

# **Bond Case Briefs**

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## **ZONING - CALIFORNIA**

### **Friends of Oroville v. City of Oroville**

**Court of Appeal, Third District, California - August 19, 2013 - Cal.Rptr.3d - 13 Cal. Daily Op. Serv. 9041 - 2013 Daily Journal D.A.R. 11, 024**

The Friends of Oroville brought action under the California Environmental Quality Act (CEQA), challenging the City of Oroville's approval of an environmental impact report (EIR) for the project at issue—a relocated and expanded Wal-Mart Supercenter to replace an existing Wal-Mart of traditional dimension and retail offerings (the Project).

On appeal, plaintiffs contended the City's EIR (1) improperly found it was infeasible for the Project to contribute its fair share mitigation for "Year 2030" cumulative traffic impacts along eight intersections of Oroville Dam Boulevard, (2) inadequately analyzed the Project's hydrological impacts, (3) inadequately analyzed the Project's greenhouse gas emissions, and (4) violated CEQA's notice requirements.

The appeals court found that the City properly adopted Assembly Bill 32's reduction targets for GHG emissions as the threshold-of-significance standard in determining whether the Project's GHG emissions constituted a significant environmental impact. The problem was that the City improperly applied this proper standard in concluding that the Project's environmental impacts from GHG emissions were less than significant. Citizens, again, exemplifies the model, showing us a proper way to apply the Assembly Bill 32 threshold-of-significance standard.

The appeals court concluded that the City misapplied the Assembly Bill 32 threshold-of-significance standard in two related ways: (1) by applying a meaningless, relative number to determine insignificant impact; and (2) by failing to ascertain the existing Wal-Mart's GHG emissions, and the impact on GHG emissions from the Project's mitigation measures.