Land Use and CEQA Litigation Update

Annual Conference 2026

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Land Use & CEQA Litigation Update

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8:30 – 10:00 Legal Issues Session

League of California Cities
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A. *The Protect Our Communities Foundation v. City of San Diego* (2026) 121 Cal.App.5th 449

Holding

The Fourth District Court of Appeal held that the City of San Diego ("City") properly concluded that CEQA did not apply to the award of gas and electric franchises to San Diego Gas & Electric Company ("SDG&E") because the franchise agreements did not constitute a "project" under CEQA.

Facts

After the expiration of the previous franchise agreements, the City approved new gas and electric franchise agreements with SDG&E. The City concluded that awarding the franchises to SDG&E constituted "a fiscal and administrative activity of a government that will not result in a direct or indirect physical change in the environment," and thus "is not subject to CEQA pursuant to CEQA Guidelines Section 15060(c)(3)" because it is not a "project" as defined in CEQA Guidelines section 15378.

The Protect Our Communities Foundation ("POCF") filed a verified petition for writ of mandate challenging the City's decision, and claiming, among others, that the City applied an improper legal standard when it determined the approval of the franchise agreements were not subject to CEQA. The trial court concluded that the ordinances constituted a project for purposes of CEQA, because they allowed SDG&E to construct, maintain, and use pipes, poles, wires and appurtenances to distribute gas and electricity, and therefore it was reasonably foreseeable that the ordinances could result in new construction causing environmental change. Nonetheless, the trial court concluded the ordinances were categorically exempt from environmental review under the "existing facilities" exemption (CEQA Guidelines § 15301), and denied the petition as to the CEQA cause of action.

POCF appealed, arguing that the trial court erred by rejecting POCF's claim that the City was required to conduct further environmental review under CEQA.

Claims Raised

POCF argues that the City's adoption of the ordinances and related agreements qualifies as a "project" under CEQA. According to POCF, these franchise approvals represent a binding long-term commitment that limits consideration of environmentally superior alternatives and creates a causal link sufficient to trigger CEQA review.

Analysis

POCF argued that the City's adoption of the franchise agreements qualifies as a "project" under CEQA, because they represent a binding long-term commitment that limits consideration of environmentally superior alternatives and creates a causal link sufficient to trigger CEQA review. The Court disagreed.

Under CEQA Guidelines section 15378, a CEQA project does not include "the creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment."

The Court noted that the franchise approvals maintain the status quo, do not compel or induce new construction, and lack the causal connection necessary to trigger CEQA review. The franchise approvals do not authorize new residential or commercial development, establish new land uses, or encourage population growth. They do not facilitate the creation of new businesses, nor do they change land use patterns or service areas. The franchise approvals merely establish a funding and administrative structure, without committing the City or SDG&E to any particular development or construction.

Language in the ordinances allowing SDG&E to "construct" and "maintain" infrastructure does not mean construction is imminent or environmentally significant, nor does it establish the existence of a project under CEQA because it contains no commitment to undertake any specific work. It only authorizes SDG&E to continue lawfully using City streets for its infrastructure in the same manner it has historically done. The Court reasoned that requiring CEQA in this situation, based on undefined, speculative scenarios, would serve no practical purpose and would contravene CEQA's rule that it applies only when an activity may cause a reasonably foreseeable physical change in the environment.

The Court ruled that the City correctly concluded that CEQA did not apply to the ordinances, and therefore the trial court did not err in denying the CEQA cause of action. The Court did not reach the analysis as to potential exemptions, because in its independent review, it concluded that the approval of the franchise agreements did not constitute a project for CEQA purposes.

B. Baker v. Bay Area Toll Authority (2026) 120 Cal.App.5th 1254

Holding

The First District Court of Appeal held that Petitioner's second CEQA challenge to the Bay Lights 360 Bay Bridge illumination project was time-barred due to the preclusive effect of a prior unappealed judgment on demurrer dismissing that prior action on statute of limitations grounds.

Facts

The Bay Lights art installation is a monumental light sculpture and generative art installation on the western span of the San Francisco-Oakland Bay Bridge that began in 2012 and entailed the installation and operation of LED lights on the exterior of the Bay Bridge's suspension cables. The installation's LEDs are controlled via a computer and display changing patterns that were not meant to repeat. Initially intended as a temporary installation, which ended on March 5, 2015, the project was re-installed as a longstanding feature of the Bay Bridge with permanent fixtures that were re-lit in January 2016. After an extended run, the lights were turned off on March 5, 2023. The Bay Area Toll Authority ("BATA") approved those earlier versions of the project and declared all to be CEQA-exempt and filed Notices of Exemption ("NOEs") for those project approvals.

In August 2023, BATA approved and filed an NOE for Bay Lights 360, which proposed to energize the original Bay Lights art installation and add interior lights on the Bay Bridge's suspension cables facing drivers on the bridge, approximately doubling the total number of LEDs. No timely CEQA challenge to BATA's approval of Bay Lights 360 was filed. In October 2024, Caltrans issued an encroachment permit conditionally approving BATA's Bay Lights 360 installation (with conditions requiring a comprehensive safety study and test of prior to activation). In December 2024, Mark Baker, who is the President of the Soft Lights Foundation and advocates for the protection of individuals who are adversely impacted by LED light, filed his first CEQA action challenging BATA's approval of Bay Lights 360 against BATA, Caltrans and other agencies. BATA demurred and the trial court found that action (*Baker I*) was barred by both CEQA's 35-day (triggered by the August 2023 NOE) and 180-day statute of limitations (running from BATA's decision to approve or carry out the Bay Lights 360 project, which the court found occurred not later than early 2023). Judgement was entered in May 2025.

Instead of appealing the judgement in *Baker I*, Baker filed his second CEQA action (*Baker II*) asserting a single CEQA claim against BATA focusing on Caltrans' encroachment permit. In *Baker II*, Baker alleged that the light-testing and study required by the Caltrans permit amounted to a new, stand-alone project under CEQA that wasn't acknowledged in the 2023 NOE and required preparation of a full Environmental Impact Report. BATA once again demurred, claiming that Caltrans' permit did not approve a new project or restart the CEQA statute of limitations to challenge approval of Bay Lights 360. In essence, BATA asserted that the CEQA claim in *Baker II* remained time-barred and Baker couldn't relitigate that issue from the trial court's prior adverse ruling against him on it in *Baker I*. The trial court agreed and granted BATA's demurrer without leave to amend, finding that its prior determinations regarding when the project was approved and when the statute of limitations to challenge the approval expired were preclusive because Baker failed to appeal those adverse rulings.

<u>Analysis</u>

The First District Court of Appeal affirmed the trial court's judgment dismissing the petition in *Baker II* without leave to amend. The published portion of the Court's opinion is centered on its issue preclusion analysis supporting affirmance of the trial court's denial of leave to amend and focuses on the evolution of the issue preclusion doctrine as well as recent differing judicial decisions concerning its requirements. Quoting both *Samara v. Matar* (2018) 5 Cal.5th 322, 327 and *People v. Curiel* (2023) 15 Cal.5th 433, 451-452, the Court first explained how both decisions described issue preclusion as having the same four requirements – (1) final adjudication (2) of an identical issue (3) actually litigated necessarily decided in the first suit and (4) asserted against one who was a party in the first suit or one in privity with that party – but that the *People v. Curiel* decision added that the final adjudication requirement had to be a final adjudication on the merits.

Noting that nobody disputed that the trial court's *Baker I* ruling became final after Baker failed to appeal and that Baker is the party against whom the issues were decided in both suits, and after easily concluding the trial court in *Baker I* rejected the very same statute of limitations arguments that Baker raised in *Baker* II (thus meeting the "identical issue" requirement), the Court honed in on the differing judicial treatment of the final adjudication requirement. Without deciding whether the final adjudication requirement has to be on the merits or not, the Court found that even if final adjudication on the merits was required it was satisfied here because relevant holdings require issue preclusion to be applied to dispositive statute of limitations issues decided on demurrer when the losing plaintiff seeks to relitigate the exact same arguments concerning the statute of limitations that were resolved against him in the first action. The Court bolstered its decision by holding that public policies underlying issue preclusion/collateral estoppel, preservation of the integrity of the judicial system, judicial economy, and the protection of litigants against vexatious litigation all also supported applying the issue preclusion doctrine here.

C. Sunflower Alliance v. Dept. of Conservation (2026) 20 Cal.5th 22

Holdings

The California Supreme Court held that:

(1) a strict, use-based inquiry shall be used to determine whether a project falls under CEQA's class 1 categorical exemption for existing facilities;

(2) the plain language of the exemption's phrase "negligible or no expansion of existing or former use" refers to an expansion or change in the nature or degree of a structure or facility's *use*, not to a project's risk of environmental harm or lack thereof.

Facts

In 2020, Reabold California LLC filed an application with the Department of Conservation's Division of Geologic Energy Management "(CalGEM") to convert a dormant, inactive oil well in the Brentwood Oil Field in Contra Costa County into an active Class II treated wastewater injection well. The oil well formerly pumped oil and water from an aquifer from 1963-1983 and was then plugged. In 1982, the EPA exempted the aquifer from the Safe Drinking Water Act, making it eligible for Class II injection wells. After the proposed conversion, the oil well would pump excess water underground back into the aquifer, eliminating nearly a dozen weekly heavy duty truck trips to a disposal site 32 miles away to dispose of the produced water. Under the proposed project, only minor alterations would occur to the actual well itself and the injected wastewater would go into a geographically confined aquifer located 4,000 feet underground and would not adversely affect any of the 22 water supply wells in the area, none of which are over 500 feet deep. Three regulatory agencies – CalGEM, the State Water Resources Control Board, and the Regional Water Quality Control Board—reviewed Reabold's application. After resolving the agencies concerns, CalGEM approved the project and found the project exempt from CEQA under the Class 1 categorical exemption found in CEQA Guidelines section 15301 as a "minor alteration" of an existing facility involving "negligible or no expansion" of the well's former use.

Claims Raised

Sunflower Alliance, a grassroots, volunteer-run environmental justice coalition, filed a petition for writ of mandate to challenge CalGEM's approval of the project, asserting that the project did not qualify for the class 1 existing facilities exemption because the proposed well conversion was a major change in use, not a negligible one. The lower courts split heavily on the issue: the trial court ruled in favor of Sunflower Alliance, while the Court of Appeal reversed and ruled in favor of the state and the oil company, focusing on environmental risk as opposed to the change in operation and concluding that the project fell under the exemption because its environmental risks were negligible.

Analysis

The Supreme Court disagreed with the Court of Appeal's analysis for three primary reasons. First, the Court, noted that the exemption's plain language neither expressly references nor even contemplates the risk of environmental harm. Second, in addition to its use of that plain language rationale, the Court pointed to the fact that in Public Resources Code section 21084 the Legislature specifically empowered the Secretary of California's Natural Resources Agency, not lead agencies or courts, to identify categories of exempt projects based on their unlikeliness to cause significant environmental effects. Third, the Court examined CEQA's three-step process – (1) is the proposed activity a project subject to CEQA, if so, (2) is the project exempt from CEQA, and if not exempt (3) conduct an Initial Study to assess the project's potential environmental impacts – and concluded that CEQA does not contemplate such environmental impact review in either the first or second step of that process. Accordingly, the Court unanimously held that the exemption's phrase "negligible or no expansion of existing or former use" refers not to the risk of environmental harm but rather to "an expansion or change in the nature or degree of a structure or facility's use." The Court remanded the case back to the Court of Appeal for further consideration and analysis consistent with the Court's decision.

Practice Tips

If it isn't clear whether a project's change of use is negligible but there is evidence that the proposed project will not result in any significant adverse environmental impacts, consider relying on both the class 1 existing facilities categorical exemption as well as the common sense exemption, which *does* contemplate the risk of environmental harm by covering projects for which it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

D. *Russian Riverkeeper v. County of Sonoma* (2026) 122 Cal.App.5th 382

<u>Holdings</u>

The First District Court of Appeal held that:

(1) The Public Trust Doctrine and its obligation to consider public trust impacts on navigable waters applies to all California counties that issue groundwater well permits and no express legislative delegation of those Public Trust duties is required.

(2) Courts apply the highly deferential "arbitrary, capricious, or entirely lacking in evidentiary support" standard of judicial review to quasi-legislative well ordinances and applying that standard here Petitioners failed to meet their burden of showing the County's public trust analysis was entirely lacking in evidentiary support.

(3) Sonoma County's proposed amendments to its groundwater well ordinance did not qualify for the Class 7 or Class 8 categorical exemptions because those exemptions only cover actions to assure the maintenance, restoration or enhancement of the environment/a natural resource and while the proposed amendments may indirectly benefit some natural resources they also relax some regulations and 95% of well permit applications would remain subject to ministerial review and the remaining 5% could, even if denied, be approved on appeal to the County's Board based on overriding considerations

(4) Sonoma County's proposed amendments to its groundwater well ordinance also did not qualify under CEQA's common sense exemption because the County's intention that the amended ordinance would result in fewer wells or decrease groundwater pumping was irrelevant and the County's assumption that it would reduce wells and groundwater pumping was not supported by substantial evidence and thus it could not be said with certainty that the amendments have no possibility of causing a significant environmental impact.

<u>Facts</u>

The Russian River, which runs through Sonoma County, is a navigable waterway protected by the public trust doctrine under California law. It also serves as critical habitat for several threatened and endangered fish species, including the Central California Coast Coho salmon, the California Coastal Chinook salmon, and the Central California Coast steelhead trout (collectively, salmonids). Groundwater extraction poses a recognized threat to these species because salmonids require sufficient water depths in rivers to reach spawning areas, and excessive groundwater pumping can reduce those depths. Sonoma County is one of the most well-dependent counties in California, relying on more than 45,000 water wells — the most per capita of any county in the state — to supply water for agricultural, residential, commercial, and industrial users in unincorporated areas. Between 2017 and 2022, the County issued an average of 320 groundwater well permits per year.

The project at issue in this case involved a proposed amendment to Chapter 25B of the Sonoma County Code, the local ordinance governing groundwater well permit approvals. Prior to the proposed amendment all groundwater well permit approvals were ministerial and thus not subject to CEQA. The impetus for the amendments was a 2018 Court of Appeal decision, *Environmental Law Foundation v. State Water Resources Control Board* (2018) 26 Cal. App. 5th 844, in which the Third District held that counties, as subdivisions of the state, share the state's responsibility for administering the public trust. That decision specifically held that the public trust doctrine imposed a fiduciary duty on the County of Siskiyou to consider public trust interests when permitting groundwater wells that could impact navigable waterways. Following that precedent, the County began a process to amend Chapter 25B to address its own public trust obligations. The County's Board of Supervisors ("Board") held its first hearing on August 9, 2022, at which County staff presented on the public trust doctrine and the proposed amendments, and members of the public — including the petitioners — offered comments. The Board then directed staff to coordinate with relevant governmental agencies and conduct public outreach. Working groups were convened and made recommendations, including establishing a Public Trust Review Area (PTRA) within which wells would be subject to discretionary review unless they fell into defined ministerial well classes, and imposing water conservation and metering requirements on nearly all wells in the PTRA. The Board adopted the amended ordinance on April 18, 2023. the Board did not conduct an independent environmental review under CEQA, concluding instead that three exemptions applied: the Class 7 categorical exemption (actions to assure maintenance, restoration, or enhancement of a natural resource), the Class 8 categorical exemption (actions to assure maintenance, restoration, enhancement, or protection of the environment), and the common sense exemption (where it can be seen with certainty that there is no possibility the activity may have a significant effect on the environment).

Petitioners filed their writ petition challenging the amended ordinance on both public trust doctrine and CEQA grounds in May 2023. The trial court found both claims were meritorious and granted the petition in full in August 2024, entering an October 30, 2024 judgment invalidating the ordinance amendments and rescinding the County's claimed CEQA exemptions. Sonoma County timely appealed.

Analysis

The Court first addressed Sonoma County's argument that it bore no public trust duties because the state holds sole authority to administer the public trust and no legislative delegation of that duty to the County had occurred. The court rejected this argument and reaffirmed the holding of the Third District Court of Appeal's decision in *Environmental Law Foundation*, which had established that a county, as a subdivision of the state, shares responsibility for administering the public trust and may not approve activities destructive to public trust resources without giving due regard to their preservation. Although *Environmental Law Foundation* was decided by a different appellate district and was therefore not binding, the court stated it saw no good reason to depart from that decision and expressly followed it. The court thus held that Sonoma County shares responsibility for administering the public trust with the state when issuing groundwater well permits that may affect the Russian River, a navigable waterway protected by the public trust doctrine.

The Court then clarified the applicable standard of review for public trust challenges to county land use and permitting decisions, holding that the petitioner bears the burden of establishing that the county's decision was arbitrary, capricious, entirely lacking in evidentiary support, unlawful, or procedurally unfair. The court emphasized that this "entirely lacking" standard is more deferential to agency decisionmaking than the substantial evidence standard—meaning a petitioner faces an even higher bar to overturn a county's public trust analysis than would be required under ordinary substantial evidence review. Applying the deferential standard, the court held that the petitioners failed to demonstrate that Sonoma County's amendments to Chapter 25B were arbitrary, capricious, or entirely lacking in evidentiary support. The court found that the record demonstrated the County gathered information, engaged the public, and subsequently balanced conflicting policy concerns to fashion a compromise addressing the practical realities of groundwater well permitting. The court also found that the County explicitly considered cumulative impacts on public trust resources—including the potential for groundwater extraction to deplete streamflows critical to threatened and endangered salmonid species—and that petitioners failed to overcome the presumption of validity accorded to the County's legislative action. Accordingly, the Court of Appeal reversed the trial court's judgement in favor of Petitioners on their public trust claim.

Turning next to address the CEQA exemption issues, the Court began by reaffirming the established rule that when a public agency invokes a categorical exemption from CEQA review, the burden falls on the agency—not the challenger—to demonstrate with substantial evidence that the exemption applies. Relying on *Muzzy Ranch Co. v. Solano Cnty. Airport Land Use Com*. (2007) 41 Cal. 4th 372, and *Save Our Big Trees v. City of Santa Cruz* (2015) 241 Cal. App. 4th 694, the Court held that Sonoma County bore the burden to show with substantial evidence that the amended ordinance would restore or enhance the environment, and that the CEQA challenger bore no burden to show the project would degrade the environment or deplete a natural resource. Concerning the applicability of the Class 7 and Class 8 categorical exemptions, the Court determined both as a matter of law and based on the administrative record that that Sonoma County's amendments to the groundwater well ordinance did not fall under either exemption. Class 7 covers actions by regulatory agencies to assure the maintenance, restoration, or enhancement of a natural resource, and Class 8 covers actions to assure the maintenance, restoration, enhancement, or protection of the environment. The court found that the ordinance amendments—which relaxed certain permitting requirements and lifted a moratorium on new well permits—could not reasonably be characterized as actions to assure the maintenance, restoration, or enhancement of the environment. The court further held that even assuming the exemptions were facially applicable, the record lacked substantial evidence that the amendments would in fact restore or enhance the environment, particularly given that the administrative record contained conflicting information regarding the actual environmental impacts, failed to account for potential adverse secondary effects, or lacked concrete baseline data to prove a net environmental benefit.

Finally, the Court also rejected the County's invocation of the common sense exemption, which only applies when it can be seen with certainty that there is no possibility the activity in question may have a significant effect on the environment. The court held that the County offered no substantial evidence in support of its assumption that the amendments would result in fewer wells or decreased water use/groundwater pumping. Accordingly, because there still was the potential for the amended ordinance to increase groundwater extraction affecting the Russian River and its salmonid habitat, it could not be said with certainty that the amendments had no possibility of causing a significant environmental effect.

II. Land Use Case Summaries

E. Dummer v. City and County of San Francisco (2026) 120 Cal.App.5th 1009

Holding

A municipal reservoir owner had no ministerial duty to immediately open reservoir or seek fishing permit where fishing access required discretionary regulatory planning.

Facts

Defendants are the City and County of San Francisco and the San Francisco Public Utilities Commission. The City is the owner of the Calaveras Reservoir, which contains various fish species and provides drinking water to 2.7 million residents across several Bay Area counties, and is subject to the Commission's Alameda Watershed Management Plan. The plan's purpose is to protect water quality and manage the watershed; the plan currently prohibits public access and fishing at the Calaveras Reservoir.

Plaintiff Timothy Dummer is a fisherman who has long sought access to fish at the Calaveras Reservoir. In an earlier lawsuit brought by Dummer (*Dummer v. San Francisco Public Utilities Com.* (A160789, June 15, 2021) [nonpub. opn.]), the court found that the City had a present ministerial duty to determine "whether fishing in the reservoir is something that can be accomplished without affecting the purity of the water" provided to users, but it emphasized the City had no other ministerial duties to perform at that point. The City complied with the order by determining that fishing could occur without affecting the purity and safety of the water, subject to CEQA review and the analysis of the State's Office of Drinking Water. The City authorized its General Manager "to develop the terms and conditions of a fishing program, obtain the City Planning Department's review of that program under CEQA; request an amendment to the drinking water permit from the State's Office of Drinking Water; and present to [the City] proposed amendments to the 2000 Alameda Watershed Management Plan to allow limited public shoreline fishing at Calaveras Reservoir." The City started planning for a fishing program at the reservoir.

Upon learning the Calaveras Reservoir would not immediately open for fishing while the City considered the necessity and parameters of a fishing program, Dummer filed a petition seeking to compel the City to: (1) obtain the requisite water supply permit from SWRCB pursuant to Health and Safety Code section 117045; and (2) provide public access for fishing during open season.

Claims Raised

The question presented is whether plaintiff Dummer is entitled to a writ of mandate compelling the public entity defendants to obtain an amended water supply permit and open the Calaveras Reservoir—immediately and in its natural state—to public fishing. Dummer contends defendants have a ministerial duty to act.

Health & Safety Code section 117045 provides that, before opening a reservoir to public fishing, a public owner "shall determine that the public fishing will not affect the purity and safety" of the reservoir's water and "shall obtain from [the State Water Board] a valid water supply permit setting forth the terms and conditions upon which public fishing may be conducted." Dummer contends the State Water Board—not the public owner of a reservoir—is the body responsible for determining the terms and conditions of a water supply permit. Dummer claims that once the City determined public fishing could occur in the Calaveras Reservoir without affecting the purity and safety of its water, the City had a ministerial duty to immediately obtain an amended water supply permit from the State Water Board and open the reservoir, in its natural condition, to fishing.

Analysis

The Court disagreed with Dummer. By its terms, Health and Safety Code section 117045 tasks the State Water Board with making the ultimate determination of the terms and conditions to be included in a water supply permit. However, the statute does not operate to deprive a public owner of authority to evaluate—and discretion to decide—what terms and conditions the owner deems appropriate to propose in its application for such a permit.

The City did not conclude public fishing could safely and immediately occur at the Calaveras Reservoir without further steps; the City made a determination that fishing "can occur" at the reservoir without affecting water purity and safety, "subject to the results of any CEQA review and the analysis of [the State Water Board]" pursuant to "terms to be set by the [Commission's] General Manager."

Moreover, the relevant Health and Safety Code provisions contain no language preempting other potentially applicable statutory schemes, such as CEQA. CEQA review is necessary where, as here, a watershed management plan requires amendment to allow for a new recreational activity within the watershed.

Dummer also relies on other laws establishing a public right to fish. However, the public right to fish "must yield in appropriate factual situations to the reasonable exercise of the state's inherent police power to protect public safety and welfare," which reasonably encompasses not only our state's interest in protecting water purity but also its strong public policy of protecting the environment.

The Court concluded that Dummer did not demonstrate Defendants' failure to perform a ministerial duty and affirmed the trial court's judgment.

Practice Tips

Health & Safety Code section 117045 recognizes the authority and discretion of the City to evaluate and determine the terms and conditions it deems necessary to control public fishing access at a reservoir, subject to approval by the State Water Board.

F. *AquAlliance v. Vina Groundwater Sustainability Agency* (2026) 122 Cal.App.5th 118

Holding

Plaintiff's validation action under SGMA was properly dismissed under the primary jurisdiction doctrine, as it presented issues that completely overlapped with determinations the Legislature unambiguously reserved for the Department of Water Resources.

Facts

The Sustainable Groundwater Management Act ("SGMA") requires certain local groundwater sustainability agencies to develop groundwater sustainability plans for their basins. After adoption, the groundwater sustainability agency must submit the plan to the Department of Water Resources ("DWR"), which has two years to conduct an initial evaluation of the plan, and then has an ongoing obligation to periodically review the plan to ensure it conforms with plan content requirements and "is likely to achieve the sustainability goal for the basin." SGMA also allows a groundwater sustainability agency to file a validation action to determine the validity of the plan.

Plaintiffs AquAlliance, California Water Impact Network, and California Sportfishing Protection Alliance filed a validation action under SGMA challenging the groundwater sustainability plan adopted by defendants Vina Groundwater Sustainability Agency and Rock Creek Reclamation District, asserting the plan "fails to achieve sustainable groundwater management." DWR "approved" the plan while the litigation was pending, and the trial court granted defendants' motion to dismiss plaintiffs' reverse validation action on the ground that DWR's approval mooted the action.

Claims Raised

This case examines the intersection between DWR's evaluation of a groundwater sustainability plan and a judicial validation action. Plaintiffs appealed the trial court's dismissal, arguing SGMA's validation procedures and DWR's review are two separate procedures and SGMA "does not limit the scope of validation claims."

Analysis

The Court affirmed the trial court's decision, concluding the trial court did not abuse its discretion in effectively applying the primary jurisdiction doctrine. This doctrine permits trial courts to stay and potentially dismiss actions where there is a "pervasive and self-contained system of administrative procedure" addressing the same issue. SGMA is such a statutory scheme, and plaintiffs' action sought to perform the same evaluation SGMA mandated DWR to perform, which justified the eventual dismissal of plaintiffs' action once DWR completed its evaluation.

G. New Commune DTLA LLC v. City of Redondo Beach (2026) 122 Cal.App.5th 99

Holding

The Housing Accountability Act's "builder's remedy" did not permit affordable housing that bypasses the Coastal Commission's land use approval process, based on the City's findings that: (1) denial was required under the Coastal Act as a matter of State law; and (2) no feasible method existed for the proposed housing to be compliant with the Coastal Act.

Facts

New Commune DTLA, LLC ("Developer") applied to the City of Redondo Beach for permits to develop a 30-unit mixed use condominium project (including six affordable units) in the City's coastal zone. The City's certified LCP designates permitted uses for different coastal zones, and residential uses are neither permitted nor conditionally permitted in the zone applicable to the Project. Developer acknowledged residential uses were not permitted but declared its application must be approved as a "builder's remedy" project under the HAA, since the City did not have a substantially compliant housing element certified by HCD at the time Developer submitted its project for approval.

The City denied the Project, finding that (1) denial was required under the Coastal Act as a matter of State law; and (2) no feasible method existed for the proposed housing to be compliant.

Following the denial of its application, Developer petitioned for writ of mandate, alleging that the "builder's remedy" compelled the City to approve the Project. The trial court denied the petition, finding Developer's proposed project violated the City's LCP, and that the "builder's remedy' could not override coastal land development requirements under the Coastal Act and the City's certified LCP.

Claims Raised

This case raises the question as to what extent must a builder's remedy project comply with the Coastal Act. Developer contends the trial court erred by effectively overriding the HAA in favor of the Coastal Act and offers a proposal for "harmonizing" the two acts.

Analysis

The court declined the Developer's proposal to "harmonize" the Builder's Remedy and the Coastal Act, as this would impose on local governments the duty to determine whether new and Commission-uncertified land uses comply with the Coastal Act.

Instead, the Court looked to the express language of the HAA. Under the HAA, a local agency may only disapprove a housing development project for very low, low-, or moderate-income households (including a builder's remedy project) if it makes one of several specified findings, one of which is that the denial is required to comply with state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households.

Here, the Court noted that the City is unable to authorize a use other than those uses designated in the LCP without first receiving certification by the Commission, such that the approval would violate the Coastal Act. The Court distinguished this from the circumstances in previous cases, where the courts upheld local CDP approvals that authorized projects in technical nonconformity with specific development *standards* because those nonconformities were overall compliant with LCP policies and the land *uses* at issue were permitted. Additionally, since the Developer did not apply for an LCP amendment to allow residential uses, there was no feasible method for the Project to comply with the Coastal Act. Accordingly, the City's denial findings, that (1) denial was required under the Coastal Act as a matter of State law and (2) no feasible method existed for the proposed housing to be compliant, were proper.

Practice Tips

Rather than merely relying on the Coastal Act to disapprove a builder's remedy project, this opinion reinforces that local agencies must make the denial findings required by the HAA, supported by a preponderance of the evidence, in order to deny a Builder's Remedy project in the coastal zone.