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Lengthy process for lawsuit against Wal-Mart distribution center

Legal procedures regarding the distribution center could take months.

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The environmental lawsuit against Wal-Mart's distribution center will be filled with months of behind-the-scenes legal wrangling -- and little courtroom drama.

 [Read the complaint](#)

Merced residents Tom Grave, Kyle Stockard and Joel Knox -- representing the Merced Alliance for Responsible Growth -- filed a case two weeks ago asking a judge to overturn the City Council's vote to approve the 1.1 million-square-foot project. They believe the project's negative impacts weren't adequately studied and explained.

In light of the challenge, council members will vote Monday on two contracts, one to hire a law firm to represent the city in the case and another to have Wal-Mart pay the legal fees.

Wal-Mart spokesman Aaron Rios was unavailable for comment.

In the coming months, the case will wind its way through a settlement conference, a series of procedural steps and written arguments before a Merced County Superior Court judge weighs in.

All that will probably take about nine months, Merced City Attorney Greg Diaz estimated.

Presiding Judge John Kirihara, one of the county's judges versed in the California Environmental Quality Act, has been assigned the case. He will decide whether the project's environmental impact report fully studied the distribution center's impacts.

The city hired a third party to review the report for any problems or omissions. The goal was to make the report bulletproof. Diaz said his cursory reading of MARG's complaint didn't bring up any issues that hadn't been talked about before.

"There was nothing new that surprised me," Diaz said. "It was pretty straightforward."

Kirihara won't decide whether the project should be approved. He'll only decide the quality of the report. Should he find a significant error, the environmental impact report would need to be fixed and reopened for public comment.

"I call it the equivalent of a fix-it ticket," Diaz said.

The council would then need to vote once more on the project.

MARG's lawsuit was put on an alternative-dispute resolution track, which encourages the plaintiff and defendants to broker a deal out of court. Diaz said it's commonly used in civil cases involving money. "I'm not sure how it'd work here," he said.

It's also unlikely Wal-Mart would be interested in meeting any of MARG's demands, which include looking at scaling-down the center or inserting additional requirements to offset air quality impacts.

Grave said he hasn't heard from the city or Wal-Mart about MARG's offer. The group's interest is in trying to make the distribution center as clean as possible for Mercedians. "We're concerned about the local health impact," he said. "We're doing the job we think the city didn't do."

Unless the two sides settle, they'll get their day in court to find out who's right.

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