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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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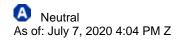
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# Communities for a Better Environment v. South Coast Air Quality Management Dist.

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 (<u>47 Cal.App.5th 588;</u> <u>Cal.Rptr.3d</u>), 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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