# **Appeals court upholds oil permitting pause in California's Kern County**

ESG Dive

March 11, 2024 Monday 5:09 PM EST

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**Section:** ***OIL*** AND GAS NEWS & US NEWS

**Length:** 607 words

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**Body**

**Dive Brief:**

* A California appeals court ruled last week to unanimously uphold a pause on new ***oil*** and gas permits in ***Kern*** County, due to an environmental review process for its local ***oil*** and gas ordinance that was at odds with the California Environmental Quality Act.

1. The proceedings center on amendments proposed to the county's zoning ordinance that would streamline and expedite the permitting process for local ***oil*** and gas. The court found three violations of CEQA that it said must be fixed before a new streamlined permitting process can be put into place.
2. The court ruled March 7 that a modified environmental impact report the county submitted in 2021 is to be decertified, and the county must submit a new environmental report in compliance with CEQA before attempting to rework the permitting process again.

**Dive Insight:**

This is the second appeal on ***Kern*** County's compliance with CEQA, after a court previously determined that the environmental impact report was defective in 2020. That ruling also led to a halt in new ***oil*** and gas permits, and spawned the supplemental recirculated environmental impact report at the heart of the recently decided appeal.

The county greenlit the revised impact report as final in November and pushed through a modestly revised ordinance in 2022. ***Kern*** County was again forced to pause the distribution of new ***oil*** and gas permits in January 2023, but had issued more than 1,000 permits in the two intervening months, according to Bakersfield.com.

The revised ordinance was challenged by environmental group Sierra Club and V Lions Farming - managed by ***Kern*** County farmer Keith Gardiner - after the county said in the final environmental impact report that "certain environmental impacts could not be mitigated," adopted overriding statements and said the review was complete and complied with CEQA. Last week's ruling set aside that finalization and returned the county to the drawing board.

The court ruled that before a new permitting ordinance can be approved, the county must revise its environmental impact report and correct CEQA violations in its assessment of cancer risks "associated with the drilling of multiple wells near sensitive receptors;" its analysis of water supply impacts; and the county's rejection of agricultural conservation easements as a partial mitigation measure, according to the ruling.

The ruling found errors in the county's decision to assess impacts of drilling 1,000 feet from sensitive locations, when it planned to allow drilling as close to 210 feet from a home and 300 feet from a school.

"The failure to explain why a 984.25-foot setback was assumed ... when the setbacks in the Revised Ordinance were much smaller, rendered the [supplemental recirculated environmental impact report's] discussion insufficient for purposes of CEQA because it precluded a meaningful understanding of the cancer risks created by the setbacks actually adopted," the court wrote.

As of 2018, ***Kern*** County was home to 80% of the state's active ***oil*** and gas wells and accounted for 70% of the state's ***oil*** and gas production, according to a 2020 analysis of legal and policy options for a fossil fuel phase-out in the state from University of California-Berkeley's Law School.

Mercedes Macias, a Sierra Club organizer in ***Kern*** County, said in a press release Thursday that the group and its partners "applaud" the court's decision, which they said will "block this latest attempt to greenlight projects without adequate safeguards or accountability.

"Today's ruling sends a clear signal that cutting corners to drill won't be tolerated at the expense of ***Kern***'s air, water and soil," Macias said.

**Load-Date:** March 11, 2024

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