

Water Supply Uncertainty Sinks Another EIR

After wading through a detailed discussion relating to biological impacts (see [Perkins Coie Update](#)), the court in *Preserve Wild Santee v. City of Santee* dove into issues surrounding an EIR's analysis of water supplies. The court found the EIR invalid in part because it failed to consider the uncertainty of State Water Project water supplies.

The City of Santee prepared an EIR for a large residential project. The EIR's discussion of water supply impacts was based upon a water supply assessment the local water district had prepared, which concluded there would be adequate supplies to serve the project. The EIR relied on that conclusion in finding no significant water supply impacts.

The court found three problems with this analysis. First, the EIR's estimate of project demand was almost double that stated in the water supply assessment. The EIR did not explain this discrepancy, and the parties' attempts to explain it in their briefs were unavailing.

Second, the EIR failed to address the uncertainty of State Water Project supplies. The water district had prepared its assessment before a federal court issued a decision that severely limited how much water could be pumped from the delta. The water district acknowledged that it could not predict what the impact of those limitations would be. According to the *Preserve Wild Santee* court, the EIR's analysis failed to comply with the Supreme Court's 2007 decision in the *Vineyard Area Citizens* case, by failing to discuss reasonably foreseeable alternatives and the impacts of those alternatives.

Third, the EIR did not adequately address the water supply for a lake on the project site. The EIR acknowledged a potential problem with using groundwater, requiring an alternative water source if monitoring showed groundwater levels dropped below a certain point. But the EIR failed to identify or study any alternative source.

[Preserve Wild Santee v. City of Santee, D055215 \(4th Dist., Oct. 19, 2012\)](#)

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