

Future Baseline May be Used for CEQA Review of Long-Term Infrastructure Project

In *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority*, the California Court of Appeal for the Second Appellate District ruled that in appropriate circumstances, projected future conditions may serve as an appropriate baseline for measuring a project's impacts under the California Environmental Quality Act. The court disagreed with two controversial decisions from other appellate courts, *Sunnyvale West Neighborhood Association* and *Madera Oversight Coalition*, which both held that CEQA prohibits use of future baseline conditions expected to occur after an EIR is certified.

The case involved an EIR prepared by the Exposition Metro Line Construction Authority for a light rail line connecting downtown Los Angeles with Santa Monica. For traffic and air quality impacts, the EIR used conditions projected for 2030 as the baseline.

The court upheld the agency's decision, ruling that while an agency may not use a future *hypothetical* scenario as the baseline, it may, in appropriate circumstances, use a realistic *projection* of future conditions. The court ruled that nothing in CEQA requires the use of existing conditions, or prohibits the use of future conditions, as the environmental baseline. While the CEQA Guidelines state that the environmental setting at the beginning of environmental review "will *normally* constitute the baseline," the court recognized that "to state the norm is to recognize the possibility of departure from the norm."

Applying these principles, the court observed that future population growth in Los Angeles County over the next 20 years, with its resulting effects on traffic and air quality, is not hypothetical – "it is inevitable." The court noted that since the project at issue would not even begin operating until 2015 at the earliest, "its impact on *presently existing* traffic and air quality conditions will yield no practical information to decision makers or the public." By contrast, "an agency's use of projected future baseline, when supported by substantial evidence, is an appropriate means to analyze the traffic and air quality effects of a long-term infrastructure project" that is designed to serve a future population.

Neighbors for Smart Rail v. Exposition Metro Line Construction Authority, 204 Cal.App.4th 1480 (2nd Dist. 2012).

Madera Oversight Coalition v. County of Madera, 199 Cal. App. 4th 48 (5th Dist. 2011); *Sunnyvale West Neighborhood Assn. v. City of Sunnyvale*, 190 Cal. App. 4th 1351 (6th Dist. 2010).

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