



Supreme Court Declines to Review or Depublish “CEQA In Reverse” Decision

By Arthur F. Coon on April 6th

On March 21, 2012, the California Supreme Court denied a petition for review of the Second District’s published opinion in *Ballona Wetlands Land Trust, et al. v. City of Los Angeles* (2011) 201 Cal.App.4th 455 (“*Ballona Wetlands*”). As noted in my December 14, 2011 post (“From Baird to Ballona Wetlands: CEQA’s Logical Limits”), *Ballona Wetlands* is the most recent in a line of so-called “CEQA-in-reverse” cases, which holds that CEQA is concerned with the impact of the project on the existing environment, not vice-versa.

In denying review, the Supreme Court also denied the depublishation requests of numerous environmental groups (including the National Resources Defense Council, Sierra Club, Center for Biological Diversity, and the Environmental Defense Center), and of the Bay Area Air Quality Management District.

While it is impossible to say with certainty why the Supreme Court denies review of specific cases, its actions here in denying review and depublishation of *Ballona Wetlands* are nonetheless significant, in light of the important, fundamental and (to some) controversial nature of the issue presented, as well as the Court’s recent pronouncements urging the relevance of “common sense” at all levels of CEQA review. Contrary to thoughts expressed by some CEQA practitioners, I believe the “CEQA-in-reverse” holdings of *Ballona Wetlands* and like decisions are on solid footing and that the CEQA Guidelines should be revised accordingly.