

CEQA Doesn't Apply to Declaration of Water Emergency Authorized by Judgment Governing Groundwater Basin

A water replenishment district's declaration of a water emergency was not subject to CEQA because the declaration itself had no environmental impact, it was authorized under the terms of a judgment imposing a physical solution on the groundwater basin, and the district had no discretion to alter the terms of the judgment which specify the consequences of a water emergency. [Central Basin Municipal Water Dist. v. Water Replenishment Dist. of So. Cal. \(2d Dist. Dec. 10, 2012\)](#) **Background.** The Central Basin is subject to a judgment imposing a "physical solution" over groundwater use -- an equitable remedy designed to avoid depletion of water resources and maximize the beneficial use of water. The judgment empowers various entities, including the Water Replenishment District of Southern California, to declare a water emergency. Under the terms of the judgment, such a declaration changes the portion of allocated water a pumper can carry over to another year, and also extends the period of time a pumper has to replace any over-extraction of groundwater. After the water replenishment district declared a water emergency, Central Basin Municipal Water District challenged the declaration, claiming the water replenishment district was required to complete a review under CEQA before declaring the water emergency. **CEQA doesn't apply.** The appellate court rejected the challenge, finding no basis for the claim that review under CEQA was required. The declaration of a water emergency by itself, the court reasoned, had no environmental impact and therefore was not a "project" subject to CEQA. Further, the district had no discretion to alter the terms of the judgment; so even if the effects of the declaration -- alteration of carryover rights or delayed replenishment -- would have impacts on the environment, the district had no discretion to modify those impacts, making preparation of an EIR a futile act. **Even if CEQA applies, it is trumped by the judgment.** The court also explained that conducting the CEQA review demanded by the water district to study the environmental consequences of the declaration of water emergency would conflict with the judgment. The judgment specifies how carry-over pumping allocations are to be altered, and the period of time replacement of over-extractions is to be extended, in the event a water emergency is declared. The district could not change these rules to reduce environmental impacts disclosed in an EIR because any change to them would be inconsistent with the terms of the judgment.

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