

RANDY NICHOLS' COMMENTS ON DRAFT REVISIONS TO CEQA APPENDIX G INITIAL STUDY CHECKLIST

V. Cultural Resources

Point of clarification: Did OPR intend to remove consideration of effects on unique paleontological resources from the Checklist? That appears to be the case in the proposed changes to items b and c.

V. Energy (shouldn't this be VI?)

It is a terrible idea to introduce consideration of Energy use into the IS Checklist! This has always been just an EIR requirement, as noted in Appendix F. This implies any new land use action, project, plan, or program could somehow be properly analyzed to produce a meaningful determination of "appropriate" energy usage--- no matter how small or large, no matter if it conforms to local planning policies or not, no matter that mandatory compliance with California's highly stringent and effective building energy efficiency codes already ensures good building design with respect to reducing energy demand. This is an onerous, one-size fits all, bludgeoning approach. An assessment of whether a project is using energy in a wasteful or inefficient manner, or if the type of consumption is necessary or unnecessary, are the wrong questions to be asking. These questions pertain to consumer behavior, not on the design of the project or its location, which are the kinds of things that are more traditionally evaluated and modified through land use decisions. Behavioral actions have a significant effect on whether energy is being wasted, or used inefficiently. But how can a government entity regulate that? What would be the objective criteria by which that would be evaluated before a project is even occupied? Do we really want to have CEQA allow lead agencies determine what kinds of energy systems and infrastructure are included in a project and take that decision away from project proponents who have to deal with the cost implications?

What is the key concern in analyzing energy use anyway? These days it is driven primarily by concerns about climate change and reducing the influence of greenhouse gases in this global environmental concern. Energy use certainly has a major impact on the generation of GHGs, but is CEQA the place to try and regulate that? There are a myriad of federal and state laws that seek to combat GHG levels associated with energy generation and fuels. Consideration of energy-generated GHGs is already being addressed in another section of the IS Checklist, under the topic of "Greenhouse Gas Emissions." Is the test supposed to be whether or not a project incorporates renewable energy or energy efficiency measures, as suggested by proposed criterion b? Certainly, such measures are highly desirable as a way to reduce a project's GHG footprint, and they benefit the consumer. But what would the CEQA analysis focus on? Would any project that doesn't incorporate such features be automatically considered to have a significant environmental impact associated with energy usage? Why? Is the focus supposed to be on the environmental effects resulting from incorporation of such measures, which would be a more traditional focus under CEQA? That seems pointless, since there is no body of evidence suggesting that use of solar PV, mixed land uses, transit systems, higher building energy efficiency somehow results in unique or more adverse impacts than more "routine" projects that lack such features.

If OPR can find some more objective criteria that would result in a meaningful assessment of how energy implications of a project or a plan could somehow result in significant adverse environmental effects, then let's examine that language. Otherwise, instead of adding additional burdensome, overly vague, and difficult - if not impossible - thresholds pertaining to Energy to the Checklist, please remove Appendix F and leave Energy out of CEQA.

XI. Open Space, Managed Resources and Working Landscapes

a): The word "preservation" here suggests that the land under consideration has already been officially designated for preservation for the open space purposes listed.....was that the intent? That may be overly restrictive, since there are my projects proposed in open space areas that have not been so designated and may contain important open space resources.

b)(i): The word "farmland" is too vague for consistent interpretation and application in project analysis. Does this include grazing land? Animal husbandry? Dairy Farms? Or is it limited to cropland, orchards, plants for food or fiber? Is this intentionally vague to allow lead agencies lots of discretion in what they consider to be "farmland"?

XIII. Population and Housing

c): Why is OPR introducing regional jobs/housing fit to the CEQA Checklist? How would a lead agency determine what constitutes a "substantial imbalance" in the regional jobs/housing *fit*? While it is possible to roughly estimate the household incomes or wage levels for proposed residential and employment projects, it is extremely difficult to ensure any correlation between the projected wage levels and prices/availability of local housing or vice-versa. A region may be so large (e.g. the several counties located within the SCAG region), with such a significant variance in housing stock, prices, job classifications and wages, etc., that any predictions about substantial imbalances based on such a broad frame of reference would have little or no meaning in actuality. What does a single family residential subdivision in the Coachella Valley have to do with matching jobs in the San Gabriel Valley? Even if the analysis were to focus only on the Coachella Valley subregion, if most of the home buyers turn out to be retirees, how does that affect the jobs/housing "fit" analysis? The metrics and quantitative analysis for these assessments could vary widely in quality and precision, and in the end, cannot be guaranteed on the ground. As a result, this could result in frequent challenges to the adequacy of the CEQA document, with more litigation and delay resulting in further burden on the economy. If the environmental effects of concern are mainly focused on air pollution and GHG generation associated with longer vehicular commutes, aren't those issues already captured under air quality and GHG topics?

Years ago, CEQA consultants and local and regional government planners spent way too much time doing elaborate calculations and constructing long analyses of jobs/housing balance issues that attempted to find something meaningful about the ratio of housing units to jobs in some geographic area, as though such a simple arithmetic calculus helps us match people's home to a convenient commute to their job. This is California! People buy homes or rent homes based on what they can

afford and if they make a lot of money, they can choose to live near where they work. If they don't make a lot of money, their housing choices are much more limited and a longer commute is often a consequence of those choices...look at all the people willing to live deep into inland areas, where housing is less costly, while driving long distances to jobs that pay their bills. Jobs/housing balance is a nice goal, but it is more complicated than simply balancing numbers of homes to potential numbers of jobs. A lot of people don't have jobs and/or where they live has nothing to do with their jobs (retirees, children, unemployed). Why bother with such ineffective analyses and further burden the CEQA process? This is sure to become another contentious and litigious piece of CEQA, and we don't need any more of that, especially when it doesn't produce useful information for sound decision-making.

XVI. Transportation

a). This revised language preserves level of service as an analytical consideration, since that is still a key way to evaluate a project's effect on the "performance" of the circulation system. This appears to conflict with the legislative intent behind SB 743, to eliminate consideration of auto delay and LOS in CEQA. Also...the word "roadways" seems to imply elements of the local circulation network, and not state highways, freeways, or interchanges. Was that the intent?

XVII. Utilities and Service Systems

e): Please change the word "adequate" to "inadequate." There would be no problem if the wastewater treatment provider determined that it has adequate capacity to serve the project, but there would be a problem if it has inadequate capacity.

f) and g): These should be eliminated. Solid waste disposal and management are regional issues and it does not do any good to analyze an individual project's impact on the regional solid waste management system. These are already addressed through countywide solid waste management plans and oversight of regional landfill facilities. If there is a real concern about how a project's solid waste stream is affecting the environment that is not being addressed through existing regulations and waste management resources, then let's come up with different language to capture that concern. Perhaps this would focus on a project or a plan that would allow for some land uses that generate a unique and hazardous waste stream that would require construction of special waste disposal facilities, or require transport of large quantities of hazardous materials to a distant disposal site.

XVIII. Mandatory Findings of Significance

b)—Cumulative Impacts. This should be removed from the IS checklist and addressed only in EIRs. Most Initial Studies provide a cursory review of cumulative impacts, with little or no analysis, and mostly conclusory statements. A thorough assessment of cumulative impacts normally requires more extensive research to compile a list of other approved and pending projects that could contribute to the same set of impacts as the proposed project, or some sort of reference to an analysis of cumulative effects prepared as part of a program EIR for a general or specific plan or some other sort of programmatic policy planning document. That level of analysis should not be required for every Initial Study, due to

the additional cost and delay in providing a good analysis. Moreover, it is quite unlikely that an Initial Study would conclude that although no significant impacts had been identified for any specific topics, there could still be a significant cumulative impact of some sort and therefore an EIR should be prepared. Sufficiency of the assessment of cumulative impacts within an IS/ND or IS/MND is an easy target for challenge and litigation and just complicates the process of project level review, with little or no benefit to addressing significant environmental effects of the project itself. Suggest this question be eliminated from the Checklist altogether, or revised to specify that this only pertains to projects of statewide or regional significance, as defined in the Guidelines, or only to projects that require a general plan amendment or zone change with respect to type/intensity of land use or expansion of the vehicular transportation network.