

[Blogs](#)

April 10, 2024

California Land Use & Development Law Report



The completion of a shooting range redevelopment project did not moot CEQA claims regarding the project even though the plaintiff had not sought an injunction against development or operation of the project.

Moreover, the County's decision not to exercise jurisdiction, as opposed to its mere inaction, could support a viable CEQA claim. [Vichy Springs Resort, Inc. v. City of Ukiah](#), Case Nos. A165345 and A167000 (1st Dist., March 29, 2024).

Ukiah Rifle and Pistol Club operated a shooting range on land owned by the City of Ukiah and located in unincorporated Mendocino County. The County determined it had no jurisdiction over the project, and the City issued a building permit to redevelop the shooting range. Vichy Springs Resort, which operates a nearby resort and spa, sued, contending that the City and County unlawfully failed to conduct CEQA review. It did not seek an injunction. While the action was pending in the trial court, Ukiah Rifle completed the project and the City issued a certificate of occupancy. The trial court sustained demurrers and entered judgment for the City and County on the CEQA claims.

On appeal, the court concluded that the CEQA claim against the City was not mooted by construction of the project because effective relief was still available. Ukiah Rifle could be required to implement a lead removal program, use only lead-free ammunition, or limit hours of use and uses at the main range. The City could revoke the permit and certificate of occupancy and hold them in abeyance pending environmental review. The court distinguished earlier cases holding that construction of a project had mooted CEQA claims on the ground that, in this case, the petition included allegations explaining what post-completion mitigation measures were available. The court also found no legal basis for concluding that a plaintiff's failure to seek injunctive relief required a court to find a CEQA claim moot in a situation in which effective relief remains available.

The CEQA claim against the County also was viable. The County argued that only the County's initial determination that the project was under the City's exclusive jurisdiction was at issue, which is not a CEQA claim. The court disagreed. "We think that narrow reading of [CEQA] would be overly formalistic when Vichy is complaining of the County's resulting failure to follow any of CEQA's requirements." It further noted that CEQA's definition of "project" did not require that the County have issued a permit. It rebuffed the County's attempts to characterize the claims as involving only Ukiah Rifle's "bold decision" to proceed without obtaining a County permit, and the County's inaction. The court pointed to allegations that the County affirmatively declined to regulate the project. For similar reasons, it rejected the County's argument that, because it had not approved the project, any claimed violation of CEQA was not ripe. "[T]he petition alleges the existence of a project that the County determined was not subject to regulation. Whether that determination was correct is a question ripe for review."

Authors



Marie A. Cooper

Senior Counsel

MCooper@perkinscoie.com [415.344.7012](tel:415.344.7012)

Blog series

California Land Use & Development Law Report

California Land Use & Development Law Report offers insights into legal issues relating to development and use of land and federal, state and local permitting and approval processes. [View posts by topic](#). [Subscribe ?](#)

[View the blog](#)