

Bond Case Briefs

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Los Angeles Department of Water and Power v. County of Inyo

Court of Appeal, Fifth District, California - August 17, 2021 - 67 Cal.App.5th 1018 - 283 Cal.Rptr.3d 119 - 21 Cal. Daily Op. Serv. 8480

City department of water and power filed petition for writ of mandate, alleging that county, which sought to acquire city department's landfill sites in county by eminent domain, failed to properly identify the true nature and scope of its "project" under the California Environmental Quality Act (CEQA).

Following transfer, the Superior Court entered judgment and issued writ, and county appealed.

The Court of Appeal held that:

- County did not provide adequate notice that CEQA exemptions would be considered at public meeting, and
- Categorical CEQA exemption for existing "facilities" does not include unlined landfills.

County did not provide adequate notice that California Environmental Quality Act (CEQA) exemptions would be considered at public meeting regarding proposed condemnation of landfills, and thus CEQA's issue exhaustion requirement did not apply to landowner's CEQA challenges to county's reliance on CEQA exemptions; agenda request form for the hearing of county's board of supervisors did not mention CEQA or any exemption, and first disclosure or notice occurred just before the close of the public portion of the hearing when a county staff member stated that county believed the proposed condemnation was exempt from CEQA under the existing facilities exemption and the commonsense exemption.

Categorical California Environmental Quality Act (CEQA) exemption for existing "facilities" does not include unlined landfills; some landfills pose a threat to groundwater, air quality and public health.