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Santa Clarita Org. for Planning the Env't v. County of Los Angeles, 131 Cal. Rptr. 2d 186 (Cal. Ct. App. 2003)

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additional contention that ASWCC's decision was arbitrary because substantial evidence did not support it was likewise unpersuasive because the PER detailed the project's benefits, cost, feasibility, and necessity. ASWCC also weighed all interested parties' testimony, comments and evidence, including that from engineers and residents confirming the existing water's low quality, and the need to implement new-supply delivery in accord with the Water Plan despite some local opposition.

Robert Lykos

CALIFORNIA

Santa Clarita Org. for Planning the Env't v. County of Los Angeles, 131 Cal. Rptr. 2d 186 (Cal. Ct. App. 2003) (holding an environmental impact report must include adequate analysis of actual or projected delivery capacity of its water suppliers in order to provide the public and responsible officials information to make educated approval decisions).

Newhall Land and Farming Company and Valencia Corporation ("Newhall") proposed West Creek, a commercial development, in the Santa Clarita Valley of Los Angeles County. The proposal projected West Creek's water demands could be satisfied largely by water entitlements from the State Water Project ("SWP"). In view of such entitlements, the County of Los Angeles ("County") approved the project. Santa Clarity Organization for Planning the Environment and the Friends of the Santa Clarita River ("SCOPE") petitioned the Superior Court for the County of Santa Barbara to vacate the County's approval. SCOPE argued the actual water available was different than the water entitlements provided in West Creek's environmental impact report ("EIR"). The Superior Court denied SCOPE's petition. SCOPE appealed to the Court of Appeal of California, Second Appellate District, Division Six. The appellate court found the water service portion of West Creek's EIR insufficient and held the County erred in approving the project.

On appeal, SCOPE claimed the EIR did not explain the actual amount of water available for West Creek. It also claimed the SWP could not deliver all promised water entitlements. Citing *Dry Creek Citizens Coalition v. County of Tulare*, the court reiterated an EIR must include adequate detail to allow others to "meaningfully" consider the important issues of the project. Here, West Creek's EIR relied primarily on SWP "entitlements" rather than "actual" water supplies. According to the court, such water entitlements did not provide meaningful detail regarding the project's water supply. Moreover, as in *Planning & Conservation League v. Department of Water Resources*, the

court found “there [was] a huge gap between what is [entitled] and what can be delivered” because the SWP system was never completed.

Newhall’s EIR also failed to include estimates from the Department of Water Resources, the agency that oversees the SWP, projecting how much water could be delivered during wet and dry years. The court held that without projected or actual water supply information the development’s cumulative impact could not be determined.

The court continued to analyze the sufficiency of Newhall’s EIR. It explained that under *Clearly v. County of Stanislaus*, an EIR should include detailed analysis of potential problems and serious issues raised by the public. Newhall’s EIR, however, failed to respond directly to project opponents’ water supply concerns. It also failed to undertake analysis of actual SWP water supplies and improperly relied on information in the administrative record. Accordingly, the court found Newhall failed to demonstrate a sufficient water supply existed for West Creek.

In its defense, Newhall contended the County’s approval of West Creek was final, and therefore, the court could not review new information or reopen the project’s approval process. But the court parched Newhall’s argument and found the SWP’s inability to deliver water entitlements did not constitute new information. Accordingly, the court reversed the trial court’s decision.

J. Reid Bumgarner

Not About Water Comm. v. Solano County Bd. of Supervisors, 116 Cal. Rptr. 2d 526 (Cal. Ct. App. 2002) (holding that under the United States Constitution and California statutory law, a water district may assign varying weights to participants’ ballots in a vote to assess fees to fund construction of a water delivery system).

Not About Water Committee (“Committee Residents”), a federation of aggrieved parties and residents, filed a mandamus proceeding in the Superior Court of Solano County to challenge plans of the Solano County Board of Supervisors (“Board”) and the Rural North Vacaville Water District (“District”) to form an assessment district which would levy fees to construct a water delivery system. The trial court denied the petition. The Committee Residents appealed the decision to the California Court of Appeal, First District, Division Four. The California legislature had determined that courts would decide such controversies in “validation proceedings” which limited the appeal court’s power to a determination of whether the Committee Residents’ real property would receive a special benefit, proportional to the assessments levied, resulting from the formation of the assessment district. The court held the Committee Residents enjoyed such a benefit, and affirmed the ruling of the superior court.