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CEQA & Land Use Litigation Update

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CEQA Case Summaries

A. CEQA Compliance Issues – Greenhouse Gas, VMT, and Related Issues

- *Cleveland National Forest Foundation v. County of San Diego* (2025) 110 Cal.App.5th 948
- *Center for Biological Diversity v. County of Los Angeles* (2025) 112 Cal.App.5th 317

B. CEQA Litigation Procedural Issues

- *Citizens for a Better Eureka v. City of Eureka* (2025) 111 Cal.App.5th 1114

C. CEQA Claims Asserted for Economic or Other "Non-Environmental" Reasons (Abusive CEQA Litigation?)

- *Camarillo Sanitary District v. State Water Resources Control Board* (2025) 113 Cal.App.5th 407

Cleveland National Forest Foundation v. County of San Diego (2025) 110 Cal.App.5th 948

Background Facts:

- San Diego County had amended its Transportation Study Guide for its CEQA evaluation of development projects to implement analysis of "Vehicle Miles Traveled" (VMT) in lieu of "Level of Service" (LOS).
- The County relied on a report from the State Office of Planning and Research (OPR), which stated that local agencies could develop their own VMT thresholds of significance based on certain types of projects (e.g., small projects generating fewer than 110 trips/day).
  - The Transportation Study Guide listed 7 thresholds of significance to decide whether a developer needs to perform a VMT analysis under CEQA.

Cleveland National Forest Foundation v. County of San Diego (2025) 110 Cal.App.5th 948

Petitioner challenge the County's use of two thresholds of significance in the revised Transportation Study that are used to "screen out" the need for a developer to perform a VMT analysis:

- The infill project threshold of significance.
  - Projects proposed within the County's unincorporated villages (urban areas).
- The small project threshold of significance.
  - Projects that are expected to generate no more than 110 automobile trips per day.

Cleveland National Forest Foundation v. County of San Diego (2025) 110 Cal.App.5th 948

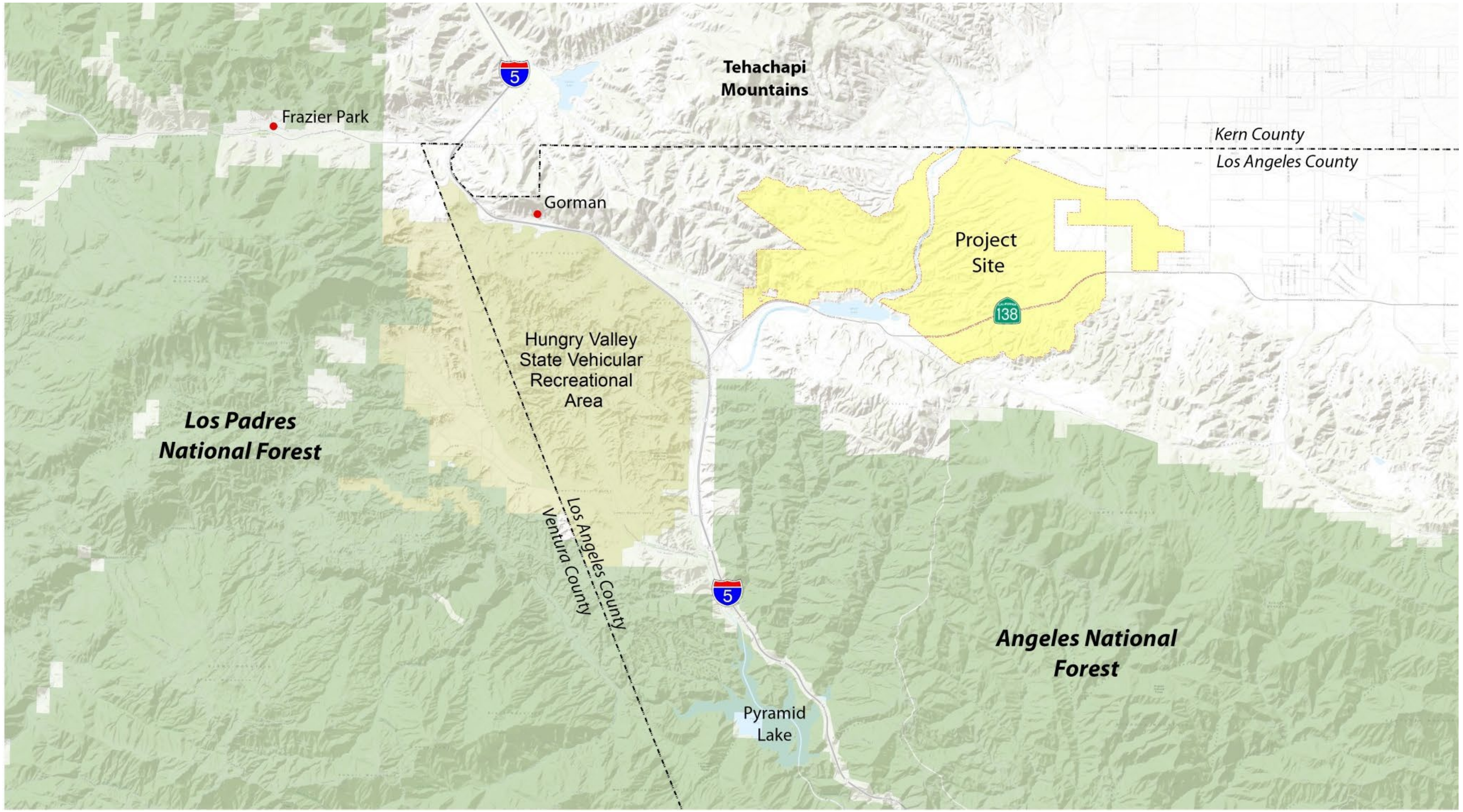
<u>Holding</u>:

- The County's thresholds of significance for VMT analysis were invalid under CEQA because the assumptions underlying such thresholds were not supported by substantial evidence.
  - The Court found that the County's own evidence and analysis contradicted its rationale for screening out development in certain unincorporated areas.

<u>Takeaway/Practice Tip</u>:

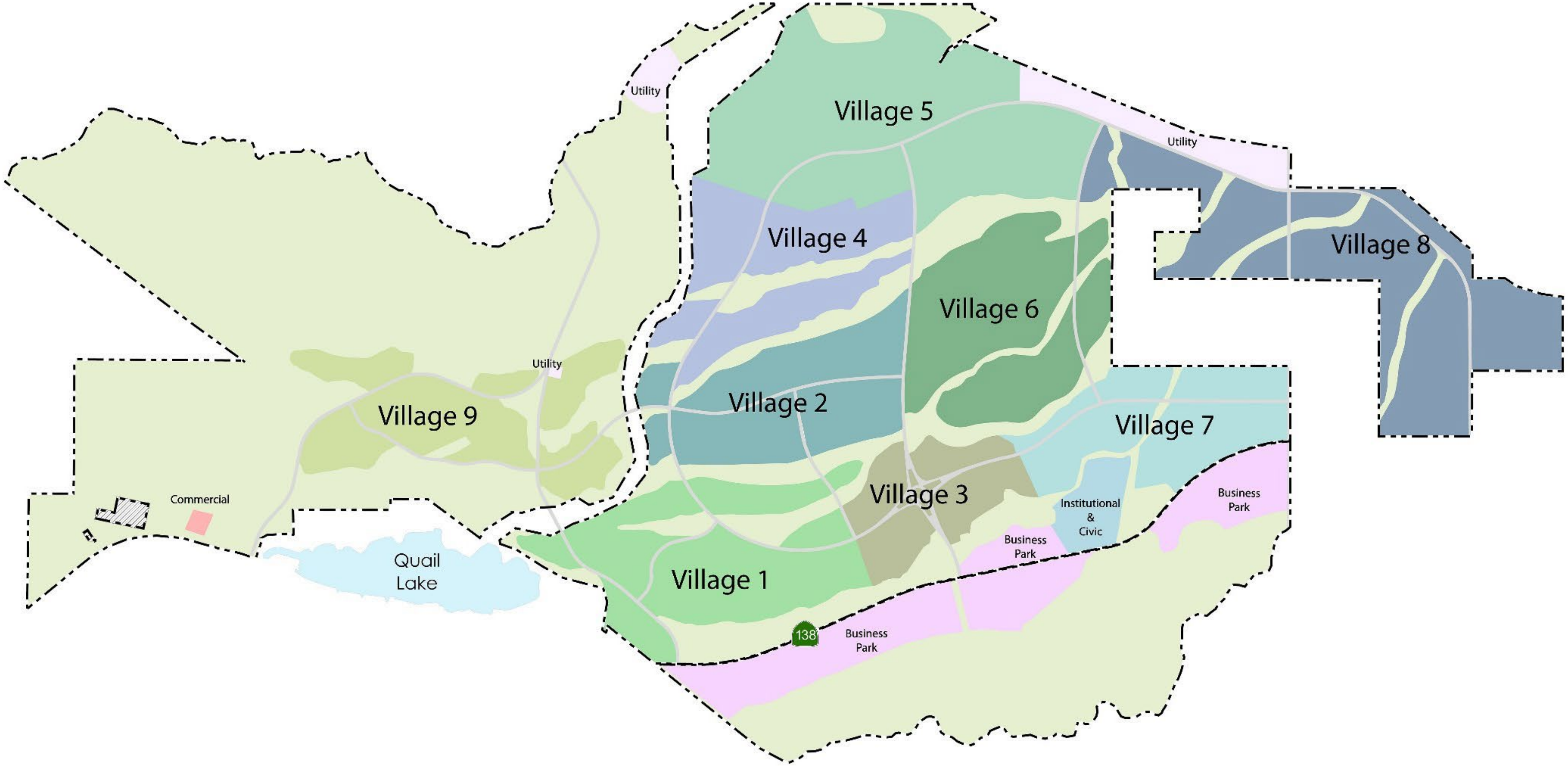
- When establishing screening thresholds of significance, local agencies cannot rely on generally applicable statewide standards without evidence that local conditions support their application.

Center for Biological Diversity v. County of Los Angeles (2025) 112 Cal.App.5th 317



Centennial Specific Plan:

- 12,232 acres
- 19,333 residential units on 40% of site
- Business, commercial, and industrial = 15% of site
- Open Space = 45% of site
- Draft EIR issued in 2017
- Consolidated final EIR issued in November 2018
- Consolidated final EIR certified on April 30, 2019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Center for Biological Diversity v. County of Los Angeles (2025) 112 Cal.App.5th 317

- Plaintiffs challenged Los Angeles County's reliance on California's cap-and-trade program to offset unmitigated GHG emissions of massive 12,000-acre Centennial Specific Plan development project.
- Under the cap-and-trade program, certain "covered entities," including large industrial facilities and energy providers, must obtain allowances for their GHG emissions, which may be purchased, sold, banked or offset through reduction projects.
- The EIR found significant GHG emissions but proposed to mitigate 96% of the emissions using carbon offsets by upstream energy providers (e.g., oil companies and natural gas suppliers responsible for the emissions resulting from the consumption of oil or natural gas).

Center for Biological Diversity v. County of Los Angeles (2025) 112 Cal.App.5th 317

Holding:

- The EIR violated CEQA, as it improperly relied on the state cap-and-trade program to offset the project's estimated greenhouse gas emissions, despite the project not being a "covered entity," and because the EIR improperly double-counted certain carbon offsets as mitigation.

Takeaway/Practice Tip:

- Local agencies may not rely on cap-and-trade compliance by upstream energy providers to offset its GHG emissions impacts.
- CEQA mandates that mitigation must be project-specific in addition to any reductions already required by law.

Citizens for a Better Eureka v. City of Eureka (2025) 111 Cal.App.5th 1114

City finds project is exempt from CEQA

- April 4th, 2023

Petitioner files lawsuit against City

- May 5th, 2023

City selects Wiyot Tribe as developer

- July 18th, 2023

City and Tribe execute a MOU

- December 22nd, 2023

The Wiyot Tribe specifically appears in lawsuit to dismiss petition

- February 9th, 2024

Citizens for a Better Eureka v. City of Eureka (2025) 111 Cal.App.5th 1114

Holding:

- The court held that the Wiyot Tribe was a necessary and indispensable party with an interest in petitioner's CEQA challenge to a city's approval of an affordable housing project on a city-owned parking lot, given that the Tribe itself was to be the developer of the project, even though the Tribe's role had not even been known at the time the action was originally filed.

- The Tribe could not be joined due to the statute of limitations barring joinder; therefore, dismissal of the petition was appropriate.

Takeaway/Practice Tip:

- It is less common these days for a petitioner to neglect to name a developer/applicant as a real party in interest, but it can still sometimes provide for an effective procedural defense.

Camarillo Sanitary District v. State Water Resources Control Board (2025) 113 Cal.App.5th 407

- The Toxicity Provisions adopted by the State Water Resources Control Board comprise a combined state-wide water policy and state water quality control plan, which are designed to implement the test of significant toxicity for both short-term and long-term toxicity water quality standards in California.
- Plaintiffs challenged the State's adoption of these Toxicity Provisions under CEQA, alleging that:
  - The State Board was not authorized to use a "substitute environmental document" to complete its environmental review; and
  - The State Board failed to adequately consider potentially significant impacts.

Camarillo Sanitary District v. State Water Resources Control Board (2025) 113 Cal.App.5th 407

Holding:

- The Board properly utilized a "substitute CEQA document" which provided environmental information required by CEQA instead of an EIR, and determined that its use of more stringent NPDES permitting requirements would not result in potentially significant CEQA impacts.

Takeaway/Practice Tip:

- Courts continue to cast a skeptical eye on industry-proffered CEQA challenges to regulatory actions that are, in fact, designed to better protect the environment.

Land Use Case Summaries

A. Mitigation Fee Act and Nollan/Dolan Regulatory Takings

- *Sheetz v. County of El Dorado* (2025) 113 Cal.App.5th 113

B. General Plan Consistency

- *Solano County Orderly Growth Committee v. City of Fairfield* (2025) 113 Cal.App.5th 1027

C. Permit Streamlining Act

- *Old Golden Oaks LLC v. County of Amador* (2025) 111 Cal.App.5th 794

Sheetz v. County of El Dorado (2025) 113 Cal.App.5th 113

Sheetz v. County of El Dorado (2024) 601 U.S. 267 (issued April 12, 2024)

Vacating and Remanding

On Remand

Sheetz v. County of El Dorado (2022) 84 Cal.App.5th 394 (issued October 19, 2022)

Sheetz v. County of El Dorado (2022) 113 Cal.App.5th 113 (issued July 29, 2025)

Sheetz – Facts

- Mr. Sheetz owned a parcel in the center of the County near Highway 50 that was zoned for "Low Density Residential."
- Mr. Sheetz applied for a ministerial building permit to install a modest prefabricated house.
- The County imposed $23,420 in traffic impact fees ($2,260 for Highway 20 improvements and $21,160 for local road improvements), pursuant to traffic fees legislatively adopted several years prior.
- Mr. Sheetz paid the fees, obtained the permit, but subsequently protested the fees.


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Sheetz – Procedural History

- The Third District originally affirmed denial of petition, concluding that the *Nollan/Dolan* test did not apply to legislatively adopted development impact fees.
- The U.S. Supreme Court unanimously reversed on narrow grounds, holding:
  - Legislatively adopted development impact fees are subject to judicial review under the Takings Clause of the United States Constitution; and
  - Such development fees are subject to review for “nexus” and “rough proportionality” requirements.
- The U.S. Supreme Court did not:
  - Determine the validity of the traffic impact fee at issue here; or
  - Determine whether a permit condition imposed on a class of properties must be tailored to the same degree of specificity as a permit condition imposed on a specific development.

Sheetz - Holding

- The $23,420 traffic impact fee did not constitute an unlawful taking without just compensation in violation of the takings clause.
- The court upheld the analysis in the County's nexus study it had prepared before adopting the traffic impact fee, finding:
  - it adequately demonstrated an essential nexus (under *Nollan*) with the County's interest in reducing traffic congestion from new development and
  - the amount of the fee was roughly proportionate (under *Dolan*) to the traffic congestion caused by the new development.

Sheetz - Takeaway

- No, the sky is not falling after the Supreme Court's (unanimous) decision in *Sheetz v. County of El Dorado* (2024) 601 U.S. 267 applying the *Nollan/Dolan* nexus and rough proportionality requirements to legislatively adopted development fees.
- On remand, the Court had no trouble finding that the County's $23,420 traffic impact fee imposed on development of a new prefabricated single-family home satisfied these requirements.
  - The court relied on the nexus analysis that the County had previously conducted prior to legislatively adopting the fee and rejected various (rather dubious) arguments Sheetz made in his attempt to challenge that analysis.

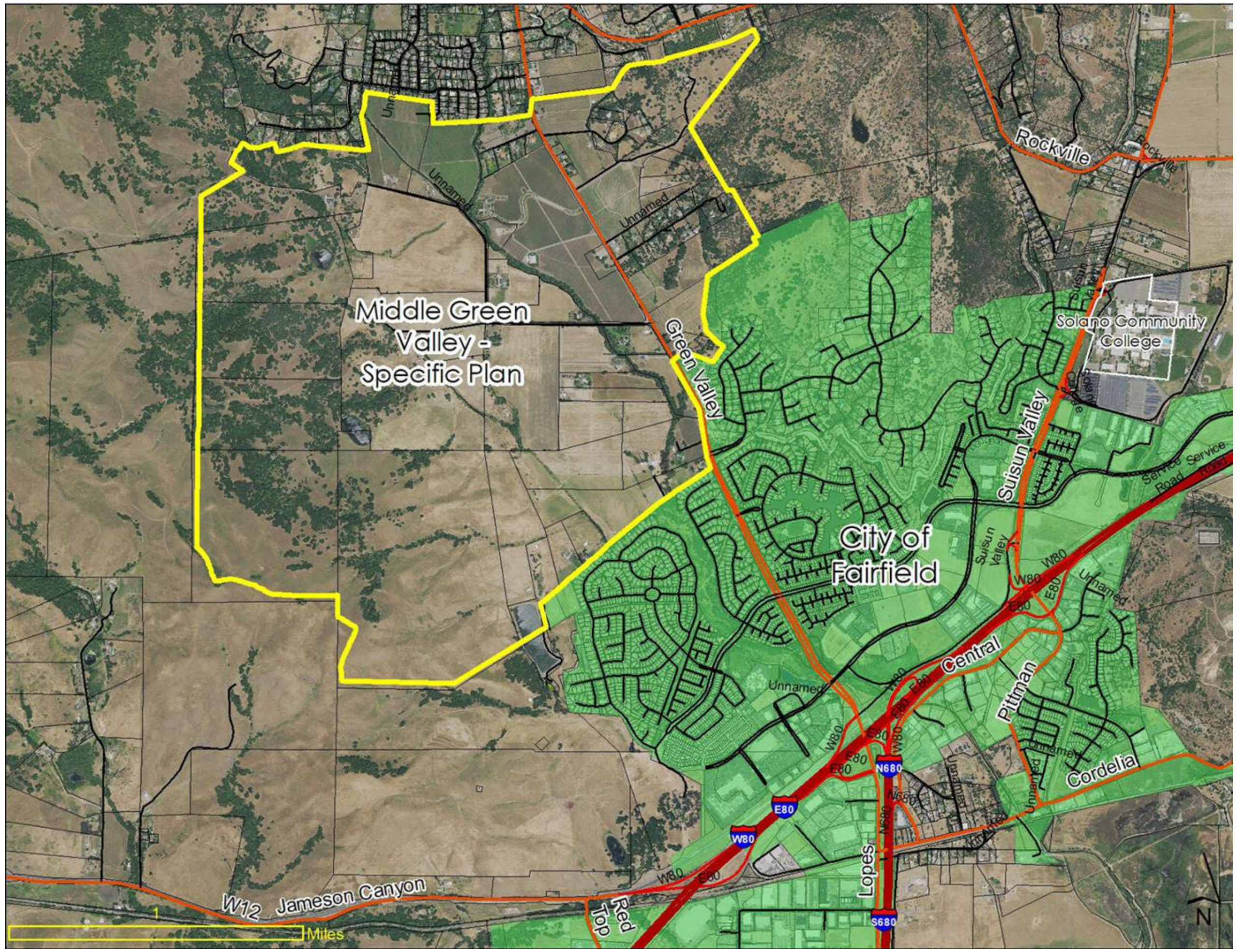
Sheetz – Practice/Litigation Tips

- The preparation of adequate nexus studies to justify development impact fees requires careful analysis to satisfy the requirements of the Mitigation Fee Act.
  - Once prepared, however, an adequate nexus study should suffice to rebut any later *Nollan/Dolan* takings challenges they are actually imposed on individual projects.
- Local governments cannot rest on their laurels after adopting fees.
  - Perhaps the most frustrating result of the *Sheetz* holdings is that new arguments may be raised years after fees are initially adopted.
  - Thus, agencies must continue to review and update nexus studies to ensure that sufficient evidence supports its conclusion that the impact fees are roughly proportional to the impacts of the development.
- Here, the petitioner made weak "after the fact" arguments that the County was able to rebut (a more sophisticated developer could raise more difficult challenges).
  - Agencies thus should work proactively to make sure the administrative record for each development project adequately documents the need for existing development fees.
  - The CEQA analysis for each project may provide a useful mechanism for documenting development impacts warranting the imposition of existing impact fees.

Solano County Orderly Growth Committee v. City of Fairfield (2025) 113 Cal.App.5th 1027

- At the request of the County, the City of Fairfield and the Solano Irrigation District entered into an agreement in 2022 whereby:
  - The City would receive "raw water" from the District,
  - The City would treat the water at existing City facilities, and
  - The City would supply the District with an equivalent amount of potable water for use in a new mixed-use development recently approved by the County that is located outside of the City's boundaries (the Middle Green Valley development).
- Petitioner (a citizen group) filed suit, alleging the City's approval of the agreement violated the City's 2002 General Plan, which specifically stated that "[w]hat is urban shall be municipal, and what is rural shall be within the County."
  - Because the water would be for use outside of City limits, Petitioner argued that the agreement was inconsistent with the General Plan.

Solano County Orderly Growth Committee v. City of Fairfield (2025) 113 Cal.App.5th 1027



North Bay Regional Water Treatment Plant

Waterman Water Treatment Plant

Solano County Orderly Growth Committee v. City of Fairfield (2025) 113 Cal.App.5th 1027

Holdings:

- Where a city is acting purely as a utility service provider, here to provide treated water, for the benefit of a development project approved by the county, and it's not exercising any land use/zoning discretion to actually approve development, it need not make general plan consistency findings.

- Even if such general plan consistency findings were required, under the appropriate deferential standard of review, the court had no trouble upholding the city's determination that the limited provision of such water service was consistent with the City's general plan, notwithstanding policies that discouraged urban development outside the city.

Old Golden Oaks LLC v. County of Amador (2025) 111 Cal.App.5th 794

- Old Golden Oaks applied for a grading permit and encroachment permit to construct streets and water service facilities for its residential subdivision.
  - The County's submittal checklist for its grading permit included various specific requirements, such as a proposed erosion control plan, a copy of any right-of-way agreements, a notice of intent, a stormwater pollution prevention plan, engineered plans, and an indemnification agreement (if CEQA applies).
  - The County's submittal checklist for its encroachment permit included the following catch-all provision for "[o]ther information as may be required by the director [of transportation and public works]."
- The County determined that Old Golden Oaks' applications were incomplete, and Old Golden Oaks filed suit.

Old Golden Oaks LLC v. County of Amador (2025) 111 Cal.App.5th 794

Holding:

- A "catch-all" provision on an encroachment permit submittal checklist violates the Permit Streamlining Act because it does not specify in detail the information required for a development project application.
- The local agency may condition completeness of a grading permit application on a requirement that the project application include sufficient information to comply with CEQA.

Takeaway/Practice Tip:

- Make sure your local agency is complying with current requirements of the Permit Streamlining Act in specifying what information an applicant must include in order for any development application to be deemed complete. These requirements apply *even to applications for encroachment permits*.
- But this particular case appears to be much ado about nothing.
  - Here, the County's requirements for grading permits adequately detailed what information was needed for a complete application, and thus the court found that the county properly determined that the application was not complete.
  - The County was just slightly tripped up because it also did not include such specificity in its requirements for encroachment permit applications.

Thank You