

## **New Opinion, Same Result - Project Objectives Are Upheld Under CEQA, But Alternatives Analysis Is Invalid**

In 2008, the City of Santa Cruz and the University of California settled litigation challenging the University's long-term development plan for expanding the UC Santa Cruz campus. A key provision of the settlement agreement required the city to seek approvals from the Local Agency Formation Commission for providing water and sewer service to the part of the planned campus expansion outside the city's boundaries. The city then prepared an Environmental Impact Report for the LAFCO to use in issuing these approvals.

Project opponents sued, raising a host of claims under CEQA. In an opinion published in November 2012 (see our [prior post](#)), the California court of appeal ruled that the project objectives were invalid because they failed provide an accurate description of the project's underlying purpose. The court noted that the project objectives stated in the EIR were designed merely to implement the settlement agreement and obtain the necessary LAFCO approvals, whereas the real purpose of the project was to provide water and sewer service to parts of the expanded campus.

But the court then withdrew the opinion and filed a new opinion after rehearing. [\*Habitat and Watershed Caretakers v. City of Santa Cruz\* \(6th Appellate District, Feb. 19, 2013\)](#). The court changed its ruling on the project's objectives, emphasizing that the Final EIR corrected the problem caused by the Draft EIR, by revising the objectives to reveal the project's true underlying purpose - to provide extraterritorial water and sewer service to parts of the UC Santa Cruz campus.

Although the court upheld the project objectives, it adhered to its prior ruling that struck down the EIR's analysis of project alternatives. The court faulted the EIR for failing to evaluate an alternative that would use less water than the proposed project.

In arguing that an evaluation of this alternative was not required under CEQA, the city and UC claimed the alternative would not avoid significant impacts on water supplies resulting from campus expansion, since UC could simply expand other areas of the campus that are already within the city's water service area, thereby resulting in the same amount of water use without the need for LAFCO approvals. But the court rejected this claim, stating that these issues should be discussed and analyzed *in the EIR*. The court concluded: "CEQA does not permit a lead agency to omit any discussion, analysis, or even mention of any alternatives that feasibly might reduce the environmental impact of a project on the unanalyzed theory that such an alternative might not provide to be environmentally superior to the project."

So, the ruling is slightly different, but the result is the same -- and the dispute over the expansion of the UC Santa Cruz campus continues.

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