# **Appellate Court Again Blocks Kern County Oil & Gas Rule Over CEQA Review**

EnergyWashington Week

March 20, 2024

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**Length:** 568 words

**Body**

March 14, 2024 A California appellate court is for the second time blocking ***Kern*** County's sweeping ***oil*** and gas permitting ordinance, ruling that county officials failed to comply with environmental assessment and mitigation requirements under the California Environmental Quality Act (CEQA) for several different aspects of the plan.

"The court saw right through the county's deceptive tactics on ***oil*** industry pollution and prevented an end run around the state's fundamental public protections," said Hollin Kretzmann, an attorney with the Center for Biological Diversity, one of the plaintiffs in the case, in a March 7 press release.

"***Kern*** County is hell-bent on squeezing every last drop of ***oil*** out of the ground, no matter the consequences. It's vital that every permit gets a rigorous review to protect public health and our environment from this dirty and dangerous industry," he added.

A ***Kern*** County spokeswoman provided the following statement in response: "***Kern*** County staff and counsel are reviewing the 106-page decision and discussing our agency's next steps. We are pleased to see we prevailed on the important issue of mitigating [fine particulate matter (PM2.5)], among other issues. As always, our ***Kern*** County Board of Supervisors continues to support our ***oil*** industry and environmentally protective ***oil*** and gas permitting as part of the energy future of not only ***Kern*** County, but California at large."

The March 7 opinion by a three-judge panel of California's Fifth Appellate District Court of Appeal in V Lions Farming, LLC et al. v. County of ***Kern*** marks the second time the court has overturned a county superior court ruling upholding the county ordinance, with the first such decision issued in 2020.

After that prior ruling, the county drafted a revised Supplemental Recirculated Environmental Impact Report (SREIR) for the drilling permitting ordinance. Environmentalists sued, and the county superior court again upheld the legality of the plan. Environmentalists then appealed.

In the latest ruling, the appellate judges determined that the county violated CEQA by claiming an agricultural conservation easement (ACE) ensured the project would result in "no net loss of agricultural land"; that the SREIR's discussion of cancer risk associated with drilling more than one well near a sensitive receptor is inadequate; and that the county misconstrued CEQA when it decided to remove a water supply mitigation measure.

However, the judges also found that environmental groups "have not carried their burden of establishing prejudicial error involving (1) the air quality mitigation measures addressing emissions of particulate matter, (2) the analysis of impacts to the Temblor legless lizard, or (3) the absence of Spanish language translations of certain notices and portions of the SREIR."

The ruling remands the case back to the county superior court "for further proceedings."

The environmentalists say the ruling prohibits the county from issuing local permits for ***oil*** and gas projects. "If it tries to move forward a third time, ***Kern*** County will have to adopt a new ordinance and redo its environmental review to comply with" CEQA, the release adds.

More than 80 percent of ***oil*** drilling in California is located in ***Kern*** County, with a significant portion involving hydraulic fracturing, acidization and other controversial well stimulation treatments. -- Curt Barry (cbarry@iwpnews.com)

**Load-Date:** March 19, 2024

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