

May 14, 2001

REPORT TO THE HONORABLE  
MAYOR AND CITY COUNCIL

*SAN DIEGANS FOR RESPONSIBLE FREEWAY PLANNING v.  
CITY OF SAN DIEGO, ET AL. [STATE ROUTE 56]*

*SAN DIEGANS FOR RESPONSIBLE FREEWAY PLANNING v.  
CITY OF SAN DIEGO, ET AL. [SUBAREA III]*

## **INTRODUCTION**

On May 2, 2001, the Fourth District Court of Appeal ruled in the City's favor on two significant California Environmental Quality Act (CEQA) cases. Both cases were brought by an association of homeowners in the Carmel Valley area; one challenged the sufficiency of the Environmental Impact Report (EIR) for State Route 56, and the other challenged the EIR for Subarea III of the North City Future Urbanizing Area (NCFUA). The City had prevailed in both cases in San Diego County Superior Court, and the appellate court affirmed both of those rulings.

## **FACTS**

On August 21, 1998, Petitioners San Diegans For Responsible Freeway Planning and Rancho Glens Estates Ad Hoc SR-56 Committee filed a Petition for Peremptory Writ of Mandate in San Diego Superior Court against the City of San Diego and the City Council for the City of San Diego. In addition, Petitioners named Caltrans and Pardee Construction Company as Real Parties in Interest to the matter. In their petition, Petitioners contended that the City abused its discretion and violated the California Environmental Quality Act (CEQA) in certifying the Final Environmental Impact Report (EIR) for State Route 56 and approving the State Route 56 Project.

Petitioners contended that the EIR for State Route 56 was deficient in that it failed to adequately address the impacts the project would have on key environmental resources, failed to conduct sufficient analyses, and recommended unproven and inadequate mitigation measures. Specifically, Petitioners contended that the EIR failed to adequately address project impacts on: (1) the water quality and biotic resources of Los Penasquitos Lagoon; (2) air quality, both from construction activities and eventual traffic emissions; (3) traffic, both on freeway segments and ramps and on local streets and intersections; (4) noise levels within the project area; and (5) the rural aesthetics of the project area. The City, along with Real Parties In Interest Caltrans and Pardee Construction Company, denied Petitioner's contentions, and argued that the environmental review of the project was lengthy and exhaustive, that it went beyond CEQA's review requirements, that it disclosed to the City Council the environmental impacts the project would have on the project area, and that it proposed adequate mitigation measures for those

impacts.

On August 28, 1998, Petitioners also filed a writ petition in Superior Court against the City and City Council and against Pardee Construction Company as a Real Party in Interest, challenging the City's certification of a Master Environmental Impact Report (MEIR) for a proposed land use plan governing 2,652 acres of land in Carmel Valley known as Subarea III of the North City Future Urbanizing Area (NCFUA). In that writ, Petitioners made similar allegations to those included in the State Route 56 writ — that the MEIR for Subarea III failed to adequately address the impacts of the land use plan on traffic, water quality, air quality, and public services. The City and Pardee denied those contentions and argued that the environmental review of the proposed project was adequate.

### **LITIGATION**

The State Route 56 writ was heard on August 13, 1999, by Judge Judith McConnell, who issued a Tentative Ruling in the City's favor prior to the hearing. After oral argument by all parties, the court took the matter under submission, and issued a final order on August 18, 1999, affirming the Tentative Ruling denying the writ. The court found that the Final EIR for the project was "adequate to demonstrate to an apprehensive citizenry that the governmental decision maker had, in fact, fully analyzed and considered the environmental consequences of its actions."

The Subarea III writ was heard on September 9, 1999, by Judge McConnell, who issued a Tentative Ruling prior to the hearing granting the writ in part and denying it in part. After oral argument by all parties, the court took the matter under submission, and issued a final order on September 14, 1999, modifying the Tentative Ruling and denying the writ in its entirety.

Petitioners appealed both of Judge McConnell's rulings to the Fourth District Court of Appeal. Oral argument was held on April 9, 2001, and the court subsequently issued two opinions on May 2, 2001, affirming the Superior Court judgments. Copies of those unpublished opinions of the Court of Appeal are attached.

Deputy City Attorneys Frank Devaney and Claudia Gacitua Silva handled both cases on behalf of the City and City Council in both the trial and appellate courts.

Respectfully submitted,

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CASEY GWINN  
City Attorney

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