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1. [Communities for a Better Environment v. South Coast Air Quality Management Dist., 2020 Cal. App. LEXIS 373](#)

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[Communities for a Better Environment v. South Coast Air Quality Management Dist.](#)

Court of Appeal of California, Second Appellate District, Division Eight

April 30, 2020, Opinion Filed

B294732

Reporter

2020 Cal. App. LEXIS 373 *

[COMMUNITIES FOR A BETTER ENVIRONMENT](#),

Plaintiff and Appellant, v. SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT, Defendant and Respondent; TESORO REFINING AND MARKETING COMPANY, LLC, Real Party in Interest and Respondent.

Notice: Modification of opinion ([47 Cal.App.5th 588](#); [Cal.Rptr.3d](#)), upon denial of rehearing.

Prior History: [*1] Los Angeles County Super. Ct. No. BS169841.

[Communities for a Better Environment v. South Coast Air Quality Management Dist.](#), [47 Cal. App. 5th 588](#), [2020 Cal. App. LEXIS 285](#) (Apr. 7, 2020)

Core Terms

sentence, replaced, deleted, refinery, percentile, pollution, air, environmental

Opinion

THE COURT.—IT IS ORDERED that the opinion in the above-entitled matter filed on April 7, 2020, be modified as follows:

1. On page 2, the second sentence of the first paragraph [[47 Cal.App.5th 592](#), advance report, 1st full par., lines 2–4] of the opinion is deleted and replaced as follows: “The report found the main environmental impact of the project would be to reduce air pollution from the refinery.”

2. On page 8, the first two full sentences [[47 Cal.App.5th 596](#), 3d par., lines 3–4, 4th par.] (“This change would align the permit with standard industry and agency practice. [¶] In other words, the third component of the project change would be to replace the old figure with a new figure of 302.4 in the Heater’s federal air pollution permit.”) are deleted.

3. On page 12, the fourth sentence of the second paragraph [[47 Cal.App.5th 599](#), advance report, 1st par. under pt. 1, lines 6–8] (“Indeed, the 2010 case even involved the same Wilmington oil refinery [back when ConocoPhillips rather than Tesoro owned it].”) is deleted.

4. On page 12, in the first sentence of the fourth paragraph [[47 Cal.App.5th 599](#), advance report, 3d par. under pt. 1, line 2], replace “the Wilmington refinery” with “a refinery.”

5. On page 22, the first sentence of the last paragraph [[47 Cal.App.5th 607](#), advance report, 1st full par., line 1] is deleted and replaced as follows: “So this project would [*2] reduce air pollution from the refinery, according to the environmental impact report.”

6. On page 24, the second sentence of the first full paragraph [[47 Cal.App.5th 607](#), last par., lines 1–2, 608, 1st par., lines 1–2] is deleted and replaced as follows:

“The agency selected the 98th percentile baseline to follow the practice of the federal EPA, which uses the 98th percentile standard to regulate air pollution at the national level.”

7. On page 24, the first sentence of the second full paragraph [[47 Cal.App.5th 608](#), advance report, 2d par., lines 1–2] is deleted and replaced as follows: “Communities agrees federal regulators indeed do use the 98th percentile standard.”

8. On page 32 [[47 Cal.App.5th 613](#), advance report, 1st par. under pt. 7, lines 1–3], the first full sentence is deleted and replaced as follows: “The federal use of the same 98th percentile standard is substantial evidence validating the agency's approach.”

Plaintiff and Appellant's petition for rehearing is denied.

[There is no change in the judgment.]

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