



Overview of 2019 Published CEQA Cases Available on the CEQA Portal

The following is a listing of published cases that are available for review on the AEP CEQA Portal:

EXEMPTION CASE

[*Berkeley Hills Watershed Coalition v. City of Berkeley \(2019\) 31 Cal.App.5th 880*](#)

The First District Court of Appeal affirmed a judgment denying a writ petition challenging the City of Berkeley's approval of use permits for three single-family homes on three contiguous hillside parcels. The Court upheld the City's use of the CEQA Guidelines Section 15303(a) (Class 3) categorical exemption for new construction of small structures, including "up to three single-family residences" in "urbanized areas."

EIR CASE

[*South of Market Community Action Network v. City & County of San Francisco, \(2019\) ___ Cal.App. 5th*](#)

The First District Court of Appeal held that the two alternate schemes identified in the EIR were clear and provided an accurate project description. Plaintiffs argued the two schemes confused the project description; thus, the project description misled members of the public. The court disagreed. The court's reasoning stated that the project description detailed one project with two options for different allocations of space. Thus, the court concluded that there was sufficient information in the EIR. The court also upheld the EIR's impact analysis involving cumulative, traffic, wind, shade/shadow, and plan consistency.

CASES INVOLVING LITIGATION AND STANDING

[*Fudge v. City of Laguna Beach \(2019\) 32 Cal.App.5th 193*](#)

This case involved dismissal of legal action to challenge the City's approval when the Coastal Commission accepts an appeal.

[*Lone Valley Land, Air, and Water Defense Alliance, LLC v. County of Amador, \(2019\) 33 Cal.App.5th 165*](#)

In this case project opponents filed suit over a quarry project. The trial court agreed that the traffic analysis required correction. The court issued a judgment and ordered the project approvals be set aside, that the EIR be fully decertified and an updated traffic analysis be circulated and certified. The County complied. The opponents challenged the updated EIR and project approval. At the same time, the County filed a return to writ. Following review, the trial court determined that the lead agency had complied and then discharged the writ of mandate. Responding to the new petition for writ of mandate, the trial court upheld the sufficiency of the traffic analysis. The court concluded that the prior entry of judgment constituted res judicata as to all issues raised or which could have

been raised regarding new issues identified by the opponent. The opponents appealed and the appellate court affirmed.

[Save Lafayette Trees v. City of Lafayette, \(2019\) 32 Cal.App.5th 148](#)

This case involves approvals that are covered by two different statutes of limitation. For purposes of general plan and zoning law, a challenge must be filed and serve the action within 90 days of the decision (Government Code Section 65009). CEQA challenges must be served upon the agency within 10 days of filing the action. The CEQA claim must be filed within 30 or 35 days of posting the notice of determination or exemption (as appropriate), or 180 days if no notice is filed. This decision modifies and replaces the previous 2018 decision.