

Strengthening the Voice of Business

Chambers of Commerce
 Alhambra
 Arcadia
 Azusa
 Bell Gardens
 Beverly Hills
 Burbank
 Calikian
 Central City Association
 Century City
 Culver City
 El Monte/South El Monte
 Filipino American SEC
 Glendale
 Glendora
 Greater Lakewood
 Greater Los Angeles African American
 Harbor City / Harbor Gateway
 Hollywood
 Inglewood Airport Area
 Irwindale
 LA Canada Flintridge
 LAX Coastal Area
 Long Beach Area
 Los Angeles Area
 Los Angeles Junior
 Los Angeles Latino
 Los Angeles Metropolitan Hispanic
 Malibu
 Pacific Palisades
 Pasadena
 Pomona
 Redondo Beach
 Regional Black - San Fernando Valley
 Regional Hispanic
 Regional San Gabriel Valley
 Rosemead
 San Pedro Peninsula
 Santa Monica
 Santa Monica Junior
 South Bay Association
 Toluca Lake
 Torrance Area
 United Chambers San Fernando Valley
 Universal City North Hollywood
 United States-Mexico
 Yernon
 Vietnamese American
 West Hollywood
 West Los Angeles
 Westside Council
 Wilmington
 Woodland Hills-Tarzana

Trade Associations
 AIA Los Angeles
 American Beverage Association
 Antelope Valley Board of Trade
 Apartment Association, California Southern Cities
 Apartment Association of Greater Los Angeles
 Arcadia Association of Realtors
 Asian American Business Women Association
 Asian American Economic Development Enterprise
 Asian Business Association
 Beverly Hills / Greater LA Association of Realtors
 Building Industry Association, LA / Ventura Counties
 Building Owners & Managers Association, Greater LA
 Burbank Association of Realtors
 California Apartment Association, Los Angeles
 California Business Roundtable
 California Cannabis Industry Association
 California Construction Industry and Materials Association
 California Contract Cities Association
 California Fashion Association
 California Grocers Association
 California Hotel & Lodging Association
 California Independent Bankers
 California Independent Petroleum Association
 California Metals Coalition
 California Restaurant Association
 California Small Business Alliance
 California Trucking Association
 CALInnovates
 Carson Dominguez Employers Alliance
 Citrus Valley Association of Realtors
 Coalition for a Prosperous America
 Community Associations Institute, Los Angeles
 Construction Industry Air and Water Quality Coalitions
 Consumer Healthcare Products Association
 Council on Trade and Investment for Filipino Americans
 Downey Association of Realtors
 Downtown Long Beach Associates
 Employers Group
 Engineering Contractor's Association
 Entrepreneurs Organization, Los Angeles
 F.A.S.T.-Fixing Angeleños Stuck In Traffic
 FilmLA
 FuturePorts
 FWD.us
 Glendale Association of Realtors
 Greater Los Angeles New Car Dealers Association
 Harbor Association of Industry and Commerce
 Harbor Trucking Association
 Hospital Association of Southern California
 Hotel Association of Los Angeles
 Industry Manufacturers Council
 International Warehouse Logistics Association
 Japan Business Association of Southern California
 Leadership for Urban Renewal Network
 League of California Cities
 Los Angeles Black MBA Association
 Los Angeles Cleantech Incubator
 Los Angeles County Bicycle Coalition
 Los Angeles County Waste Management Association
 Los Angeles Urban League
 Los Angeles World Affairs Council
 Maple Business Council
 Motion Picture Association of America
 MoveLA
 NAIOP Southern California Chapter
 National Alliance for Jobs and Innovation
 National Association of Women Business Owners, LA
 Pacific Merchant Shipping Association
 Pasadena-Foothills Association of Realtors
 Recording Industry Association of America
 Rotary Club of Los Angeles
 San Gabriel Valley Civic Alliance
 San Gabriel Valley Economic Partnership
 Santa Clarita Valley Economic Development Corp.
 Society of Hispanic Professional Engineers - Los Angeles
 South Asian Business Alliance Network
 South Bay Association of Realtors
 Southern California Golf Association
 Southern California Grantmakers
 Southern California Minority Supplier Development Council Inc.
 Southland Regional Association of Realtors
 Town Hall Los Angeles
 Tri-Counties Association of Realtors
 U.S. Green Building Council-LA
 Valley Economic Alliance
 Valley Economic Development Center
 Valley Industry & Commerce Association
 Valley International Trade Association
 We Care for Humanity
 West San Gabriel Valley Association
 Western Manufactured Housing Association
 Western States Petroleum Association
 Young Professionals in Energy - LA Chapter
 Youth Business Alliance

Business Improvement Districts
 Gateway to LA
 South Park Stakeholders Group
 Warner Center Association
 Westwood Village Improvement Association

October 12, 2015

Christopher Calfee, Senior Counsel
 Governor's Office of Planning and Research
 1400 Tenth Street
 Sacramento, CA 95814

Re: Comments on Proposed OPR Update to CEQA Guidelines

Dear Mr. Calfee,

BizFed, the Los Angeles County Business Federation, is a grassroots alliance of 150 top business groups representing 275,000 employers with 3 million employees throughout Southern California. We are also a member of the CEQA Working Group and are writing to express our support for the CEQA Working Group's detailed comments on the proposed OPR Update to the CEQA Guidelines.

The delays, costs, and litigation abuse of the California Environmental Quality Act (CEQA) harm our members specifically, and Californians more generally. As confirmed by the Legislative Analyst earlier this year, CEQA has helped boost housing costs to the highest in the nation, and continues to force housing further away from employment (especially in coastal counties in the Bay Area and Southern California). As further documented by United Way California earlier this year, high housing and transportation costs has resulted in one in three California families lacking adequate income to meet their basic needs. The City of Los Angeles has declared a state of emergency to address an estimated homeless population nearing 100,000, with numerous other cities grappling with homeless populations in the tens of thousands.

The OPR proposal demonstrates no awareness of this crisis, of the role that CEQA has had its creation and perpetuation, and – with two exceptions – completely ignores the opportunity to meaningfully update the CEQA Guidelines to help address this housing, affordability and public health crisis.

The OPR proposal similarly ignores the weekly news reports of egregious abuse of CEQA for non-environmental (and even anti-environmental) purposes:

- The Planned Parenthood clinic slated to move into an existing building, sued by anti-abortion protestors who claimed an Environmental Impact Report (EIR) should have been prepared because of the noise and public safety impacts that the protestors themselves promised to cause if the clinic was allowed to open.
- The transitional housing projects for emancipated foster youth housing sued by neighbors concerned with "loitering" youth and, incredibly, alleging adverse traffic and parking impacts for kids who can't afford a bike, let alone a car.
- The decades-long, multiple CEQA lawsuits filed by neighbors opposed to transit systems that would remove vehicles from congested freeways and provide affordable, low-carbon

transportation solutions for millions of Californians.

- The higher density housing projects opposed by bounty-hunting lawyers who refuse to identify their client, maintain stables of family-run pseudo “environmental” non-profits in blatant non-compliance with state and federal tax laws, and extract cash settlements for personal gain with zero environmental or public health benefits.
- The competitor lawsuits filed by shopping centers, gas stations, and auto repair stores to cause harassment and delay for profit.
- The multiple lawsuits filed against the same project by competing labor unions to control job allocations.

There is ample opportunity to amend the CEQA Guidelines to discourage CEQA litigation abuse and allow critical transportation, housing, renewable energy, water, and climate plans to be implemented on a more timely and cost-effective basis while still assuring full environmental review and citizen enforcement. Unfortunately, the OPR proposal includes only two (of 25) Guideline amendments that have the potential to be helpful in reducing CEQA litigation abuse:

Section 15168 includes a discussion of when a subsequent project falls within the “scope” of a previously-approved CEQA document. While we are suggesting revisions that will further improve this section, this provision provides a helpful encapsulation of caselaw confirming that subsequent projects can and should rely on previously-approved CEQA documents in many different circumstances.

Section 15234 accurately presents important caselaw, including precedent established by the California Supreme Court, confirming that judicial remedies can appropriately order deficient environmental studies to be corrected (and new mitigation required if appropriate), without vacating or otherwise derailing project approvals. CEQA litigation abuse is at its most powerful when opponents can threaten to derail vacate project approvals and require all parties to go back to “square one” for another year or more of CEQA administrative processing; this new Guideline section reminds practitioners (and judges) that “fix the study” remedies are entirely lawful.

Notwithstanding these two provisions, we are deeply disappointed that OPR has not used this opportunity to update the CEQA Guidelines to propose what Governor Brown characterized as the “modest changes” that can be made within the existing statutory framework to reduce CEQA litigation risks, delays, and compliance costs – and to curtail the non-environmental litigation abuse of this important environmental law.

Instead, in the remainder of the substantive changes included in its proposal, OPR proposes changes to the that actually expand CEQA in several fundamental respects, including those that have been rejected by the Legislature and the courts. OPR’s 145-page proposal exacerbates what Governor Brown aptly characterized as the “blob” that CEQA has become over the past 40 years, being twisted and distorted in ways never intended and often unrelated to protecting environmental values. As then-Mayor Brown explained in an amicus letter to the California Supreme Court:

CEQA discourse has become increasingly abstract, almost medieval in its scholasticism. Nevertheless, if you apply common sense and the practical experience of processing land use applications, you will conclude that what is at stake in this case [an aesthetic impact challenge to an urban townhome project by single family neighbors] is not justiciable environmental impacts but competing visions of how to shape urban living.

The vast majority of the OPR proposal shows neither “common sense” nor the “practical experience of processing land use applications.” Together with OPR’s 2014 proposal to define the act

of riding or driving a vehicle for each and any mile – any type of vehicle, including electric scooters and cars – as a new environmental “impact” under CEQA, and to impose elaborate new analytical and unprecedented new mitigation requirements on California projects based on this new “vehicle mile travel impact” - this proposal demonstrates a fundamental misunderstanding of how CEQA is used in practice to delay and derail public and private sector projects that are critical to solving the economic, equity, and environmental challenges of our time.

OPR’s proposal to expand CEQA, and increase CEQA’s compliance costs, delays, and litigation risks, is also entirely at odds with the Governor’s frequent criticism of CEQA and his characterization of CEQA reform as the “Lord’s work.”

For all of these reasons, BizFed urges OPR to incorporate the very detailed comments submitted by the CEQA Working Group, which we believe would move California closer to meaningful reform.

Sincerely,



MC Townsend
BizFed Chair
Regional Black Chamber -
San Fernando Valley



David Fleming
BizFed Founding Chair



Tracy Rafter
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