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San Joaquin Raptor/Wildlife Rescue Ctr. v. Regents of the Univ. of Cal., No. F041622, 2003 WL 21457054 (Cal. Ct. App. June 24, 2003)

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San Joaquin Raptor/Wildlife Rescue Ctr. v. Regents of the Univ. of Cal., No. F041622, 2003 WL 21457054 (Cal. Ct. App. June 24, 2003) (holding University of California's final Environmental Impact Report for the long range development of the proposed University of California, Merced campus legally adequate where it sufficiently identified, assessed and mitigated impacts of supplying water to the proposed project).

San Joaquin Raptor/Wildlife Rescue Center ("Center") appealed the Merced County superior court's ruling approving the certification by the regents of the University of California ("Regents") of the final environmental impact report ("EIR") for a project known as the Long Range Development Plan ("LRDP") for the University of California, Merced ("UC Merced"). In 1988, the Regents authorized the president of the University to initiate planning for additional University of California campuses. The Regents approved eight "factors" upon which to base their eventual decision for selecting a site for the new campus; one such factor addressed the status of obtaining an adequate water supply. After reviewing a site selection environmental impact report, the Regents selected an area just outside the city of Merced, California. The University prepared a detailed EIR for the UC Merced LRDP Plan. The EIR alerted the University to the environmental effects of approval of the LRDP. In January 2002, the Regents approved and certified the EIR for the LRDP. Filing suit in superior court, the Center contended that the EIR inadequately analyzed the impact of water delivery to UC Merced under the California Environmental Quality Act ("CEQA"). The superior court rejected this contention and concluded that the EIR was more than sufficient as an informational document of water delivery impact. The Center appealed to the California Court of Appeals, contending the EIR inadequately addressed the treatment of water delivery impacts.

The court found the EIR, with a sufficient degree of analysis, provided decision makers with information enabling them to make a decision which intelligently considered environmental consequences. The court then determined that its ability to set aside an agency's EIR under the CEQA extended only to prejudicial abuse of discretion. Abuse of discretion exists if the agency does not proceed in a manner required by law or if the determination or decision is not supported by substantial evidence. Under this standard, the court found it could not rule upon the correctness of the EIR's environmental conclusions, but only upon its sufficiency as an informative document.

The court held that the final EIR did not violate CEQA. The court determined that the EIR sufficiently stated information regarding the impact on water delivery. Specifically, the court found the EIR identified the supplier of water to the university, the location and quantity of wells needed, and source of the water supply; properly quantified the amount of water to be supplied; assessed potential impact on agriculture and on adjacent well yields; and identified the

methods used in citing and designating groundwater wells, which together sufficiently stated the impact of water delivery to UC Merced.

The Center also presented four more arguments: (1) the EIR had no reliable information on which to base any claim that no question exists with respect to the feasibility of additional wells, (2) the EIR did not identify the sites of the recharge basins, (3) the Regents' reliance on the 2001 Merced Water Supply Update as a guarantee of adequate water supply was unwarranted, (4) and *Stanislaus Natural Heritage Project v. County of Stanislaus* and *Santiago County Water District v. County of Orange* required reversal of judgments. The court rejected these arguments, ruling that differing opinions arising from the same pool of information cannot invalidate the EIR as inadequate. Therefore, the court affirmed the superior court's ruling.

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S. Yuba Water Dist. v. Hofman, No. C039687, 2003 Cal. App. Unpub. LEXIS 4462 (Cal. Ct. App. May 2, 2003) (holding that, presuming the trial court reviewed extrinsic evidence as necessary to analyze the meaning of a water right agreement, the trial court did not err as a matter of law in its interpretation of the disputed agreement).

The South Yuba Water District ("District") filed suit to extinguish all prior water rights claimed by Frances Hofman, Emma Hofman and the Hofman Ranch (the "Hofmans") and to acquire easements across the Hofman's property. The Superior Court of Yuba County found the Hofmans did not hold claimed water rights. The Hofmans contended on appeal that the trial court had erred by not considering extrinsic evidence supporting the prior water rights agreement. The California Court of Appeals affirmed, finding the lower court did not err in its consideration of extrinsic evidence.

The Hofmans owned two tracts of land. The Hofman Ranch tract was located within the District while the Johnson Ranch was outside the District. The 1985 agreement between the Hofmans and the District allowed the use of surplus irrigation water transferred from within the District to the Johnson Ranch tract outside of the District. The parties referred to the rights conveyed by this agreement as "put and take" rights.

The District filed suit in July 1992, seeking to acquire and extinguish these rights. The superior court first heard evidence regarding the agreement during phase one of a bifurcated trial. The court found the agreement unclear as to the water rights conveyed, resulting in a tentative holding that the District retained the disputed water rights. During phase two of the trial, the court held it could not rely on the tentative phase one holding. The phase two court found the agreement allowed the Hofmans to convey water to areas outside the District via the District's facilities. However, the agreement did not give the Hofmans any additional water rights. The parties reached