 5th 8 (2021), plaintiff Save Our Access

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analysis of alternatives. Unlike almost all EIRs, the draft EIR provided a full analysis of only two alternatives: the proposed project and the "no project" alternative. Save Our Access argued that CEQA requires that an EIR examine a range of alternatives to the project, and does not permit an analysis confined to the no project alternative. The court disagreed. The CEQA Guidelines provide that alternatives evaluated in an EIR must be able to attain most of the project's basic objectives and, at the same time, be able to avoid or reduce at least some of the project's significant impacts. The primary objective of the project was to restore the area's natural resources and provide recreational improvements and the EIR found its adverse impacts would be minimal. Save Our Access, however, was unable to identify any feasible alternatives that could satisfy the project's objectives while reducing its environmental impacts. It is rarely appropriate for an EIR to limit the alternatives it evaluates to the no project alternative. Several conditions appear to have been key to the result in this case. First, the Watershed Conservation Authority and its consultants engaged in an extensive planning effort to develop the project's design in collaboration with conservation and environmental organizations, regulatory agency staff, and U.S Forest Service experts. The result was a design narrowly tailored to achieve an optimal balance between the goals of restoring and preserving natural resources while enhancing recreational use. Further, while other options

had been evaluated during the planning process the EIR explained why it was appropriate to exclude them from further analysis. Given the project's environmental and recreational benefits, and the absence of significant unmitigated impacts, the court evidently agreed that adding make-do alternative to the EIR would not have served any practical purpose. **EIR's analysis of parking impacts:** The improvement plan called for parking in fragile natural areas to be prohibited and for all parking to be confined to designated parking spaces. Save Our Access complained that the EIR did not adequately analyze the impacts of reducing available parking. The court first observed that, for purposes of CEQA, it is not the project's impact *on parking* that matters, as that is a social impact. It is instead the impact of reduced parking *on the environment* that must be considered. The court held the EIR properly analyzed that issue. It acknowledged that reducing the availability of parking at the site could increase use of other recreational areas, and potentially have a physical impact on those facilities. The EIR found, however, that substantial deterioration of other recreational areas would not result because displaced visitors would be dispersed to recreational areas throughout the region, and Save Our Access failed to offer a plausible argument that might support a contrary conclusion.

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