

6. LAND USE: Wal-Mart loses test-case court ruling on California law requiring emissions data (05/18/2009)

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SAN FRANCISCO -- Developers of a Wal-Mart superstore on the outskirts of Joshua Tree National Park were ordered back to the drawing board last week by a California judge who found their analysis of the project's contribution to climate change lacking.

In a tersely worded ruling, San Bernardino Superior Court Judge Barry Plotkin said Wal-Mart and Yucca Valley, Calif., had failed to properly estimate the superstore's greenhouse gas emissions effects under the California Environmental Quality Act.

The town's environmental impact report on the store "simply ignores the ... scientific and factual analysis regarding attainment of California GHG emission targets in its discussion of the cumulative impact of the project," the judge wrote.

CEQA has emerged in California as a tool for making developers and municipalities factor greenhouse gas emissions into their land-use decisions. Last week's ruling is one of the first to test a revised version of the law passed last year by the California Legislature that was meant to beef up its climate change provisions.

Matt Vespa, an attorney at the Center for Biological Diversity, said the ruling means Wal-Mart and other chain stores "will be hard pressed" to claim that their contribution to global warming is less than significant.

A 'disconnect' between company climate goals and actions?

"A finding of significance triggers the obligation to adopt all feasible mitigation and alternatives, which would require them to look at things like a more energy efficient store design (an alternative the judge said they improperly rejected) and on-site solar panels," Vespa said in an e-mail. "It is our view that most scientifically supportable threshold of significance is zero; the project here would generate over 7,000 tons of GHG emissions."

Vespa, who argued against the project in court, also took a shot at Wal-Mart's well-publicized attempt to portray itself as a green-friendly corporation. He said the company willfully ignored the project's effect on climate change and air pollution.

"Wal-Mart talks a lot about fighting global warming, but when it comes to actually taking action, it bent over backwards to avoid incorporating cost-effective features like solar panels to reduce its carbon footprint," Vespa said. "The enormous disconnect between Wal-Mart's stated environmental goals and its actions is classic greenwashing."

Neither the town of Yucca Valley nor Wal-Mart returned calls seeking comment.

Plotkin set no deadline for the ordered revisions to the environmental impact report.

