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Petitioners' Election to Prepare Record Does Not Preclude Recovery of Record Preparation Costs by Prevailing Public Agency



The Third District Court of Appeal held that it was proper to award respondents costs for the preparation of CEQA administrative record documents as the prevailing party, even though petitioners had elected to prepare the record. *Yolo Land & Water Defense v. County of Yolo*, 105 Cal. App. 5th 710 (2024).

Yolo County prepared and approved an EIR for a project that involved the mining of sand and gravel and subsequent reclamation of the mined area for agricultural use. Petitioners challenged the EIR's approval under CEQA and filed a notice of election to prepare the administrative record pursuant to Public Resources Code section 21167.6(b)(2). After a hearing, the trial court denied petitioners' CEQA claims and awarded the County costs for the preparation of the administrative record.

The Court of Appeal upheld the award of costs for preparation of the record even though petitioners had elected to prepare the record. The County had incurred costs producing documents for the administrative record at petitioners' request and was also required to certify the accuracy of the administrative record. The court reasoned that petitioners' election to prepare the record did not mean that the County did not incur costs associated with the record. CEQA also does not prevent a prevailing public agency from recovering costs associated with the preparation of an administrative record under Code of Civil Procedure sections 1032 and 1094.5. In addition, the court rejected petitioners' argument that a prevailing public agency cannot recover costs if it produced documents associated with a Public Records Act request.

Authors