

# **FMOG AND THE MURPHY DRILL SITE: UNDERSTANDING CEQA ENVIRONMENTAL REVIEW**

## **WHAT IS CEQA?**

California Environmental Quality Act (1970)

CEQA is a CA statute that sets statewide policies that require both state and local agencies to consider the environmental consequences of decisions that involve changes to the environment.

The purposes of CEQA are to:

1. Provide information about the environmental effects of projects.
  2. Identify ways that environmental damage can be avoided or reduced.
  3. Prevent significant environmental damage through mitigation measures or alternatives.
  4. Disclose the reasons why a project was approved despite significant environmental impacts.
- For every proposed project, a lead agency is assigned to handle environmental clearance.
  - The lead agency is determined by a mixture of State and local law, and sometimes by agreements between local agencies.

## **WHAT IS THE RELATIONSHIP OF CEQA TO THE FMOG MURPHY DRILL SITE CASE?**

For a case of the sort proposed by FMOG, there are 4 possible levels of environmental clearance, outlined here in order of intensity and significance:

1. Categorical Exemption (CE = no environmental review because there is no environmental impact);
2. Negative Declaration (ND = a minimal review that finds more or less no impact);
3. Mitigated Negative Declaration (a review that finds impact that can be mitigated); and
4. Environmental Impact Report (an EIR).

## **WHICH GOV'T AGENCY IS RESPONSIBLE FOR CEQA IN CASES LIKE MURPHY?**

The Los Angeles Department of City Planning is the lead agency for environmental clearance under CEQA in this case.

In the FMOG Murphy Case, Planning is required to:

- Make the initial decision about what level of environmental clearance is needed and
- Perform the review prior to sending FMOG's project proposal to the Zoning Administrator (ZA) for a decision.

## **DOES FMOG GET TO CHOOSE WHETHER ENVIRONMENTAL REVIEW IS REQUIRED?**

No. Proper environmental review under CEQA is ***NOT*** a matter of choice for FMOG or for any project applicant. It is required by State law and it is the responsibility of local government agencies to perform CEQA review.

## **HAS THE PLANNING DEPT. PREVIOUSLY ASSIGNED CONDITIONS FOR THE MURPHY SITE TO MITIGATE ENVIRONMENTAL IMPACT?**

Yes. In the FMOG Murphy Drill Site case, there have been mitigating conditions assigned by the ZA in every approval since the first review determination in 1961 and subsequent opening of the facility. Section 13.01 of the City's Zoning Code also recognizes the environmental impact of petroleum production and imposes mitigation measures.

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## **DID PLANNING MAKE A CEQA DETERMINATION IN THE CURRENT FMOG MURPHY CASE?**

Yes, at least preliminarily to green light the case for assignment to ZA and to schedule the hearing. Planning granted a Categorical Exemption (CE), specifically a Class 5 CE, which is only valid if there is no environmental impact from the project that requires mitigation.

## ***Did Planning Make the Correct CEQA Decision?***

No.

- Prevailing legal precedent from court decisions has declared that the assignment of conditions to mitigate environmental impact is evidence that there is environmental impact, and that therefore a Categorical Exemption is inappropriate in such cases.
- Since environmental conditions have been in place since 1961 on the Murphy site, there is no doubt that the current project poses environmental impact that must be mitigated.
- Also, FMOG is engaging in “piecemealing,” which means taking larger projects and cutting them into smaller projects in an effort to avoid environmental review.
  - o FMOG keeps changing its story about the scope of the project and the reasons it needs the gas burner in order to piecemeal the project in different ways.
  - o The CA Supreme Court ruled “piecemealing” illegal in 1988.
- Therefore, the Planning Department's decision to grant an exemption from environmental review is wrong.

## **WHAT IS THE ZA’S ROLE RELATED TO CEQA?**

When a case gets to the ZA for review, it is possible for the ZA to decide:

1. That the environmental clearance assigned by Planning was wrong, and then send it back to be done over again, or
2. Affirm the clearance and rule on the case overall.

## **WHAT IF THE COMMUNITY OR FMOG DISAGREE WITH THE ZA DECISION?**

There is an appeal process if either party, the community or FMOG, disagrees with the ZA's decision on environmental clearance.

1. Area Planning Commission (APC):  
The ZA's decision can be appealed to the APC. The APC can:
  - Order that the case be returned for proper environmental review or
  - It can affirm that it thinks the clearance was correct.
2. City Council:  
Either side can appeal the APC decision to the City Council, which can return the case for proper review or it can affirm the environmental clearance.
3. Courts:  
After the appeal to City Council, and only after the appeal to City Council, challenges can be brought to court. All administrative remedies must be exhausted before a lawsuit under CEQA can be brought to court.

A court challenge would go first to the Superior Court of Los Angeles County. Either party can then appeal the decision to the State Appeals Court, and the decision of the Appeals Court can be challenged and brought to the State's Supreme Court.

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### **WHY WASN'T A PROPER ENVIRONMENTAL REVIEW CONDUCTED?**

FMOG is doing what businesses typically do: maximizing profits and trying to avoid regulation by public agencies. In the current case, it is the Planning Department that is not fulfilling its legal, contractual, and ethical obligations to conduct proper environmental review of the proposed project at the Murphy Drill Site.

If the case ever does go to court, the primary party being sued would not be FMOG. It would be the City of Los Angeles, and the City of Los Angeles has lost this sort of case more than once, and lost on precisely the same legal grounds that would be used to challenge the lack of environmental review in this case.