

2015 CEQA Press Highlights

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2015 CEQA Columns

- *The San Diego Union Tribune* September 25, 2015 "Steven Greenhut: Pols Don't Tout Cost of Warming Policies"
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- *UT San Diego*, June 14, 2015, "Steve Greenhut: FREER WATER MARKETS OFFER BEST HOPE TO EASE THE DROUGHT"

2015 CEQA Op-Eds

- *Fox & Hounds*, August 26, 2015, "Rex Hime: Are Energy Efficiency Programs Efficient?"
**Hime is President and CEO of California Business Properties Association*
- *Fox & Hounds*, August 26, 2015, "Gary Toebben: Balancing Climate Change and Job Displacements" **Toebben is President and CEO of the Los Angeles Area Chamber of Commerce*
- *Fresno Bee*, August 13, 2015, "Darius Assemi: Here's how to fix California's roads, bridges and highways" ***Assemi is a member of the California Transportation Commission.*

- *San Francisco Chronicle*, July 23, 2015, “Jim Wunderman: California can’t reach greenhouse-gas targets without CEQA reform” * *Wunderman is president and CEO of the Bay Area Council*
- *Victorville Daily Press*, May 20, 2015, “Gregory C. Devereaux: Modernize the California Environmental Quality Act” * *Devereaux is CEO of San Bernardino County*
- *Santa Rosa Press Democrat*, April 29, 2015, “Close to Home: Facing our pressing housing needs”
- *Fox & Hounds*, April 27, 2015, “CEQA: California Dreamin’ or California Nightmare?”
- *SJ Mercury News*, April 24, 2015, “Sam Liccardo and Gary Kremen: Waive CEQA to use recycled water to alleviate drought”
- *UT San Diego*, April 15, 2015, “CEQA reform: Don’t allow gaming of the system”
- *Los Angeles Times*, January 5, 2015, “How to fix California’s economy: Regulation, legislation and education”

2015 CEQA Editorials

San Diego Union Tribune, September 21, 2015

<http://www.sandiegouniontribune.com/news/2015/sep/21/another-legislative-session-another-strikeout-on/>

CEQA reforms: Legislature strikes out, again

Gov. Jerry Brown and all of his living predecessors back reforming the California Environmental Quality Act to create jobs and improve economic growth. Assembly Speaker Toni Atkins and her predecessor say they do as well. So do Senate President Kevin de León and his predecessor.

But once again, this seeming consensus yielded no significant changes from the Legislature in its recently completed session. Brown, Atkins and de León may all say that simplifying CEQA and making it less easy to use CEQA lawsuits to block projects and win greenmail payoffs could go a long way toward California changing its reputation as hostile to business. Yet the governor in particular never uses his political capital to try to change this status quo, aware that CEQA suits are a primary tool of two powerful members of the Democratic Party coalition: labor unions and trial lawyers.

The U.S. Bureau of Labor Statistics says 14 percent of Californians who want full-time work can’t find it – the second-highest rate in the nation. This should matter a lot more to the state’s dominant political party, especially given its claims to the moral high ground on “economic justice” issues.

OC Register, September 10, 2015

<http://www.ocregister.com/articles/california-681761-ceqa-sb32.html>

Further deep emissions cuts would stifle housing

One reason housing costs so much in California is that building new dwellings is so expensive – and abuses of the California Environmental Quality Act contribute to those costs. Such abuses could become even more widespread if Senate Bill 32, by state Sen. Fran Pavley, D-Calabasas, is passed in its current form by the Legislature.

Among other things, SB32 would mandate an 80 percent reduction of greenhouse gas emissions in California by 2050. In contrast, the similarly named Assembly Bill 32, the Global Warming Solutions Act of 2006, required a cut in emissions by a less-draconian 25 percent by 2020.

Passed in 1970, CEQA “is a statute that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible,” according to the California Natural Resources Agency. The law applies to “activity undertaken by a public agency or a private activity which must receive some discretionary approval” from the government because of possible harm to the environment.

Many efforts over the years to reform CEQA have not gone far. The only major exemptions passed by the Legislature have been for rebuilding infrastructure after earthquakes and for erecting stadiums for sports teams of politically influential owners.

Unless CEQA is reformed, it would, combined with SB32, spark numerous lawsuits against home construction, making housing even less affordable. Opposing SB32 in its current form is the CEQA Working Group. It’s a coalition of local and state groups, including the Orange County Business Council, the Association of California Cities-Orange County and the California Chamber of Commerce.

In a letter to Sen. Pavley, the group asked, “No matter how worthy or environmentally friendly, how can any new project be able to prove themselves to meet the year 2050 80 percent reduction goal today? High-density affordable housing, mixed-use infill, renewable energy, schools, universities, transit, public infrastructure projects would all be vulnerable.”

California’s population continues to grow by about 10 percent a decade. The poor and the middle class have to live somewhere. The Legislature should shelve SB32 until CEQA is reformed.

San Diego Union Tribune, August 26, 2015

<http://www.sandiegouniontribune.com/news/2015/aug/26/carlsbad-project-wisely-approved-but-ceqa-reform/>

Carlsbad project wisely approved, but CEQA reform still needed

It doesn’t happen often enough in government, but common sense prevailed Tuesday night when the Carlsbad City Council approved, without dissent, the plan for a high-end retail and entertainment complex on 27 acres of the south shore of Agua Hedionda Lagoon, with the remainder of the 203-acre site preserved as open space. If there is to be development in a sensitive lagoon environment – and 48 acres of it were zoned commercial, so there was going to be development – it would be hard to design a project better than this one.

There is, however, a back story to this project that can only be addressed by the state Legislature, which has been stalling on the issue for years: the need for reform of the California Environmental Quality Act (CEQA).

Caruso Affiliated, the developer of the Agua Hedionda project, skirted the usual municipal planning process and the need for a formal environmental impact report by launching a successful initiative campaign that collected far more than the required number of voter signatures needed to qualify the proposal for a spot on a special election ballot.

The only choices for the City Council were to put it on the ballot, delay it for a month for more study or approve it outright. The council wisely chose to approve it as proposed, probably knowing that voters would almost certainly approve it overwhelmingly themselves if given the chance. The cost of a special election was saved.

Caruso’s was the third development project of note to take this route to approval this year. The other two being, of course, the proposals by Stan Kroenke, owner of the St. Louis Rams football

team, to build a new stadium in Inglewood and by Chargers owner Dean Spanos to build a new stadium jointly with the Oakland Raiders in Carson.

If this is an emerging trend in private development in California, it is not a good one. Virtually all projects, particularly mammoth stadium proposals, would benefit from the regular city planning process and environmental review.

Which is not to suggest that the Caruso project in Carlsbad is environmentally unsound. Quite the contrary. Caruso submitted 4,300 pages of environmental analysis to the city and the facts are that the project will not only improve the quality of the lagoon environment but for the first time will give the public access to the open spaces – facts that led the environmental group Agua Hedionda Lagoon Foundation to enthusiastically support it.

Here's the point. Caruso was willing to spend big bucks on the initiative campaign because it was much less of a headache, significantly faster and in the long run no doubt cheaper than dealing with the regular CEQA process and the lawsuits that project opponents would certainly have filed to try to block it.

This editorial page has argued many times that CEQA needs reform to make it a productive and manageable tool to legitimately protect the environment, not the obstructionist legal tool it has become.

Gov. Jerry Brown and legislative leaders have promised reform for years. It's time to get it done.

San Diego Union Tribune, August 4, 2015

<http://www.sandiegouniontribune.com/news/2015/aug/04/ceqa-abuse-and-social-justice/>

Editorial: CEQA abuse and 'social justice'

The five politicians who have been California governor since 1975 – Jerry Brown, George Deukmejian, Pete Wilson, Gray Davis and Arnold Schwarzenegger – probably aren't in full-throated agreement on many high-profile issues. But they all agree on the need to overhaul the California Environmental Quality Act.

A new report by the Holland & Knight law firm shows why. Contrary to the depictions of CEQA as a tool to protect the public from irresponsible developers, the report shows that a majority of the 600 CEQA lawsuits filed in a recent three-year period targeted projects that broadly served the public good, starting with transit proposals of particular help to the poor, clean-energy plants and "infill" housing (not urban sprawl).

The report also found that CEQA lawsuits were far more likely to be filed by groups whose agendas having nothing to do with the environment – such as businesses trying to stymie competition or lawyers seeking "greenmail" settlements – than by respected green groups such as the Sierra Club.

Unfortunately, little progress has been made on significant CEQA reform in Sacramento despite declarations of support from Assembly Speaker Toni Atkins, D-San Diego, and Senate President Kevin de León, D-Los Angeles. When one sees what CEQA's been used to hinder, it's tough to square Atkins' and de León's inaction with their depiction of themselves as warriors for "social justice."

LA Times, July 14, 2015

<http://www.latimes.com/opinion/editorials/la-ed-ceqa-exemptions-20150714-story.html>

Too many CEQA exemptions

Another legislative session in Sacramento, another CEQA exemption. This time, lawmakers passed a trailer bill with the state budget that exempts water recycling, stormwater capture and other drought-related water projects from the California Environmental Quality Act. In theory, the exemptions will allow valuable water-saving projects to be built with fewer procedural hurdles and less risk of being held up by lawsuits, and thereby deliver drought relief more quickly. In practice, the exemptions probably won't have a significant effect. Projects that use federal dollars will still need to comply with the federal government's version of CEQA. And some water agencies may still choose to do the community outreach and analysis typically required by CEQA to ensure that the public is on board. Even so, the Santa Clara Water District estimates that an exemption will cut a year off a project to expand its water recycling plant. The Los Angeles Department of Water and Power figures it could shave a few months off some projects to capture stormwater.

The real concern is that lawmakers keep carving out CEQA exemptions for favored projects. They've given football stadiums, basketball arenas, solar projects and Apple Inc.'s new Cupertino campus a guaranteed fast track through CEQA lawsuits, which can otherwise tie up projects for years. In addition to the water project exemptions, lawmakers OK'd trailer bills to extend deadlines so that two projects — an arena for the Golden State Warriors basketball team in San Francisco and a high-rise development on the Sunset Strip in Hollywood — could also get expedited legal review. And some have called for similarly special status for highway and transportation projects.

The real concern is that lawmakers keep carving out CEQA exemptions for favored projects. - Yet legislators and Gov. Jerry Brown show no interest in comprehensive CEQA reform that would give all projects — not just lawmakers' picks — the opportunity for streamlined review. Instead, they seem perfectly happy to create a two-tier system in which projects with enough lobbyists or political supporters can get on the fast track, while other projects get stuck in the slow lane.

Certainly it will be difficult to craft a sensible, reasonable reform package that maintains the fundamental purpose of CEQA, which is to ensure that decision-makers have the analysis and public feedback they need to make intelligent choices. Brown himself has said that CEQA reform is "the Lord's work." But it seems he and his colleagues in Sacramento are more interested in using their power to grant exemptions rather than to fix the underlying problems.

Orange County Register, July 2, 2015

<http://www.ocregister.com/articles/ceqa-669978-law-development.html>

CEQA used as legal 'greenmail' **Also appeared in Riverside Press Enterprise*

California has earned a notorious reputation for fickle policymaking and unequal application of the law, from targeted tax breaks for politically favored industries such as green energy and Hollywood to special exemptions from major regulations like the California Environmental Quality Act. This is illustrated in the new state budget, which includes CEQA exemptions for a new arena for the Golden State Warriors pro basketball team and a \$200 million high-rise development in Hollywood (though similar exemptions for water storage projects favored by Republican lawmakers were rejected).

Signed into law by Gov. Ronald Reagan in 1970, CEQA requires extensive study and mitigation of environmental impacts for both public and private development projects. This is typically a rather lengthy and costly process, which significantly increases the cost of development in the

state. California is one of just three states to subject private development to such strict scrutiny, according to the Pacific Legal Foundation.

But not all laws are applied equally, and special interests have used CEQA to serve their interests, which oftentimes have nothing to do with the environment. Unions have often held projects hostage through CEQA lawsuits to demand concessions such as the imposition of project labor agreements mandating the use of union labor, thus driving up construction costs even more. Businesses have used the law to keep out potential competitors, and local governments and neighborhood groups have used the law as leverage to compel developers to build additional facilities or features on their wish lists. Such abuses of CEQA have been dubbed “greenmail.”

“Today, CEQA is too often abused by those seeking to gain a competitive edge, to leverage concessions from a project or by neighbors who simply don’t want any new growth in their community – no matter how worthy or environmentally beneficial a project may be,” former Govs. George Deukmejian, Pete Wilson and Gray Davis wrote for the Sacramento Bee in February 2013.

CEQA might have been implemented with noble intentions, but capricious application of the law is no rule of law at all. If the law is not good enough for professional sports teams and politically connected developers, then it is not good enough for anyone else.

LA Daily News, May 21, 2015

<http://www.dailynews.com/opinion/20150521/housing-costs-weigh-on-employers-minds>

Housing costs weigh on employers’ minds

A new problem showed up this year on an annual poll’s list of things that Los Angeles County business owners are worried about: affordable housing.

Of course, it’s far from a new problem among the general population. California’s poor are acutely aware of it. The state’s middle class struggles with housing affordability. And so it has been for years.

But this is the first time it’s showed up on [BizFed’s annual poll](#) of its 135 member organizations that together represent more than 268,000 employers and nearly 3 million employees across the county.

Granted, affordable housing is only No. 15 on the list of employers’ top concerns. The top three are taxes and fees (No. 1 for the fifth straight year), government regulation/compliance, and streamlining the local permitting process.

It’s good economic news, really, that permitting is in the top three. It was 13th in 2013 and 2014, so the fact that it shot up to third indicates that more business owners are expanding and growing, thus running into local permitting headaches.

That’s borne out by the poll’s finding that two-thirds of employers are optimistic about prospects for the coming year, and 40 percent plan to hire this year — nearly a 10 percent increase over 2014. Eleven percent plan layoffs this year, down from 14 percent last year.

In some ways, housing affordability is more of a concern for employers than its No. 15 ranking indicates — even considering, as BizFed’s leaders stressed, there’s not much daylight in terms of seriousness between the ranked concerns. The poll found housing costs to be among the top three factors for businesses planning to leave L.A. County, right after high taxes and fees, and the regulatory environment. Housing costs are particularly of concern for small businesses with 10 employees or fewer — making up 48 percent of the poll’s respondents.

And the No. 4 concern overall among employers is transportation/reducing commute time, which in a way is a function of housing affordability. Too many workers can’t afford to live near employment centers and must commute long distances every day from the housing they can afford, wearing them down, reducing their productivity and contributing to employee turnover. What’s to be done?

There are two linked issues: affordable housing — the subsidized housing that those helped by minimum wage hikes might be looking for — and housing affordability — the problem that all housing in California is overpriced because there isn't enough of it to meet demand. The Legislative Analyst's Office estimated in a [March report](#) that an additional 100,000 housing units would have to be built per year, mostly in California's coastal urban regions, to mitigate the shortage.

Assembly Speaker Toni Atkins has a package of bills to fund affordable housing, which was decimated by the end of redevelopment. And many voices, including ours, call for reform of the California Environmental Quality Act so that it protects the environment but without serving as a tool for NIMBYs, union strong-arming and underhanded business competition.

CEQA reform would not only boost housing affordability, but also ease employers' No. 2 concern: compliance with government regulation.

That could lead to further business expansion and to more employees who can afford good housing.

Petaluma Argus Courier, May 21, 2015

<http://www.petaluma360.com/opinion/3960122-181/housing-crisis-demands-action#page=0>

Housing crisis demands action

Petaluma's housing crisis is bad and getting worse, yet public officials are showing remarkably little initiative to do much about it.

A couple weeks ago, a group of more than 300 business, nonprofit and political leaders gathered in Petaluma, an epicenter in the affordable housing crisis, to discuss the problem and potential solutions. The problem was easy to identify. Apartment rents have increased 30 percent in the last three years and the county has a vacancy rate of one-percent — effectively no vacancies.

Here in Petaluma, the average rent for a one-bedroom apartment is now \$1,700 per month, a price that is out of reach for many middle class workers. But the high price doesn't really matter much if there are no homes or apartments to rent.

Local businesses are feeling the pinch by not being able to find employees for available jobs. It just does not make sense to commute two hours to work in Petaluma.

Speakers at the housing conference noted that Sonoma County cities issued just 251 building permits for single-family homes last year, which marked the lowest total in 50 years. When demand increases but supply remains stagnant, prices rise. That's exactly what's happened with housing costs in Petaluma.

Increasing the supply of local housing is the singularly most effective means to help solve the problem, and Petaluma does have a limited amount of developable land zoned exactly for that purpose. Yet despite adoption of an urban growth boundary many years ago with promises to focus on city-centered growth, not sprawl, Petaluma has done little in recent years to encourage affordable housing development. Traditionally, Petaluma officials had always made construction of low- and moderate- income housing a high priority.

Not anymore. Today there exists a huge gap between the very limited supply for low- and moderate-income housing and the burgeoning demand for it.

Solutions discussed during and after the conference included amending zoning laws to increase housing densities; easing restrictions on certain types of housing, particularly senior housing and so-called "granny units;" reducing development impact fees for smaller units; and providing public funding, loan guarantees and tax breaks for development of low-income housing. There was also a general consensus that the California Environmental Quality Act, or CEQA, was being abused by anti-development activists and should be reformed by the state legislature.

CEQA was groundbreaking state legislation when it passed in 1970. Its mandate was simple: any proposed project that could alter its surrounding environment would require an independent report on the project's plan for mitigating that environmental footprint. But according to panelists

at the conference, the law has been misused to stop thousands of legitimate projects over the years due to lawsuits or the threat of lawsuits by groups opposed to a particular development. The law's strict environmental review process, made more complicated in the four decades since its enactment, means it is relatively simple to challenge developments via claims of flawed EIRs. Today, CEQA-required environmental impact reports are frequently used to tie up housing proposals in the courts. It's a move less about genuine environmental concerns than simply a tactic aimed at draining developers of time and money — and ultimately the desire — to see such projects through.

Many longtime champions of CEQA are now coming around to the idea that all too often its environmental protection ethos is being used as a property values protection ethos by those “conservationists” most interested in preserving their own quality of life in and around their property limits.

At the housing conference, in fact, Supervisor David Rabbitt called CEQA “one of the most abused acts” to come out of Sacramento.

“The idea of CEQA is a great one — in which people should be made aware of environmental impacts from any development project,” Rabbitt said. “But there is no such thing as a project that will have no footprint and CEQA should not be a tool to stop all projects from moving forward.”

Clearly, CEQA needs an update by the state Legislature.

But until that happens, anti-growth activists will continue to abuse the law for their own purposes. It doesn't matter if existing zoning laws allow for a housing development. Opponents will say the project is too big, will obscure their views or will generate too much traffic. Those with housing (whose homes, incidentally, were also built by developers), are often more interested in keeping others out.

City officials have an opportunity, and an obligation, to ensure that more affordable housing units are constructed so that low- and middle-income people, including seniors and young families, can continue living in Petaluma.

We need them to act now.

Sonoma Index-Tribune, May 14, 2015

<http://www.sonomanews.com/opinion/editorials/3935412-181/editorial-is-county-housing-crisis#page=0>

Editorial: Is county ‘housing crisis’ caused by environmental-review abuse?

“If you build it they will come” is the famous line from “Field of Dreams.”

But if Kevin Costner had been restricted by CEQA requirements, the 1989 let's-build-a-ballpark-in-the-cornfield movie would've been a different story altogether.

CEQA, or the California Environmental Quality Act, turned out to be the special guest at last week's North Bay Housing Summit, where more than 300 stakeholders gathered at the Petaluma Sheraton for the North Bay Leadership Council's event — put together in response to what NBLC officials have called a housing shortage crisis.

CEQA has emerged in recent years as something of a whipping boy for critics who say the law's strict environmental review process stymies even environmentally sensitive development — in that legal challenges to CEQA-required environmental impact reports are frequently used to tie up housing proposals in the courts. It's a move, critics say, less about genuine environmental concerns than simply intended to drain developers of time and money — and ultimately the desire — to see such projects through.

Like it or not, the “CEQA move” works. Sonoma Raceway's recent bid to adjust its use permit drove barely a single lap before venue officials cooled their engines in the face of daunting legal challenges.

And many longtime champions of CEQA are now coming around to the idea that all too often its environmental protection ethos is being used as a property values protection ethos — by those

“conservationists” most interested in conserving their quality of life in and around their property limits.

The California Environment Quality Act was groundbreaking state legislation when it passed in 1970, a mere eight years after Rachel Carson’s game-changing book “Silent Spring” brought the conservation movement to the mainstream. CEQA’s mandate was simple: any proposed project that could alter its surrounding environment would require an independent report on the project’s plan for mitigating that environmental footprint.

But over the course of the four decades since its enactment, a flurry of other environmental safeguards have come down the federal and state legislation pipe – many for good reason, but a mishmash nonetheless – making it relatively simple to challenge developments via claims of flawed EIRs. Concern over using CEQA to limit development – as opposed to ensuring development was eco-friendly, the law’s original intention - was pretty much a non-issue in the conservation-minded North Bay, until it became clear it was severely hampering another, perhaps more pressing, issue for local progressives: affordable housing.

At the Housing Summit, in fact, Sonoma County 2nd District Supervisor David Rabbitt called CEQA “one of the most abused acts” to come out of Sacramento.

“The idea of CEQA is a great one – in which people should be made aware of environmental impacts from any development project,” Rabbitt said. “But there is no such thing as a project that will have no footprint and CEQA should not be a tool to stop all projects from moving forward.”

Susan Gorin, 1st District Supe, stopped short of pinning it all on CEQA challenges, saying the county can’t “build its way” out of an affordable-housing shortage. “We need to elevate wages,” Gorin said.

She’s certainly right about that – and the county may be addressing that soon when it considers a \$15 an hour living wage ordinance. But that doesn’t mean CEQA couldn’t use an update by the state Legislature. One idea to discourage frivolous CEQA lawsuits would be to allow defendants to recover attorney fees from plaintiffs in cases of particularly egregious challenges. (Currently only plaintiffs can recover attorney fees.)

Another proposal that deserves attention is to limit the standing of such lawsuits to litigation focused on environmental and planning law.

An Environmental Quality Act with teeth is a must, and there are ways to make CEQA stronger without gutting it.

Because if things stay as they are, to borrow another phrase from the Costner movie, Sonoma may never “go the distance” it needs to emerge from its “housing crisis.”

UT San Diego, April 29, 2015

<http://www.utsandiego.com/news/2015/apr/29/time-to-address-the-harsh-hidden-tax-on-housing/>

Time to address the harsh ‘hidden tax’ on housing

A new report by Point Loma Nazarene University’s Fermanian Business & Economic Institute chronicles a regulatory culture that adds about 40 percent to the cost of new housing in San Diego County – what PLNU economist Lynn Reaser likened to a “hidden tax” on all residents. Some cities are better (San Marcos). Some are worse (Carlsbad). But the cumulative picture has grim implications for the county’s future, given projections of the population going from the present 3.1 million to 4.2 million in 2050.

The report was sponsored by the California Homebuilding Foundation and other industry interests, so its accuracy will be questioned by some. But its findings are consistent with past scholarship and the realities of life in San Diego County. Homes and apartments cost far more here than in most of America – a huge change from the 1980s. The number of building permits went down 22 percent in 2014 vs. 2013.

This cost premium could be reduced, the report says, by simplifying and standardizing the building permit review process in as many cities as possible, especially setting a baseline for

when California Environmental Quality Act requirements kick in. State law gives cities surprising flexibility on how they implement CEQA.

The study says just a 3 percent reduction in regulatory costs could have a significant impact on housing by making homes and apartments less expensive and by encouraging homebuilders to shift their focus from luxury homes to less expensive units.

San Diego Mayor Kevin Faulconer seems sure to embrace this study; it's a perfect fit with his vision of a smarter, more efficient City Hall. But with the City Council and California in general, we are pessimistic. The current governor and his three predecessors have all called for CEQA reform and gotten nowhere. Local and state Democratic lawmakers – led by Assembly Speaker Toni Atkins of San Diego – refuse to acknowledge that their present approach to affordable housing doesn't work. Subsidizing a relative handful of units for a few thousand lucky families to enjoy does nothing for the vast majority of low-income folks. Adding housing stock – increasing supply – does far more broad good.

What's also not understood is how housing costs threaten the state's booming high-tech economy. The attraction of California's weather and lifestyle is immense – not infinite.

Information-technology giants in Silicon Valley and tech and life-sciences giants in San Diego may not relocate, but they're unlikely to expand in California. It matters that the median cost of a family home in the Seattle area is much less than half of what it is in San Jose, Santa Clara and Sunnyvale. It matters that the median cost of a home in the Austin, Texas, metro area is less than half the cost of a home in the San Diego-Carlsbad-San Marcos area.

And the cost of housing also has a wrenching fallout at the personal level. Every San Diegan knows someone whose children have moved primarily because they can never realize the dream of homeownership here.

But at least the PLNU report offers hope that local efforts can improve this disturbing picture. Every local mayor and council member should read it – then take action.

San Jose Mercury News, April 28, 2015

http://www.mercurynews.com/editorials/ci_28006480?source=rss&utm_source=dlvr.it&utm_medium=twitter

Mercury News editorial: Suspend CEQA for water recycling in San Jose and Silicon Valley

San Jose and Santa Clara pay a fortune to purify wastewater -- really purify it -- and then spill most of it away.

We can't afford to do that any more. Water is too precious, and the alternatives, like desalination, are even more expensive and potentially polluting. Silicon Valley needs a system to re-use treated water that exceeds state standards for drinking. The technology is proven.

Orange County residents have been drinking recycled water for seven years.

A coalition including San Jose Mayor Sam Liccardo, Santa Clara Mayor Jamie Matthews, Silicon Valley Leadership Group CEO Carl Guardino and Santa Clara Valley Water District President Gary Kremen are leading the charge for an exemption from the California Environmental Quality Act (CEQA) to help speed construction of an \$800 million comprehensive purification system so recycled water can be percolated back into the ground for general use. If the exemption is granted, it easily could shave two years and \$3 million in costs from what otherwise is expected to be a 10-year project. Two years will be critical if what we now see as a devastating drought proves to be the new normal for California's climate.

The state should grant the exemption. As Guardino argues, if it can exempt a planned NFL stadium near Los Angeles from CEQA, surely it can exempt a project to deal with what Gov. Jerry Brown has declared a state of emergency.

Environmentalists are lining up to oppose the CEQA exemption, even though they say they favor using recycled water. They want to preserve the detailed review of construction plans for

the plant and pipe systems. Given the urgency of shoring up our water supply, it's a weak argument.

The plan eventually could supply 20 percent of Santa Clara County's water needs. Today only 5 percent of treated water is recycled, and only for landscaping, so it requires a whole separate, multimillion dollar system of distinguishable "purple pipe" to distribute it.

Public officials will need to combat the yuck factor in drinking recycled water: Yes, it comes from toilets, showers, dishwashers and the like, along with surface runoff into storm sewers. But by the time it goes through purification and then seeps from percolation ponds through the soil to replenish groundwater, it will be every bit as pure as the water we now drink. Remember, percolation ponds are home to fish, birds and all kinds of, um, polluting creatures now. Soil is an effective purifier.

We like to see Silicon Valley lead in innovation, but it's following in this case. Not only Orange County but El Paso, Texas, is using or planning to use recycled water. Some East Bay communities that proposed it several years ago -- when it still used to rain -- are reviving proposals.

Valley leaders are showing courage to take this on. The Legislature and the governor need to help by granting a CEQA exemption.

SF Chronicle, April 13, 2015

<http://www.sfchronicle.com/opinion/editorials/article/Anti-abortion-group-exploiting-environmental-law-6192876.php>

Anti-abortion group exploiting environmental law to halt clinic

Of all the well-documented abuses of the California Environmental Quality Act, this one may be the most absurd: An anti-abortion group has invoked the law to halt a Planned Parenthood clinic in South San Francisco.

In the lawsuit, Respect Life South San Francisco alleged that the city should have conducted an environmental review before approving the renewal of a vacant downtown building into a health clinic. The lawsuit has held up the conversion for 18 months and counting.

It's bad enough that an environmental law is being invoked to constrain the ability of women to obtain basic health services such as breast cancer screenings, pap smears, contraceptives, and testing and treatment of sexually transmitted infections. (There were no plans to perform surgical abortions on the site.)

What's even crazier is the plaintiff's alleged concern in the 145-page lawsuit that the clinic's operation would have "significant demonstrable impacts on traffic, parking, and public safety resulting from historic and reasonably probable First Amendment activity."

In other words, the opponents of reproductive freedom are arguing that their own movement's protests would have a disruptive effect on downtown South San Francisco.

The plaintiffs are not going away easily, despite a tentative ruling against the lawsuit by San Mateo Superior Court Judge Marie Weiner in July 2014. Meanwhile, Planned Parenthood is being forced to spend money on legal fees that could have gone into health care.

This nonsense must stop. The 40-year-old CEQA has been a critical tool for preserving our natural resources, but it also has been exploited by interests whose motives have nothing to do with the environment, such as businesses that stifle would-be competitors or unions looking for leverage. The law has been used to frustrate legitimate environmental goals, such as new bike lanes, renewable-energy projects and transit-friendly development.

We can now add women's health services to the toll of public goods that have been stymied by the California Legislature's refusal to stand up to the interest groups who seem to think CEQA should remain carved in stone. It needs reform so that it no longer provides a free pass into court for people whose real agendas have nothing to do with the environment.

San Francisco Chronicle, March 21, 2015

<http://www.sfchronicle.com/opinion/editorials/article/California-s-housing-crunch-costs-us-big-time-6148703.php>

California's housing crunch costs us big time; how to fix it

Californians already know how expensive housing is in our state. But a new report from the nonpartisan Legislative Analyst's Office makes it clear that as a state, this ever-growing bill is one we simply can't afford to keep paying.

Housing in California is more expensive than everywhere else in the nation (except Hawaii). The average home price in California is nearly \$440,000, a whopping 2.5 times the national average. Median rents of \$1,240 are nearly 50 percent more than the national average.

Housing prices in California began to speed ahead of the rest of the nation around 1970 and really gained steam after the passage of Proposition 13.

The past few decades have forced Californians, especially those in coastal areas, to make impossible choices. Our commutes are punishing (10 percent farther than commuters elsewhere), our poverty rates are staggering (the highest in the country when housing is taken into account), and our economy is suffering (because employers can't hire and retain skilled workers here).

"If more workers lived in the state's highly productive cities ... per capita economic activity in the state would be greater than it is today," the report says.

Unfortunately, the culprit is a familiar one: the resistance of Californians, particularly those in coastal areas, to build housing at a level that would make sense for our population and our future.

When California started seeing major spikes in the cost of housing — many decades ago — the state should have responded by building more housing. That's the sensible market approach in the rest of country.

In California, we did the exact opposite. Between 1980 and 2010 — the decades of California's home price surge — construction of new housing units in California's coastal metro areas was low by national and historical standards. So cities like Seattle, which added new housing units at twice the rate as San Francisco and San Jose over the past two decades, got some of our economic productivity and a lot of our bright young minds instead.

Building the housing that we actually need — as many as 100,000 additional units annually, almost exclusively in coastal communities — "would require the state to make changes to a broad range of policies that affect housing supply directly or indirectly — including many policies that have been fundamental tenets of California government for many years."

Top among the Legislative Analyst's Office recommendations is one that's sure to be met with howls of protest from coastal areas.

Because "California's high degree of voter involvement in land use decisions appears to be unique," as the report puts it, the state has to limit the ability of localities to block development. Otherwise, the NIMBYs are going to drive California out of business.

Some of these policy changes can come about by developing new incentives for local governments to encourage dense home building in their areas. Local governments, for example, have noted that they have only a limited fiscal incentive to approve housing.

The tax revenues from commercial and hotel development are more lucrative for them, because they get only a small portion of revenue collected from the property tax. Changing these incentives would require statewide initiative and could be a good carrot for local governments.

Then there's the stick — reform of the California Environmental Quality Act. As the Legislative Analyst's report notes, the environmental review process has often been abused for purposes that have nothing to do with the environment. California's "level of environmental review for private housing development is uncommon among U.S. states and ... can be used to reduce new housing development." We won't get the housing we need until we reform it.

None of this is going to be easy. The Legislature will need to take a comprehensive approach to these major policy changes, which could take years of consensus building and developing

political backbone. But the alternative — a constrained housing supply that's unaffordable to all but the wealthiest — has economic and social costs that California can't afford much longer.

2015 CEQA COLUMNS

The San Diego Union Tribune, September 25, 2015

<http://www.sandiegouniontribune.com/news/2015/sep/25/ground-zero-global-warming-policies-costs-benefits/>

Pols Don't Tout Cost of Warming Policies

Steven Greenhut

SACRAMENTO — California's advocates for an aggressive approach toward fighting man-made global warming sometimes imply it is a cost-free exercise, as they argue that the emerging (and highly subsidized) green-jobs industry will make up for any job losses from the higher taxes and tougher regulations imposed on traditional building projects.

Gov. Jerry Brown vacillates between making such Pollyannaish claims, and being the "Prophet of Doom," where he warns the Earth might not survive without dramatic changes in our petroleum-based economy. Even when he takes on the latter role, Brown doesn't always explain that the effort to slash greenhouse gases requires some tough economic choices that might mean fewer jobs.

Such choices are playing out now in Riverside County, in the city of Moreno Valley. The City Council last month approved a massive World Logistics Center. Goods that arrive at the ports of Los Angeles and Long Beach would be stored in warehouses at this center, where they then are shipped around the country. It's a growing concept in the world of online shopping.

California officials often talk about the need for high-paying jobs, especially for blue-collar workers. This fits the bill, with predictions of 20,000 jobs at a project that would be complete by 2030. The proposal is for 40-million square feet of warehouse space in a mega-industrial park the size of 700 football fields, or 4.2 square miles. It's not quite so daunting when put in perspective. Moreno Valley has a land area of 51 square miles; San Diego's land area is 325 square miles. But it's still big.

It's easy to understand why local residents might not want such a large commercial facility near their homes. It will create traffic and congestion. After a spirited debate, the planning commission voted 6-1 to OK the project; the council approved it on a 3-2 vote. Some residents are threatening a recall election for the council members who voted for the project. Welcome to local government, where contention is a normal part of the process.

But almost immediately after its approval, the lawsuits started coming, even from government agencies. Riverside County filed suit against the project. The South Coast Air Quality Management District also filed one. On September 23, a group of prominent environmental groups including the Sierra Club and the Center for Biological Diversity took legal action after raising concerns about pollution, congestion and global warming.

Some project opponents are using the California Environmental Quality Act as a basis for action. CEQA has long been a topic of discussion in the state Capitol, as reform advocates say it is used repeatedly to slow down and even stop projects. It often is abused by project competitors to add costs to projects — and by unions, which file suits as a way to exact labor-contract concessions.

A survey by the reform-oriented CEQA Working Group found the 45-year-old law often stops the types of green-friendly projects favored by anti-global-warming activists. And one might argue a logistics center that promotes eCommerce (rather than driving to stores to buy goods and services) could have an overall beneficial effect, from a global-warming perspective.

Even though legislators from both parties complain about CEQA, it never gets reformed — except for individual projects favored by influential lawmakers. A recent bill that would have expanded the use of future global-warming targets in CEQA lawsuits was shelved after complaints from business and labor groups. So while CEQA isn't expanding, it still offers plenty of ammunition.

"We don't need yet another sprawling mega-project that makes our air dirtier, our climate hotter and our roads more congested," said one spokesperson for the environmental groups trying to stop the Moreno Valley project. Actually, what the "public" needs always is up for debate. This one pits advocates for the environment against advocates for jobs creation.

But I'm reminded of the old saying from science-fiction author Robert Heinlein: "There Ain't No Such Thing As A Free Lunch." That saying applies to almost everything in life, including development projects. It would be nice to hear California's politicians more frequently echo that point: There really ain't no such thing as a cost-free battle against global warming.

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<http://www.sandiegouniontribune.com/news/2015/sep/12/legislative-session-ends-rhetoric-little-happened/>

Steven Greenhut: End of session: Much ado about little

By Steven Greenhut

California's political leaders like to tout their policies as models for the nation and even the world. So it was no surprise this legislative session began with high hopes. Legislators were going to ramp up efforts to curtail climate change, fix the state's long-neglected transportation infrastructure and respond to concerns about civil liberties in the face of a feisty national debate about police use-of-force policies. And that was just for starters.

As the session came to a close on Friday amid the usual last-minute frenzy, the Legislature had passed a few significant measures — e.g., approval of a right-to-die bill, a framework for medical-marijuana clinics, an electronic-privacy bill — but most big-ticket items suffered the usual fate: they died after push-back from influential lobbies.

The two special sessions — for health care and transportation funding — yielded little as Republicans and some moderate Democrats wouldn't budge on higher taxes, which still require a two-thirds supermajority for passage. Legislators added a little more infrastructure funding, but punted until later. The session may not have been "much ado about nothing," but it arguably was "much ado about very little."

The most emblematic event came Wednesday evening when Gov. Jerry Brown, Senate President Pro Tempore Kevin De Leon, D-Los Angeles, and Assembly Speaker Toni Atkins, D-San Diego, held a Capitol news conference about the fate of their signature climate-change legislation.

SB 350 would have, by 2030, required utilities to generate 50 percent of their energy from renewable sources, force a 50-percent increase in energy efficiency in existing buildings and slash petroleum use by 50 percent. But after a campaign by business groups and the oil industry, the legislators didn't have the votes to move it to the governor. Brown, De Leon and Atkins announced they would remove the petroleum-reduction portion of the bill.

It was a big defeat, and Brown's rhetoric was even more pointed than usual: "We have a lot of stuff going on in Sacramento, hundreds of bills. The big issues are sometimes hard to capture and there's nothing bigger than the threat of climate change. When we look at the Middle East and see the desperate migrants trying to escape the hell of the Middle East war and now inundating Europe, we get a foretaste of what climate change will mean.... Mass migrations, untold suffering, rising sea levels, extreme events."

Brown blasted Big Oil for its campaign against the measure. The three leaders said they refused to give in to the oil companies' demand for legislative oversight of the California Air Resources Board, which oversees greenhouse-gas regulations. The bottom line was pretty much the status quo, although some success in toughening the least-controversial rules.

On Thursday, Sen. Fran Pavley, D-Agoura Hills, pulled from consideration the other major climate-change measure. SB 32 would have expanded the greenhouse-gas emission reductions mandated in the state's groundbreaking 2006 law, AB 32. The original law, signed by Gov. Arnold Schwarzenegger, required a cutback in greenhouse gases to 1990 levels by 2020. The new bill would have required levels 40 percent below 1990 by 2030 — and 80 percent below 1990 levels by 2050. Pavley turned it into a two-year bill that will be taken up again next year.

The business community campaigned against the legislation because of concerns it would have invited lawsuits under the California Environmental Quality Act (CEQA). Moderate Democrats were concerned about what that would mean for new construction and jobs. CEQA reform remains a hotly discussed issue — but it hasn't been reformed except for specific projects favored by influential legislators.

California legislators aren't only attuned to the national debate on climate change, but have spoken out often about privacy and policing issues, leading some commentators to believe that civil-liberties issues — long dormant in the Capitol — were staging a comeback. After protests over police killings in Ferguson, Mo., Baltimore and New York City, legislators introduced 20 bills dealing with police use-of-force issues. And there were a number of bills designed to protect the public from snooping. Atkins even created a new Committee on Privacy and Consumer Protection. Legislators also introduced bills regarding the use of drones, which offer hobbyists and voyeurs the ability to invade people's property and personal space — and have interfered with firefighting and other public services.

A couple of noteworthy measures passed. The governor signed SB 411, which makes it clear the public is allowed to record police officers — as long as they are in a public place, and the photographer is not physically interfering with the officers' duties. The Legislature passed — it's now on the governor's desk — SB 178, which requires law enforcement agencies to get a warrant before accessing data from private computers and cell phones.

But the year's most significant civil-liberties bill, SB 443, was crushed by a last-minute onslaught from law-enforcement lobbyists. The legislation would have stopped police agencies from using civil-asset forfeiture to take the homes, cars and personal property of Californians — unless they have first been convicted of a crime.

Police have increasingly built their budgets around these takings, and pulled out the stops to derail the bill. They were successful. Even though a tougher version of the legislation previously moved through the Legislature, supporters could only get 25 Assembly votes for the watered-down final version. Republicans talk a lot about the Constitution, yet only four of them could support a bill that puts into practice constitutional admonitions against taking property without due process. Democrats talk about helping the poor, yet many opposed a bill that would have protected them from unfair takings of their property.

Regarding drones, Brown just has vetoed SB 142, which would have prohibited drone operators from flying their devices less than 350 feet above private property without permission. Brown's veto message seemed sensible: "This bill, however, while well-intentioned, could expose the occasional hobbyist and the FAA-approved commercial user alike to burdensome litigation and new causes of action." But once again another major area of legislative concern got nowhere.

Perhaps the most telling description of the session came from Brown during his news conference regarding the climate-change bills. Referring to the failed deal to significantly increase transportation funding, Brown said, "The roads are going to get fixed.... Whether it takes a week, a month, a year or two."

In other words, not much happened — but soon enough, they'll be ready to try again.

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LA Times, September 6, 2015

<http://www.latimes.com/local/politics/la-me-cap-labor-20150907-column.html>

George Skelton: Labor needs to stop using environmental law to kill jobs

BY George Skelton

It's not polite to call out union leaders on Labor Day, but let's be frank: Some are costing workers jobs.

Yes, of course, unions historically have expanded the middle class in America by demanding and obtaining better pay and benefits for their members. We're better off because of them, especially in the private sector.

But in this state we've got a widely abused law called the California Environmental Quality Act, or CEQA. And labor is one of its biggest abusers, contributing to California's reputation as a lousy place to invest and do business.

Signed 45 years ago by Gov. Ronald Reagan, CEQA gradually became the bane of developers and other entrepreneurs. It requires them to undergo a long process of detailing their projects' environmental effects.

True, the act deserves credit for helping to clear the air, keep the water clean and prevent greedy developers from building on dangerous earthquake faults.

But CEQA also has been shamefully abused by union blackmailers — "greenmailers" — who threaten to derail a project by filing an environmental lawsuit unless the developer caves in to their labor demands.

Unions aren't the only abusers. Business rivals try to drive off potential competitors. And NIMBYs — "not in my backyard" — fight local projects, even environmentally friendly ones such as transit stations.

The result is costly, years-long delays, if not outright project scuttling, that discourages future investments in the state.

"CEQA suits are overwhelmingly filed against environmentally benign projects by people using them for non-environmental reasons," says land use attorney Jennifer Hernandez of Berkeley.

She recently published a lengthy report substantiating that assertion after studying 600 CEQA lawsuits filed over a three-year period. More on that later.

Hernandez usually represents project sponsors, but she has environmental credentials as a longtime board member of the California League of Conservation Voters. She's also an unabashed Democrat.

But ever since her steelworker father got laid off at age 55 many years ago, Hernandez has fretted about and focused on the demise of the working class in California. "We've lost our manufacturing base," she laments. "This whole getting rid of middle-class jobs has been bad for California."

The fact that CEQA is flawed and abused is no secret in the state Capitol. Gov. Jerry Brown has called reforming the act "the Lord's work." But he seems to be still waiting for the Lord to do it.

In his 2013 State of the State address, the governor thrilled business leaders by briefly advocating CEQA reform that would "provide greater certainty and cut needless delays." But then Brown basically went silent and never offered a proposal.

"The appetite for CEQA reform is much stronger outside the state Capitol than it is inside," Brown said a few weeks later.

Republican lawmakers have tried to push it, but are too weak. A few Democrats have carried reform legislation. But most have shied away from bucking labor unions, the biggest supplier of Democratic campaign juice, and agitating friendly environmentalists.

However, if a project has enough political pull, lawmakers will exempt it from some CEQA burdens. Two proposed Los Angeles football stadiums were granted exemptions a few years ago, but the projects collapsed. In 2013, then-Senate leader Darrell Steinberg (D-Sacramento) obtained an exemption for a new NBA arena in his hometown.

Last June, the Legislature exempted drought-related water projects.

And currently, lawmakers seem prepared to grant an exemption for highway projects as part of a possible road funding compromise. Under the bill, a construction or repair job generally could not be halted by a judge while a lawsuit proceeds.

"Why do we get so little bang for our buck in highway spending?" asks the bill's author, Republican Assemblyman Ray Obernolte of Big Bear. "These projects often are challenged under CEQA, leading to delay and expense."

He adds: "This is a baby step, but a natural step."

The grown-up, better step would be to apply the exemption to all CEQA projects. But this bill beats doing nothing.

Another much-needed reform is transparency. The true plaintiffs — the CEQA lawsuit bankrollers — don't have to be identified. "Who are you and why are you suing?" Hernandez asks.

Her study found that 45% of plaintiffs remain basically anonymous, using fronts with nice environmental-sounding names and hiring "bounty" and "shakedown" lawyers. Digging into the paperwork, she estimates that most of the anonymous plaintiffs are NIMBYs, but roughly one-third are unions.

Only 13% of CEQA suits are filed by recognized environmental organizations, Hernandez discovered.

For many people, she continued, "their environmental view is out the bathroom window. They don't want to see an apartment building next to a transit station. I can't blame them, but I question whether that's the proper use of California's environmental protection law."

Her report includes this chilling statement: "CEQA, which in its heyday was used to challenge nuclear plants, coal-fired plants and plants burning hazardous waste or garbage, is now used most frequently to challenge solar and wind renewable energy projects — precisely the 'green' projects that are most critical to meeting California's climate change reduction mandates."

As for labor, she says, "I started out thinking it just wanted to negotiate good jobs. I didn't realize that individual unions often were fighting other unions for control of jobs."

They're also trying to muscle union-leery retailers like Wal-Mart.

So happy Labor Day, unions. Pat yourselves on the back. But also kick yourselves in the butt for scaring investors and chasing off jobs.

San Diego Union Tribune, September 4, 2015

<http://www.sandiegouniontribune.com/news/2015/sep/04/greenhouse-gas-legislation-could-deflate-building/>

Steve Greenhut: Climate bill may chill new infrastructure

By Steve Greenhut

Gov. Jerry Brown and the Legislature are wrangling over a new transportation plan to help the state meet its growing population, with the differences centering on whether to raise taxes — or focus on reforming the existing transportation bureaucracy — to assure projects aren't delayed. That's the hot Capitol debate these days.

But at the same time this transportation session does its work, legislators are moving ahead major climate-change bills that could slow major infrastructure projects in the future, although newly introduced amendments could lessen the blow.

The most climate-change attention has gone to SB 350, which would mandate a 50-percent reduction in petroleum use, a 50-percent increase in energy efficiency in buildings and 50-percent use of renewable energy by utilities — all by 2030. But another bill is causing more consternation to business and trade unions.

SB 32, authored by Sen. Fran Pavley, D-Agoura Hills, advances the state's original anti-global-warming law signed by Gov. Arnold Schwarzenegger in 2006 (AB 32). "AB 32 requires California to reduce its (greenhouse gas) emissions to 1990 levels by 2020 — a reduction of

approximately 15 percent below emissions expected under a 'business as usual' scenario," according to the California Air Resources Board, which gained power to impose reductions under the original law and would gain more under the new proposals.

Similarly named SB 32 steps up the goals, by mandating these greenhouse-gas emissions are 40 percent below the 1990 level by 2030 and 80 percent below that level by 2050. Critics say these mandated reductions have diminishing returns — e.g., it's easier for a dieter to lose the first few pounds, but tougher to lose additional pounds as the weight decreases.

But the biggest problem may involve the impact on transportation and home-building, given the Legislature has yet to reform its infamous California Environmental Quality Act. The 40-year-old CEQA is the subject of endless Capitol debates given that it makes it easy for opponents of virtually any construction project to file time-consuming litigation.

It's often abused, as unions threaten lawsuits unless they get Project Labor Agreements, businesses file lawsuits to hobble the competition, and local activists file lawsuits against any projects they don't like. Proof of CEQA's problem: Even environmentally friendly politicians seek CEQA exemptions for their pet projects, such as the arena being built for the Sacramento Kings basketball team. Legislators from both parties complain about it.

The CEQA Working Group — business, labor and local government groups — sent a letter late last month to Pavley opposing SB 32 "for the sole reason that it would vastly expand opportunities for litigation under CEQA and it would create an impossible threshold to meet under CEQA." Their concern is critics of any project proposed now — even green-friendly ones for, say, infill housing — would have to immediately "prove themselves to meet the year 2050 80 percent reduction goal today."

That sounds like a scare tactic, until one looks at their main evidence: The San Diego Association of Governments regional plan "has been in CEQA litigation for years over a complaint (upheld by a lower court) that the plan does not meet the (greenhouse-gas) reduction requirements of a 2005 executive order Clearly, a more ambitious statute like SB 32 would create (an) even greater legal bar to meet under CEQA."

In this case, environmental groups are using CEQA and long-term global-warming goals to force the San Diego agency to reduce freeway construction and focus instead on mass transit. More aggressive targets will give litigants better ammunition.

In response, Pavley's office on Friday announced amendments intended to do the following: The California Air Resource Board "is required to work with builders, local governments, others to ensure that land use and permitting decisions on new construction are not subject to 2050 target on Day 1."

Critics of the bill fear the amendments won't provide enough specific direction and they will still end up in court. It would be ironic to have state leaders asking Californians to pay more to help reduce congestion as they simultaneously make it tougher for congestion-busting projects to get built.

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UT San Diego, June 14, 2015

<http://www.utsandiego.com/news/2015/jun/14/tp-freer-water-markets-offer-best-hope-to-ease/>

Steve Greenhut: FREER WATER MARKETS OFFER BEST HOPE TO EASE THE DROUGHT

By Steve Greenhut

As California's drought enters its fourth year, policymakers here mostly argue over two alternatives: stepping up conservation and water-use enforcement or building dams and other water-storage facilities. But the solution to the water crisis is more likely to be found on an application that can be downloaded onto our cellphones.

A growing state can't assure abundant water supplies by fining businesses and residents who use too much water — any more than it can expect new reservoirs to do much to bolster supplies in the near future given the many years it takes to build (and fill) them.

However, it's been shown — most recently in Australia — that making it easier for water owners and users to buy and sell their water supplies and water rights will assure that water will flow to its highest and best uses. In other words, California needs a more active water market, with more decisions made by businesses and consumers, and fewer made by agencies responding to groups (farmers, environmentalists, big-city water users) that wield political power.

This idea is catching on, and not only by libertarian dreamers. Many environmentalists like the idea because accurate water pricing will discourage consumption. "Other countries that have endured severe droughts have tried another approach: water markets," explained NPR's Linda Wertheimer in an April program. "In 2007, in the midst of a yearslong drought in Australia, the country expanded water rights trading. Farmers were given allocations of water, in addition to the water they're entitled to, and they could then buy and sell that extra water."

It appears to have worked. As market advocates note, California already has the system of canals, reservoirs and pumps needed to move water around. Before long, Australian users figured out a way to trade this resource efficiently. An online system developed, with buyers and sellers handling transactions on an application known as Waterfind, similar to the way people buy and sell stocks and bonds.

It's impossible to know exactly how it will work in California until people with a vested interest in making some money selling water — or in getting more water for their businesses or farms — figure it all out. But those people who say water is too complicated for a market-based system haven't been paying attention to California's evolving cap-and-trade system. Pollution credits are more complex than water.

In fact, California water merchants already participate in a market. But it's so complicated, and so open to litigation, "that it scares some people off" and farmers worry "that selling water could put water rights in jeopardy," explained Nathaniel Johnson in a recent *Grist* article. He published a complex, Rube-Goldberg-like chart of all the many governmental approvals needed before water owners can sell their water to interested parties.

Even if California legislators scoff at the wide-ranging market system embraced by Australia, there are a number of market-oriented policies they can embrace. The Property and Environment Research Center, a free-market think tank in Bozeman, Mont., has detailed some simple reforms that could make it easier to transfer water supplies, mostly by streamlining state restrictions and making it harder to tie up water transfers with lawsuits. The goal, said PERC's Executive Director Reed Watson, is to find "feasible policy reforms that could let water users trade water ... without harming other water users or the environment."

Liberals and conservatives generally agree the California Environmental Quality Act, or CEQA, holds up construction, which is why legislators regularly pass exemptions for their favored projects, such as the Sacramento Kings arena being built in that city's downtown.

So why can't they consider similar exemptions for projects that provide a resource that's far more precious than professional basketball?

I'd add another reform — limiting the California Coastal Commission's ability to hold up the construction of ocean-water desalination plants, which are another market-oriented approach to the drought.

The commission approved a project in Carlsbad, but has delayed a similar Huntington Beach project over fear that it will harm plankton.

A lively water market won't make it rain. But it might help Californians stretch their water resources long enough until Mother Nature decides to help out.

2015 CEQA Op-Eds

Fox & Hounds, August 26, 2015

<http://www.foxandhoundsdaily.com/2015/08/are-energy-efficiency-programs-efficient/>

Rex Hime: Are Energy Efficiency Programs Efficient?

By Rex Hime

Most of the attention around SB 350 and SB 32 has focused on renewable energy and petroleum but there are also many questions that need to be answered about the feasibility and expense in reaching the “stretch” goals and policies related to energy efficiency.

California already has – by far – the most energy efficient building codes in the nation. Title 24, as it is referred to, has over time kept our state's overall use of energy stable while the population has exploded. SB 350 now wants to arbitrarily DOUBLE energy efficiency in all buildings across the state. This sounds like a great goal, but it has some Real World issues. To wit:

A recent study by professors from UC Berkeley, University of Chicago, and the Massachusetts Institute of Technology reviewed more than 30,000 households in Michigan and found some surprising results. The study examined the Federal Weatherization Assistance Program, which provides low-income households weatherization upgrades.

First, the study found that consumers reduced energy consumption by an average of 10 to 20%, but that reduction amounted to only half the reduction that was expected. Second, the costs of energy efficiency were found to be double the benefits. Third, contrary to common belief, the study found that the program did not deliver a broader societal benefit since the cost per ton of carbon emission reduction was \$329 compared to the \$38 per ton that the federal government estimates as the societal cost of carbon. Recognizing that one study does not provide conclusive evidence, the authors of the study called for more studies in other areas to validate the results. More importantly, they recommended that policy be developed based on facts — not “projected” energy savings that may not materialize.

For business property owners, the studies raise some very important issues that SB 32 and SB 350 fail to address. SB 350 calls for a comprehensive program to double the efficiency of existing residential and nonresidential buildings. How much will “doubling” cost the resident or property owner? How did the state arrive at 50%?

SB 32 gives state agencies unprecedented authority to reach an emission reduction goal of 40% by 2030. If California energy efficiency programs under SB 32 generate only half the expected energy savings, will more mandates be imposed? Should state agencies be given complete authority to dictate how much homeowners and business owners need to invest in energy efficiency? Shouldn't our elected representatives remain involved in decisions affecting our homes and businesses?

The study also raised questions about the value of energy efficiency such as weatherization, concluding that the costs substantially outweigh the benefits. California residents and business property owners are entitled to know if the money that we are expending for energy efficiency will be fully recovered or whether the funds will only be partially recovered.

Finally, SB 32 would have the unanticipated result of complicating CEQA and making it even more unworkable to build the very energy efficient buildings these policies purport to enable. CEQA would kick in immediately despite goals being 35 years in the future. The inability to meet or mitigate these goals with today's technology means every project fails to pass a CEQA challenge.

We believe that SB 32 and SB 350 are too broad and lack the detail for homeowners and business property owners to understand their responsibilities and financial commitment. We urge the Legislature to delay action on the legislation this year and take the time to evaluate the energy efficiency options and develop policy guidelines for the implementing agencies. We need an efficient program — not a rushed one.

Hime is President and CEO of the California Business Properties Association

Fox & Hounds, August 26, 2015

<http://www.foxandhoundsdaily.com/2015/08/balancing-climate-change-and-job-displacements/>

Gary Toebben: Balancing Climate Change and Job Displacements

By Gary Toebben

Public opinion polls show that Californians are concerned about jobs. They are also concerned about climate change and there is a tail-wind of support behind two bills in the legislature to reduce greenhouse gas emissions: SB 32 by Senator Fran Pavley and SB 350 by Senate pro temp Kevin deLeon.

SB 32 would create a new legal mandate to reduce greenhouse gas emissions to 40 percent below 1990 levels by 2030 and 80 percent by 2050. It would vest primary oversight power with the California Air Resources Board (CARB) and would be immediately enforceable through the California Environmental Quality Act (CEQA).

SB 350 mandates specific consumer behavior by requiring a 50 percent reduction in gasoline and diesel consumption by 2030. This bill also mandates that half of California's electricity must come from renewable sources by 2030 and that property owners double the energy efficiency of their buildings by 2030. CARB would again be given the power and authority to use CEQA and other new regulations to enforce these mandates.

Businesses support the goal of reducing greenhouse gases and are hopeful that the invention of new technologies will enable that goal to be achieved in the future. They are concerned, however, about the lack of flexibility, the job losses in traditional energy industries and the potential new costs for California companies in the production and delivery of products and services.

Businesses and public entities that have experienced major time delays, added costs and sometimes a complete failure to move a project forward due to non-environmental related CEQA lawsuits also see SB 32 and SB 350 as highly probable justifications for an increase in CEQA abuses.

Based on a comprehensive review by Holland & Knight of 600 lawsuits filed under the California Environmental Quality Act during 2010-2012, a large number of CEQA lawsuits are targeted at projects related to renewable energy, affordable housing and public infrastructure. If the issue of CEQA abuse is not addressed, SB 32 and SB 350 will encourage more lawsuits and

significantly reduce the construction of renewable energy projects, affordable housing and public infrastructure. When these projects are delayed, jobs are not being created and important public policy goals are not being met.

Balancing the important goals of reducing climate change and increasing jobs for Californians should be the focus as the legislature addresses SB 32 and SB 350 during the remainder of this session.

Toebben is the President and CEO of the Los Angeles Area Chamber of Commerce

Fresno Bee, August 13, 2015

<http://www.fresnobee.com/opinion/readers-opinion/article30950535.html>

Darius Assemi: Here's how to fix California's roads, bridges and highways

By Darius Assemi

The facts are sobering: Deteriorating roads cost Californians \$44 billion a year in repairs, accidents, time and fuel – tantamount to a hidden tax. California's state highway maintenance funding has an annual shortfall of \$5.7 billion and deferred repair costs exceeding \$57 billion. A recent example of the dangers of deferred maintenance is the I-10 Bridge collapse July 19, after heavy rainfall. Thankfully no one was hurt – this time. We cannot wait for lives to be lost before we act.

There are two main reasons for the backlog of highway repairs: the diminished purchasing power of the gas tax, which has not been raised since 1990, and the proliferation of fuel-efficient and electric cars. This has led to lower gas tax revenue in real dollars, making funding a well-maintained highway infrastructure virtually impossible. Further exacerbating our funding issue will be the increasing use of electric buses and semi-trucks. While these cleaner vehicles offer immense benefit to our environment, their impact on gas tax revenue cannot be overlooked. In the past two decades, our state has added 9 million new residents. We have over 25 million licensed drivers with more than 4 million new licenses issued between 2010 and 2014.

Californians drive nearly 900 billion miles every day, the equivalent of 36,000 trips around the earth, consuming more than 15 billion gallons of gasoline annually.

As a taxpayer, I recognize we are one of the highest taxed states, but this column is not about our state's tax policy. Rather, it is about solutions for California's outdated and ailing transportation infrastructure.

Many ideas are being discussed to remedy the funding deficit for our roads: increasing the gas tax to where it would have been had inflation been taken into account, indexing the gas tax to inflation, and increasing the vehicle licensing fee. While none of these options are popular, in the near term they offer a temporary fix for funding road repairs.

In the long run, we must evaluate a usage-based fee that replaces, not augments, the gas tax. My colleague on the California Transportation Commission, James Madaffer, has taken the lead on exploring a usage-based vehicle miles traveled system that will adequately finance our transportation needs.

Concurrent – and inextricably linked – with development of new revenues, we must adopt reform and accountability measures that include the following:

First, we must increase accountability in transportation funding. Taxpayers need to have confidence that Caltrans and other transportation agencies are streamlined organizations that responsibly manage their budgets. Caltrans should have work performance and productivity comparable to, if not better than, any private sector business, particularly since they are funded by hardworking Californians.

Caltrans also needs to implement a more efficient staffing model. While Caltrans has reduced its project delivery workforce by nearly 25% since 2007, the need for more productivity is a must.

Information on the engineering and building process for Caltrans projects can be viewed at the [Department of Transportation website, www.dot.ca.gov](http://www.dot.ca.gov). To promote further transparency and accountability, taxpayers should be able to access project statuses with the same ease that we can track deliveries of packages and pizzas.

Second, years ago, the legislature passed a bill which prohibited the spending of gas tax revenue for non-transportation purposes. Unfortunately, the state got around that law by “borrowing” those revenues with a promise to repay them. Credit is due to Gov. Brown, who has directed that these loans, which exceed \$1 billion, be repaid. This type of borrowing must end and gas taxes must be used only for construction, management and maintenance of our highways.

Third, we must maximize the value of transportation funds. For example, construction of a road that does not change the existing right-of-way should not require costly and time-consuming analysis under the California Environmental Quality Act (CEQA). If professional sports venues in Sacramento and San Francisco can be exempted from CEQA, thoroughly vetted infrastructure improvements should be as well. We should also pursue more design-build projects, allowing work to be completed in less time, at reduced expense, and with less red tape.

Finally, we must develop a long-term funding strategy that will keep up with the unique needs of our state, and allow for the expansion and improvement of our transportation system. The California of the future will require a robust, multi-modal transportation system, composed of automobiles, autonomous vehicles, mass transit and commercial traffic, necessitating the transition from a fuel-consumption tax to a usage-based model.

Gov. Brown recently convened a special session of the legislature to discuss our transportation challenges. Addressing these issues is never easy, but California must have a 21st century transportation system if we want a robust, 21st century economy.

Darius Assemi of Fresno is a member of the California Transportation Commission.

San Francisco Chronicle, July 23, 2015

<http://www.sfchronicle.com/opinion/openforum/article/California-can-t-reach-greenhouse-gas-targets-6402503.php>

Jim Wunderman: California can't reach greenhouse gas targets without CEQA reform

By Jim Wunderman

Meeting the new greenhouse-gas reduction targets set in Gov. Jerry Brown's April executive order and Sen. Fran Pavley's SB32 will require significant changes in the way California plans, lives and operates. We will need to focus on higher-density infill housing and commercial development closer to transit. We will need to place more emphasis on congestion-reduction projects, public transit, bike lanes and walkable neighborhoods. We will also need to move more rapidly to expand our sources of clean energy, such as wind and solar.

Ironically, one of the biggest obstacles to achieving the aggressive new targets likely will be California's oldest environmental law, the California Environmental Quality Act.

A groundbreaking report conducted by Holland & Knight, a law firm with extensive CEQA experience, analyzed 15 years of published opinions in CEQA litigation at the Court of Appeal or the California Supreme Court from 1997-2012. The report found that 62 percent of cases litigated under CEQA involved urban infill development. The analysis demonstrates how the environmental protection law actually is frustrating our greenhouse gas reduction goals by hindering infill development, more public transit and cleaner power.

Remarkably, these greenhouse-gas reducing projects are the very type of projects that anonymously funded opposition groups most frequently attempt to stop through time-consuming and expensive litigation. CEQA is their tool of choice, but environmental protection is not often their aim.

Cases in point:

- A single individual used a CEQA lawsuit to delay San Francisco's plan to expand its network of bicycle lanes and encourage more bicycle commuting. The lawsuit claimed the city had not sufficiently studied the negative environmental impacts of the project. Five years, several million taxpayer dollars and 2,200 pages of environmental review later, the plan finally was approved.
- A neighborhood group used a CEQA lawsuit to further its antidevelopment agenda to block Park Merced, an affordable infill housing community in San Francisco set to become America's first net-zero carbon community, with upgraded public transit access and on-site neighborhood-serving retail and services. The suit held up the project for three years, costing millions of dollars.

Another report by the nonpartisan Legislative Analyst's Office also points the finger of blame for California's high housing costs squarely at CEQA. The report found that cities in California take on average 2.5 years to complete the various CEQA analyses required to permit new infill housing, and that's before anyone files a lawsuit that can add many more years to the process. The unfortunate reality is — for all the good it has done to improve the California environment and planning process — CEQA is being used to impede the type of responsible growth California needs in order to meet the new greenhouse-gas targets.

The governor's ambitious executive order seeks to reduce greenhouse-gas emissions to 40 percent below 1990 levels by 2030, setting an interim target for the 2050 goal of 80 percent reduction set by Brown's predecessor. Pavley's bill codifies the new target. The Bay Area Council supported AB 32 in 2006 and supports SB 32 if amended to include CEQA reforms among other changes.

CEQA was written in the 1960s before we knew what climate change was. It is designed to analyze individual projects, not address a global threat. It's time to modernize CEQA so that it is used to protect the environment, not to protect hidden agendas that have nothing to do with environmental protection.

Jim Wunderman is president and CEO of the [Bay Area Council](#), a regional business association.

Victorville Daily Press, May 20, 2015

<http://www.vdailypress.com/article/20150520/OPINION/150529985/13031/OPINION>

Gregory C. Devereaux: Modernize the California Environmental Quality Act

By Gregory C. Devereaux

The Inland Empire has turned an important economic corner. There are now more jobs in Riverside and San Bernardino counties than there were before the Great Recession began more than seven years ago.

Speaking not for the County or the Board of Supervisors but rather from my many years as a municipal executive in California, there is no way to say for sure whether the recovery would have happened sooner if the state did more to encourage economic development and job creation rather than limit it. However, there can be no argument that, in its present form, the California Environmental Quality Act is an impediment to economic development, and that it is time to take a critical look at and modernize the 45-year-old law.

Those who want to examine CEQA are routinely accused of believing we cannot have a strong economy while protecting the environment. Nothing could be further from the truth.

We recognize that clean air, clean water, and our natural beauty are among California's strongest selling points in attracting the quality workforce that in turn attracts the best employers.

However, over the past four decades, CEQA has mutated into something it was never intended to be, which has led to problems that cripple our economy and quality of life while doing little to protect our environment. Countless projects that could produce good-paying, high-quality, and environmentally friendly jobs are needlessly delayed over matters launched under the guise of CEQA that actually have nothing to do with the environment.

For example, some homeowners understandably have apprehensions about affordable housing constructed in their neighborhoods. Although these projects have the potential to eliminate blight and encourage the use of public transportation, they face unnecessary hurdles from CEQA challenges motivated by aesthetics rather than any potential damage to the environment. Sometimes CEQA challenges are brought by businesses trying to keep out competitors. Labor groups have initiated environmental cases for the sole purpose of curtailing the growth of non-union shops or creating leverage to require the hiring of union labor. None of these reasons follows the purpose or the spirit of the 1970 law. Attorneys who specialize in CEQA are among the highest paid in their profession. They grow rich filing frivolous cases that would do nothing to protect environment but that do great harm to California's economy and quality of life in actions that might be termed legalized extortion.

So what do we get from CEQA in its present form?

We get very long and very expensive processes.

Projects in the private and public sectors can take years longer than they should when challenged under CEQA. If an Environmental Impact Report is mandated, that alone takes two years to complete. Two years is a long time for anyone who is unemployed.

There are changes we can make without risking environmental damage.

The state can use current technology to streamline the administrative process. The legal process for these cases can be restructured within the courts so claims are heard more quickly. Last-minute "data dumps" — floods of information intentionally introduced at the 11th-hour to stall projects — can be discouraged.

CEQA has a seemingly endless array of parts, and they need to be re-examined, piece-by-piece. Also, the state must look at the redundancies within CEQA. There are instances where a project that was approved under the standards of the California Clean Air Act nonetheless ended up facing a lengthy CEQA challenge.

It is time for California's leadership to take a fresh look at this law. There are too many instances where projects that can actually accomplish very positive things are weighted down and smothered by the misuse of a law that has grown terribly out of date.

—Gregory C. Devereaux is San Bernardino County's chief executive officer.

Santa Rosa Press Democrat, April 29, 2015

<http://www.pressdemocrat.com/opinion/closetohome/3868799-181/close-to-home-facing-our>

Close to Home: Facing our pressing housing needs

BY PETE PARKINSON AND JOHN LOWRY

The two of us have spent several decades working on housing issues from different perspectives — one as a local government planning director and the other as a nonprofit housing builder. Despite our different perspectives, common themes have emerged, and we see several specific actions that can be taken to improve housing affordability.

Cities and counties can help "front-load" the planning and permitting process by adopting neighborhood-level development plans in areas suitable for increased housing density and infill development. Known as specific plans, these long-range planning tools are more than a zoning map. A good specific plan spells out design requirements for buildings, amenities and infrastructure, shows how improvements will be financed and includes an upfront environmental clearance under the California Environmental Quality Act. This planning increases predictability for future housing providers and reduces the time and cost of the permitting process. Santa Rosa's specific plan efforts are a good example. The state Legislature and governor can help jump-start these planning efforts by increasing funding for long range planning.

The state Legislature can provide immediate help by improving California's environmental review process. A recent study showed that nearly 60 percent of CEQA lawsuits were filed against infill development projects. The costs of CEQA litigation — in time and money — can be devastating for an affordable housing project. We believe the CEQA process can be streamlined

without compromising environmental quality. The existing CEQA exemptions for infill housing projects can be expanded. Reforms also are needed to reduce the ability of housing opponents to raise last-minute CEQA issues as a delay tactic.

A candid conversation about development impact fees is overdue. In the nearly 40 years since Proposition 13, impact fees have become an important funding source for public infrastructure. They are also the most regressive revenue source in our history. In many places, all units, from mansions to studio apartments, pay almost the same fees. While reducing fees on all housing, like Santa Rosa has done recently with its sewer and water fees, would be beneficial for housing supply, the fee burden is greatest for smaller units. We should move to a fee based on living area for higher density, low-income affordable housing.

We have seen a dramatic increase in regulatory complexity and the cost of compliance. New regulations affecting land development and building construction are added every year. These regulations originate from a worthwhile purpose, whether it's health and safety, energy conservation, environmental protection or accessibility and equity. But compliance comes at a cost that is seldom, if ever, acknowledged at the state level. We believe that the cost of compliance should be considered for all new regulations, including the relationship between benefits and costs. While public funding, loan guarantees and tax breaks have a long history in providing low income housing and home ownership opportunities, we are in a time where even greater public commitment is needed. There is resistance to this policy direction, and the question of why government needs to commit more public money to housing is a legitimate one. One answer is that government has restricted housing supply to accomplish other public policy goals and has used new housing to fund everything from public infrastructure to saving endangered species and reducing global warming; and the bill has come due. Another answer is that while housing supply must be increased, Sonoma County, as with most coastal areas, will never build its way out of the affordability crisis. Incomes of lower income people have not kept up with actual building costs. If wage stagnation is a long-term trend, the most effective way to prevent it from reducing more people to poverty, will be to make sure that we have decent housing for all.

Pete Parkinson is former director of Sonoma County's Permit and Resource Management Department. John Lowry is former executive director of Santa Rosa-based Burbank Housing Corp.

Fox & Hounds, April 27, 2015

<http://www.foxandhoundsdaily.com/2015/04/ceqa-california-dreamin-or-california-nightmare/>

CEQA: California Dreamin' or California Nightmare?

By Jennifer Hernandez

Our recent report on "California Social Priorities" — released by Chapman University's Center for Demographics and Policy and the topic of the first meeting of the Houston based Center for Opportunity Urbanism — stirred up some controversy. A largely negative response came from Josh Stephens from the California Planning and Development Report.

As a lifelong Democrat, granddaughter/daughter/sister/aunt of union members working in the steel and construction trades, major contributor and multi-decade Board member of several California environmental advocacy organizations, top-ranked California environmental and land use lawyer and recipient of the California Lawyer of the Year award for environment and land use work, and Latina asthma-sufferer who grew up in Pittsburg, California amidst factories that belched pollution into our air and waters, I need to first take exception to the author's apparent assumption that anyone publishing a thoughtful report with accurate data about California's acute social needs (income inequality, middle-class job loss, educational non-attainment) is a "conservative" with a "hate on CEQA in much more vague ways." (Indeed, none of the individuals cited by the author fit the derisive (in much of California) "conservative" label: Both

David Friedman and Joel Kotkin worked at the Progressive Policy Institute, the think tank for the Democratic Leadership Council when Bill Clinton was at the helm.) Dismissing uncomfortable demographic facts with politicized name-calling seems more about deflecting, rather than engaging, in what I believe is an entirely appropriate – and necessary – debate about how to address California’s social equity challenges in tandem with California’s environmental policies. I do agree with the author’s characterization that I am “an astute observer of, and enthusiastic participant in, the evolution of CEQA caselaw.” Defending CEQA litigation abuse, on behalf of our public and private sector clients, has been and continues to allow me – and a legion of other lawyers and consultants – to earn a generous income.

I am also delighted that the California Planning & Development Report reported on our demographic analysis at all, because I believe those of us dealing with land use planning uses are long past due for a frank conversation about how the web we have created – the “we” being pro-environment, pro-labor Democrats of a certain age – has without question improved air and water quality, and protected California’s most valuable natural areas, but has also without question managed to dramatically and adversely affect the upward mobility and economic health of many millions of Californians. I believe we are still young enough, still energetic enough, and still creative enough, to work together to improve social equity and economic opportunity – without sacrificing our hard-won environmental improvements.

I believe that part of the necessary solution, as acknowledged by scores of commenters and impartial observers including the report from the Legislative Analyst’s Office explaining why California housing costs are so high, is modernizing CEQA. I have written extensively about CEQA. In an analysis of 15 years of reported appellate court EIR cases, for example, we learned that the vast majority of CEQA lawsuits challenged non-industrial “infill” projects, renewable energy projects, and transit projects – precisely the types of projects that improve public health and environmental quality, and combat climate change. This and related work – including widespread media reports of CEQA litigation abuse – calls into question whether CEQA is advancing, or obstructing, progress on today’s environmental challenges. I have too much personal experience as a lawyer with 30 years of experience with CEQA, and now as a researcher and CEQA reform advocate, to pretend that CEQA – and specifically CEQA’s litigation abuse – isn’t a major hurdle we need to discuss, and modernize.

The author also criticizes this demographic report as failing to recommend specific CEQA reforms, but neither CEQA generally nor CEQA reforms specifically were the primary subjects of this Report. As many of CPDR’s readers well know, I have and continue to advocate for sensible and moderate CEQA reforms, like better integrating this 1970 statute into California’s panoply of modern environmental, public health and planning laws, prohibiting secrecy in CEQA lawsuits that try to conceal abuse of this great statute for non-environmental purposes, and extending to all projects – not just politically favored, donor-rich Sacramento basketball arenas – the right to cure minor errors in CEQA studies with a corrected study (and where appropriate more mitigation) rather than derailing a project approval entirely because a judge decided to grade an EIR addressing more than 100 mandatory study topics with an “A-“ rather than an “A+”.

One final note: I am not an expert on Prop 13, nor do I understand why curtailing then-skyrocketing property taxes on the elderly and poor – those losing their homes when Prop 13 was enacted – contributes to today’s income inequality or middle-class job loss challenges. CEQA litigation abuse for non-environmental purposes, in contrast, has earned widespread recognition – by the Governor, by Bill Fulton’s (CPDR’s publisher) CPDR blog, and by every editorial page of every major newspaper in California, to name just a few – as a problem. Notwithstanding Mr. Fulton’s pessimistic assessment that special interests are too wedded to CEQA abuse to ever permit Legislative reform, I believe land planners and environmental advocates have a moral obligation to improve what we know (including CEQA) to address the terrible social inequality that has grown so pervasive in California.

Cross-posted at New Geography.

SJ Mercury News, April 24, 2015

http://www.mercurynews.com/opinion/ci_27983970/sam-liccardo-and-gary-kremen-waive-ceqa-use

Sam Liccardo and Gary Kremen: Waive CEQA to use recycled water to alleviate drought By Sam Liccardo and Gary Kremen

"Whiskey is for drinkin', water is for fightin'."

This quote, although often mistakenly attributed to Mark Twain, accurately describes our political landscape. In our fourth year of severe drought, fighting over water has become institutionalized in federal, state and regional politics, often to the detriment of urban areas. Battles have also commenced over solutions, with proposals for desalination plants, tunnels and new storage projects competing for priority. Each merits exploration, but none can be implemented quickly enough to address our crisis.

We can do better by focusing on strategies within our grasp, starting with conservation.

Recently, all of Santa Clara County was urged to reduce water use by 30 percent. San Jose and many other cities agreed to the target. Since our yards account for roughly half of residential consumption, we can attain much of that goal by limiting outdoor watering to twice weekly and requiring drought-tolerant landscaping in new development. Additional opportunities exist for conservation, such as increasing rebates for turf replacement, facilitating installation of gray water recycling systems and adopting universal rate tiering, per-capita household water budgets and the like.

We can also better utilize existing resources.

We recycle more than 14 million gallons of wastewater each day at our treatment plant. An advanced water treatment facility now refines 8 million gallons of that recycled water to a level of purity exceeding state drinking water standards. Yet none of that water will fill your glass. Instead, it's distributed through a 142-mile network known as "the purple pipe" for commercial outdoor landscaping and industrial use.

If we cling to the practice of segregating recycled, purified water from drinking water, we will spend a lot of money on a system that keeps our petunias peppy. The investment required just to ensure the reliability of the purple pipe system exceeds \$45 million in the next five years. Instead we should send our recycled water to recharge ponds where it will sink through the topsoil, a process that has purified rainwater for millions of years. This will restore our depleted underground aquifers. At full build-out, it can expand our water supply by as much as 11 billion gallons a year, or 31 million gallons per day.

This approach, known as indirect potable reuse (IPR), has won support from the Santa Clara Valley Water District and many regional leaders. It has safely supplied water to urban populations from Orange County to El Paso at a lower cost and greater speed than alternatives. Replenishing groundwater also reduces the risk of land subsidence, the profoundly damaging consequence of groundwater depletion that has already lowered San Jose's elevation 13 feet in the last century.

Finally, potable reuse bolsters the one source of water that federal and state agencies can't fight over: our own groundwater. Like conservation, it provides a solution within our own control. Or almost within our control.

We need to begin construction immediately, and we are ready. But we face years of delay to obtain legal clearance under the California Environmental Quality Act (CEQA). Other critical local drought related projects might also be held up by CEQA, such as the seismic rehabilitation of Anderson Dam.

We need Sacramento to remove obstacles.

If the Legislature can approve exemptions from CEQA's labyrinthine process for sports stadiums, shouldn't it do the same for projects that safely expand our water supply?

We implore our valley delegation in Sacramento to support the leadership of Sen. Jim Beall to seek a CEQA exemption so that we can re-use the water we already purify beyond drinking water standards. Working together, we can leave the fighting to the rest of the state -- and provide our community with a safe, more sustainable water supply.

Sam Liccardo is mayor of San Jose and Gary Kremen is chairman of the Santa Clara Valley Water District. They wrote this for this newspaper.

UT San Diego, April 15, 2015

<http://www.utsandiego.com/news/2015/apr/15/ceqa-reform-dont-allow-gaming-of-the-system/>

CEQA reform: Don't allow gaming of the system

By Jerry Sanders & Richard Volker

Some years back, Soitec Solar arrived in San Diego with the promise of good jobs and the ability to deploy industry-leading solar technology at prospective local solar sites.

Yet, these local solar projects – centered in the San Diego County community of Boulevard – were tied up with the county for roughly three years, just receiving approval from the Board of Supervisors this February. Untangling the causes for this outcome after the fact is difficult, but one major issue was the desire to avoid or appease the local planning group's absolutist opposition. The result was an unnecessarily belabored process under the California Environmental Quality Act (CEQA).

We'd like to offer some thoughts on CEQA, based on this recent unfortunate saga.

The policy goal of CEQA is to inform government officials and the public of environmental impacts associated with development projects. The heart of CEQA is the environmental impact report (EIR), which details the project's negative impact on the environment, and how the project will address that impact. Typically, the CEQA process involves preparation of technical studies on subjects like biology, water or traffic, numerous internal reviews and revisions of drafts of the CEQA document and supporting studies, followed by numerous opportunities for public comment and participation from the local planning group up to the City Council or Board of Supervisors. It's not uncommon for this entire exhaustive process to consume two or three years and a substantial amount of money.

After all of this hard work and engagement between the staff, project developer and the public aimed at producing the best possible project, review of the project is not necessarily complete. No, even after elected officials have reviewed a project and determined that it is consistent with the community land use goals and environmental impacts will be mitigated, a person opposed to the project can still challenge it in court by claiming all that time and effort nevertheless resulted in an inadequate analysis of the environmental impacts.

Incidentally, in Soitec's case, the project opponent is a nonprofit controlled by the chair of the Boulevard planning group.

Developers highly value an accurate budget and timeline, and their contracts require adherence to set deadlines. In the world of renewable energy development, where contracts often provide deadlines by which to begin producing power or projects depend upon tax incentives with expiration dates, delays kill projects. Often, those who oppose projects know this and will undertake a CEQA challenge designed solely to thwart a developer's ability to meet these obligations. A single opponent to a vetted and approved project can bring it to its knees, and that's grossly offensive to our sense of justice and fair play.

We would like to propose a few solutions. Courts should be aware of when a CEQA challenge will jeopardize a developer's contractual obligations or otherwise interfere with substantial project investment.

When it appears an opponent is presenting a threadbare argument against the CEQA document, courts should expedite review and impose a bond requirement on the opposing party to compensate potential losses from delay. AB 900, already in play for environmental leadership projects, could serve as a template for expedited review.

Additionally, the state should expand categorical exemptions for renewable energy, infill and select major infrastructure projects. Increased use of negative declarations or mitigated negative declarations (MNDs) by land-use staffs could also be useful to save time and money over full EIRs.

As for EIRs, CEQA doesn't require a perfect environmental document, and land-use staffs should reduce internal review time and give the EIR to the public sooner for comment. Moreover, while public participation is incredibly important and desirable, a hard deadline date for final submission of written comments should be required, ending document dumps and ensuring sufficient time for review by elected officials.

The San Diego Regional Chamber of Commerce, joined by the Save Our Rural Economy grassroots organization, is supportive of statewide and local changes in the CEQA process. We encourage the Legislature to consider broader changes to judicial review and categorical exemptions, and would encourage local agencies to review their policies to seek ways to expedite the CEQA process so that project applicants have greater say on the process. We look forward to serious consideration of CEQA reform proposals suggested by our organizations and others.

Sanders is president and CEO of the San Diego Regional Chamber of Commerce. Volker is chairman of the Save Our Rural Economy board of directors.

Los Angeles Times, January 5, 2015

<http://www.latimes.com/opinion/op-ed/la-oe-governors-california-poverty-job-creation-20150106-story.html>

How to fix California's economy: Regulation, legislation and education By GEORGE DEUKMEJIAN, PETE WILSON AND GRAY DAVIS

California's wounded economy needs serious intervention from policymakers, businesses and educators equally committed to restoring jobs and ending poverty.

During the last year, we've been reminded how unsettling the prognosis is if we don't act swiftly and with purpose.

Even the more promising headlines — such as employment levels returning to and approaching pre-recession levels — are tempered with a harsher subtext. Good-quality jobs are being replaced by those that don't pay well and require only limited education or experience.

Recent reports from Southern California's top economists indicate just how formidable our challenges are, especially in this part of the state.

The number of people below the poverty line in Southern California jumped to 3.2 million in 2012 from fewer than 1.9 million in 1990, with 1 in 4 children now living in poverty.

In Los Angeles County, two-thirds of projected job openings over the next five years will come from occupations that require a high school diploma or less and little to no work experience.

Although needed to accommodate low-skilled workers, these jobs do not offer a path to the middle class. For instance, the three fastest-growing job categories in the county — cashiers, retail salespeople and waiters/waitresses — pay an average of about \$20,000 annually. This continues a disturbing trend that has seen inflation-adjusted median household income in L.A. County drop to \$54,529 in 2013 from an equivalent of \$61,544 in 1990.

In Orange County, despite a 90% chance of employment totals returning to pre-recession levels sometime in 2015, the growth is concentrated in low-wage jobs.

A similar story is playing out in the Inland Empire, where the manufacturing sector has added just 267 net manufacturing jobs during the last two "recovery" years, according to economist John Husing. Since 1990, inflation-adjusted median income has dropped more than 9% there. Not surprisingly, the number of people below the poverty line in Southern California jumped to 3.2 million in 2012 from fewer than 1.9 million in 1990, with 1 in 4 children now living in poverty — an unacceptable statistic under any circumstances.

This summer, the Southern California Assn. of Governments, in partnership with the Southern California Leadership Council, gathered stakeholders from throughout the region to address economic challenges and the poverty crisis, and to discuss possible solutions.

Those discussions led to a multi-layered Regional Action Plan on Poverty that was unveiled at the Economic Recovery and Job Creation Summit, hosted in December by SCAG and the leadership council. The plan includes a heavy emphasis on workforce development and teaching students marketable skills, such as those required to build needed transportation and infrastructure projects. In coming years, tens of thousands of such jobs could be created as a result of hundreds of billions of dollars in infrastructure investment identified by SCAG. This investment can produce a bonanza of good-paying jobs.

But the plan will have only limited success without desperately needed regulatory reform.

California takes longer than 45 other states, on average, to get a construction project approved. According to Caltrans, for example, it now takes an average of 17 years to complete a major transportation project. **California must undertake serious regulatory reform, starting with the job-killing delays caused by the California Environmental Quality Act, if we are to deliver important building and infrastructure projects — and the jobs they could produce — as quickly as needed to accelerate our economic recovery.**

The [regional] plan will have only limited success without desperately needed regulatory reform.-

To prevent the Legislature from producing even more delay, there should be a five-year moratorium in Sacramento on the enactment of any laws that are more likely to reduce jobs than create jobs. By punching the pause button and rethinking what must be done to generate the jobs needed to stoke the economy, the Legislature can best help move Californians out of poverty and into jobs.

And we must fix the skills gap that also encourages employers to look outside the region. Time after time, we hear of good-paying jobs going unfilled because of a lack of qualified candidates. This would include jobs in technology, manufacturing and healthcare. We need to redouble efforts to develop effective pathways from schools to workforce training to meaningful employment opportunities, through partnerships, apprenticeships and real coordination between the education community and businesses.

More broadly, schools and employers need to get on the same page so that young people have the best chance to succeed when they leave high school. Community colleges and universities can play a significant role in this as well — again, by aligning what they teach with the changing real-world needs and job opportunities that exist. The Regional Action Plan includes specific steps for doing this.

As former governors, we believe in California, but California must help itself. Business, education and government each needs to do its share to restore economic vitality and reduce the high poverty that costs everyone.

This isn't someone else's problem. It's ours to fix.

Former Govs. George Deukmejian, Pete Wilson and Gray Davis are members of the Southern California Leadership Council, a nonpartisan, nonprofit public policy partnership.