

241 Toll Road Litigation Summary

There are currently two active cases that challenge TCA settlements that created the Avoidance Areas through which TCA agreed not to build a 241 Toll Road extension (the “Protective Agreement”), and allowed the building of the freeway exchange at the 241 Toll Road and Oso Parkway intersection and Los Patrones Road from the 241 to Cow Camp Road (the “Freeway Agreement”).

The San Clemente Action seeks to set aside both agreements as violating the California Environmental Quality Act (CEQA), restrictions imposed by the Water Control Board, and as illegally limiting in perpetuity TCA and other entities’ future discretion without adequate public notice and participation.

The Reserve Action seeks to set aside the Protective Agreement based upon claimed violation of open meeting laws without adequate public notice and input.

Responding parties in both actions have filed notices of related cases to have the cases transferred from the Orange County Superior Court to the San Diego Superior Court to the judge who approved the Protective and Freeway Agreements. The City and the Reserve oppose relating the cases. Determination of that issue is unresolved.

Case Specifics

1. **The San Clemente Action** was filed on 7/28/2017, by the City of San Clemente against the TCA, the County of Orange, and Caltrans seeking to set aside the settlements of cases challenging the “Green Route,” which was historically understood to be the 241 extension route consistent with the route prescribed by the Legislature, and used by the City, developers, and the public in regional planning, buying homes, building schools, and setting toll road fees imposed to build the extension. The City contends that TCA, Caltrans, and the County illegally entered settlements which created “Avoidance Areas” where TCA permanently agreed not to route the 241 Toll Road, which the City calls the “Protective Agreement,” and permitted the OSO/241 exchange and the building of Los Patrones Parkway connecting the 241 Toll road to Cow Camp Road as a possible Toll Road, which they call the “Freeway Agreement.” (Orange County Superior Court case number 30-2017-0093407).

Contentions: The City contends that the settlements violate the California Environmental Quality Act (“CEQA”) because the settlements themselves were “projects” that require CEQA compliance, which did not occur; that it was improper to break up the single 214 Toll Road Extension project into smaller projects to avoid CEQA requirements; that inadequate public notice and input was permitted in adopting the settlements; that the settlements violate state statutes that only authorize the Green Route rejected by the settlements; that the Freeway Agreement violates restrictions imposed by the Water Control Board; and that TCA exceeded its authority by permanently binding future TCA Boards and other public entities from considering alternative routes through the Avoidance Areas.

2. **The Reserve Action** was filed on 8/22/17, by the Reserve Maintenance Corporation against the TCA and Caltrans seeking to set aside the Protective Agreement settlement that created the “Avoidance Areas” where TCA agreed not to route the 241 Toll Road. (Orange County Superior Court case number 30-2017-00934717).

Contentions: The Reserve contends that TCA violated open meeting laws by secretly negotiating and approving the Protective Agreement with inadequate public notice and input, thereby improperly precluding in perpetuity preferred routes through designated Avoidance Areas.