

Under CEQA Non-Prejudicial Errors Do Not Invalidate an EIR.

The County of Siskiyou certified an Environmental Impact Report for a project to expand an existing manufacturing facility to accommodate a cogeneration power plant housed on one acre of a 300-acre site. Environmental groups claimed the EIR violated CEQA by failing to include adequate project alternatives and failing to fully disclose, analyze, and mitigate the project's air quality, noise, and water quality impacts. The appellate court found "no prejudicial defect" in the county's EIR or the CEQA review process and affirmed the trial court's denial of the petition. [*Mount Shasta Bioregional Ecology Center v. County of Siskiyou*](#) (2nd Dist. Filed 9/26/12; pub. Order 10/18/12) The appellate court recognized minor deficiencies and inaccuracies in the EIR regarding baseline emissions and water usage estimates, but concluded they did not prejudice the environmental review process. In a detailed opinion, the court considered and rejected plaintiffs' litany of complaints, categorized below.

- *Baseline Emissions.* The court rejected plaintiffs' attempt to argue the EIR's emissions baseline was inaccurate based on evidence that was not timely submitted and was not properly before the appellate court. The court also characterized the alleged error as a "small discrepancy" and concluded, "[w]e cannot see on this record how a difference of seven percent between actual and approximate emissions would have precluded informed decisionmaking or informed public participation."
- *Water Quality Impacts.* There was "no legal or factual basis . . . to conclude the EIR was deficient" with respect to various alleged water quality impacts. The DEIR's possible understatement of overall water usage would not preclude informed decisionmaking or informed public participation and the increased usage would not have a significant environmental impact.
- *Alternatives Analysis.* Plaintiffs were not permitted to "claim the agency failed to present an adequate range of project alternatives and then sit back and force the agency to prove it wrong." Plaintiffs failed to show how a "missing" alternative identified by plaintiffs would have met the project goals.
- *Noise Impacts.* Plaintiffs' contentions regarding the noise impacts and mitigation measures were either invalidly based on a "difference of opinion on the facts" or not based on evidence in the record.
- *Recirculation.* Two noise studies summarized in the draft EIR, but not incorporated in full, were "not the type of new information" requiring recirculation of the EIR, since the studies would "merely clarify or amplify" or make "insignificant modifications in an adequate EIR."

Although this decision does not establish new legal principles, the case reinforces the principle of judicial deference to agency analysis and decisionmaking under CEQA and supports the argument that minor deficiencies and inaccuracies in an EIR do not prejudice the environmental review process.

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