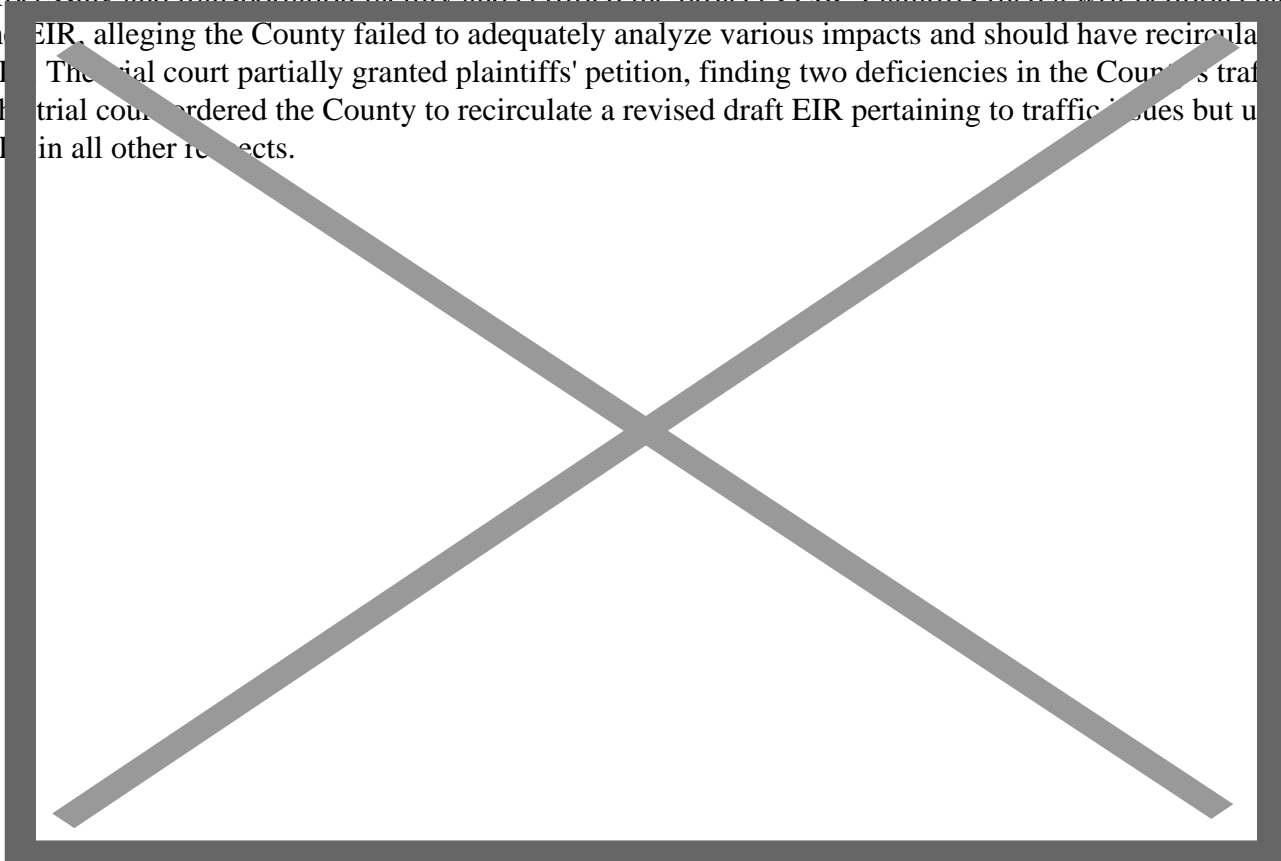


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April 22, 2019

Court of Appeal Denies Project Opponents a Chance to Relitigate CEQA Claims

The court of appeal held that a challenge to a partially recirculated EIR of the County of Amador was barred by the doctrine of res judicata, which precludes relitigation by the same parties of issues previously adjudicated on the merits. *Ione Valley Land, Air and Water Defense Alliance v. County of Amador*, No. C081893 (3rd. Dist., March 20, 2019). The County approved the Newman Ridge Quarry Project, a 278-acre quarry and a 113-acre processing and transportation facility and certified the project's EIR. Plaintiffs filed a writ petition challenging the EIR, alleging the County failed to adequately analyze various impacts and should have recirculated the draft EIR. The trial court partially granted plaintiffs' petition, finding two deficiencies in the County's traffic analysis. The trial court ordered the County to recirculate a revised draft EIR pertaining to traffic issues but upheld the EIR in all other respects.



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County revised the traffic analysis, recirculated that portion of the EIR, and recertified and reapproved the Project. The trial court subsequently discharged the writ. Plaintiffs then filed a second writ petition, alleging the recirculated EIR's analysis was deficient with regards to traffic, water supply, biological resources, air pollution, and responses to comments, and that the County should have recirculated the entire EIR. The trial court denied plaintiffs' second petition for writ of mandate and plaintiffs appealed. The appellate court held that plaintiffs' claims, except for those related to the recirculated traffic analysis, were barred by the doctrine of res judicata. The court reasoned that all of plaintiffs' objections were either brought or could have been included in the first writ petition. The court rejected plaintiffs' claim that res judicata did not apply because the trial court had ordered the County to vacate the certification of the original EIR, concluding that the decertification of the entire EIR was immaterial -- the pertinent fact was that the sufficiency of the EIR had been previously litigated. The trial court's order only required the County to revisit traffic impacts -- thus the County was not required to revisit any impacts besides traffic impacts, and res judicata barred plaintiffs from challenging the unchanged EIR sections. In an unpublished portion of the opinion, the court also rejected plaintiffs' challenge to the adequacy of

the revised traffic analysis.