# **Court rulings' impact on Kern oil permitting remains fuzzy**

The Bakersfield Californian

June 12, 2022 Sunday

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**Section:** BUSINESS AND FINANCIAL NEWS

**Length:** 771 words

**Byline:** John Cox, The Bakersfield Californian

**Body**

Jun. 12—Court rulings released Tuesday may have set back ***Kern***'s efforts to resume over-the-counter ***oil*** permitting, but it remains to be seen just how far back and what actions could be necessary to bring the county's system into compliance with the California Environmental Quality Act.

Lawyers in the case agreed a number of remedies are possible, at the judge's discretion and depending on what the parties involved ultimately work out among themselves. The resolution could go on for more than a year, they said, or it could take only a few months.

A case management conference scheduled for July 14 is expected to provide guidance on what the county will have to do to address three main deficiencies identified in a 41-page set of rulings released last week by ***Kern*** County Superior Court Judge Gregory Pulskamp.

None of the parties involved would venture a guess as to what lies ahead in the case, other than that the county will have to make changes if it wants to continue permitting as it had as recently as October.

That's when Pulskamp put a halt to county permitting with a court order that reverberated across California ***oil*** production, holding back drilling activity and local oilfield employment at a time of elevated barrel prices. The county had made changes to its environmental review seven months prior in an effort to fix problems an appellate court found in February 2020, but Pulskamp ruled those revisions hadn't gone far enough.

County Counsel Margo Raison declined to discuss the possibilities ahead, saying by email only that the county is reviewing and analyzing Pulskamp's rulings, discussing its ramifications and considering options.

***Kern*** County Planning and Natural Resources Department Director Lorelei Oviatt added by email that Tuesday's rulings do not stand as the final word, nor do they lay out specific steps that will be required of the county.

"So, there is no final judgment and no remedy to comment on yet," she wrote.

Two of California's leading ***oil*** trade groups did not respond to requests for comment.

The county and its industry sponsors in the effort have long predicted a drawn-out legal process will be required to bring the system into full compliance, if only because environmental groups and others adamantly oppose the idea of a regionwide assessment substituting for individual project reviews.

Last week's rulings clearly amounted to a rejection of the county's review, particularly its measures for cushioning the environmental impact of local oilfield activity, but they were not a total defeat for the county.

On several points the county prevailed, including on its multiwell health risk assessment and its opponents' calls for farmland conservation easements. It lost, though, on questions relating to mitigating local ***oil*** production's impacts in terms of tiny particulates of air pollution, removal of idle oilfield equipment and water-infrastructure investments in disadvantaged communities.

Pulskamp asked the parties to confer about his rulings' implications. July's case management conference will be an opportunity to come to agreement, in a relatively time-efficient way, on how the county should proceed.

Lawyers involved in the case note that CEQA gives judges significant leeway to decide how faulty reviews can be fixed, and that the ultimate decision on the path forward varies according to the deficiency identified by the court. That makes it hard to predict what direction the next phase of the case will go next, they said.

It could be that the county will need to readopt the zoning ordinance on which the permitting system is based, as well as the "statement of overriding considerations," a blanket determination contained in the county's environmental review, the lawyers said.

The county may need to amend its mitigation agreement with the San Joaquin Valley Air Pollution Control District, which the lawyers noted would require public approvals by the county Board of Supervisors and the air district's board.

When an appellate court found fault with the county's environmental assessment in early 2020, the county's attorneys asked that permitting be allowed to continue while work on the review document continued. The court said no.

California Deputy Managing Attorney Colin O'Brien at Earthjustice said he expects that to happen again.

"Until they've fully complied with the previous decision and CEQA, then (county officials) don't have any business issuing permits," he said.

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**Load-Date:** June 13, 2022

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