

An Invalid Negative Declaration Can't be Cured by Preparing a Limited EIR

A trial court could not order a remedy that required preparation of an environmental impact report limited to the



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County had adopted a mitigated negative declaration for a use permit to construct and operate a bed and breakfast, commercial event facility and supporting on-site crop production. The mitigated negative declaration acknowledged potentially significant impacts to agricultural resources and wildlife species and included measures to mitigate those impacts. The trial court found substantial evidence supported a fair argument that the project may have a significant effect on three wildlife species despite the county's adopted mitigation measures. The trial court ordered the county to remedy this deficiency by preparing an EIR that would address the project's impacts on the three relevant species. The court of appeal characterized the question before it as whether an agency can comply with CEQA by preparing a negative declaration for some of a project's impacts, and an EIR to address other impacts found to be potentially significant. The court found no basis for allowing an agency to comply with CEQA by preparing a negative declaration to analyze some of the project's impacts and an EIR to analyze others. CEQA requires that an EIR be prepared if *any* aspect of the project may have a significant effect on the environment. Thus, the court concluded that once a negative declaration is invalidated, the agency must prepare what it referred to as a "full EIR" for the proposed project—not an EIR confined to discrete impacts that would result from the project.

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