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IN THE NAME OF THE ENVIRONMENT

How Litigation Abuse Under the California Environmental Quality Act Undermines California's Environmental, Social Equity and Economic Priorities – and Proposed Reforms to Protect the Environment from CEQA Litigation Abuse

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PREFACE

This report analyzes all CEQA lawsuits filed in California over a three-year study period, 2010-2012, to describe how CEQA lawsuits are used in practice. The study demonstrates that about half of CEQA lawsuits target taxpayer-funded projects with no "business" or other private sector sponsor, and that the most frequent targets of CEQA lawsuits are projects designed to advance California's environmental policy objectives. Specifically, for CEQA lawsuits targeting construction projects, 80% of CEQA lawsuits target "infill" projects in established communities rather than "greenfield" projects on undeveloped or agricultural lands outside established communities. The most commonly targeted type of public infrastructure project was transit systems, the most commonly targeted type of industrial/utility project was renewable energy projects (primarily solar projects that were required to pay prevailing wages), and the most commonly targeted type of private sector project was infill housing (primarily higher-density, multifamily urban housing). The study also confirms that CEQA litigation abuse by parties seeking to advance non-environmental interests is widespread, and that duplicative CEQA lawsuits against implementation of the same project or plan can delay and derail projects, such as development of transit-served neighborhoods in urban areas, by decades.

CEQA litigation abuse has been decried by a broad range of public, private and non-profit groups – and by elected leaders and their staff. CEQA has been singled out as one of the key causes of runaway housing prices (especially in coastal counties) and as a major reason California has fallen far behind other states in creating, retaining, and onshoring middle-class manufacturing jobs that have helped create a manufacturing renaissance in other states. As one of California's signature "new economy" companies, Google, explained, its major fiber facilities would not be built in California, "in part because of the regulatory complexity here brought on by CEQA and other rules. Other states have equivalent processes in place to protect the environment without causing such harm to business processes and therefore create incentives for new services to be deployed there instead."

Ending CEQA litigation abuse is the most cost-effective "incentive" available to restore California's jobs base, make housing more affordable, and meaningfully improve the future of the nearly nine million Californians that the U.S. Census Bureau reports are living in poverty.

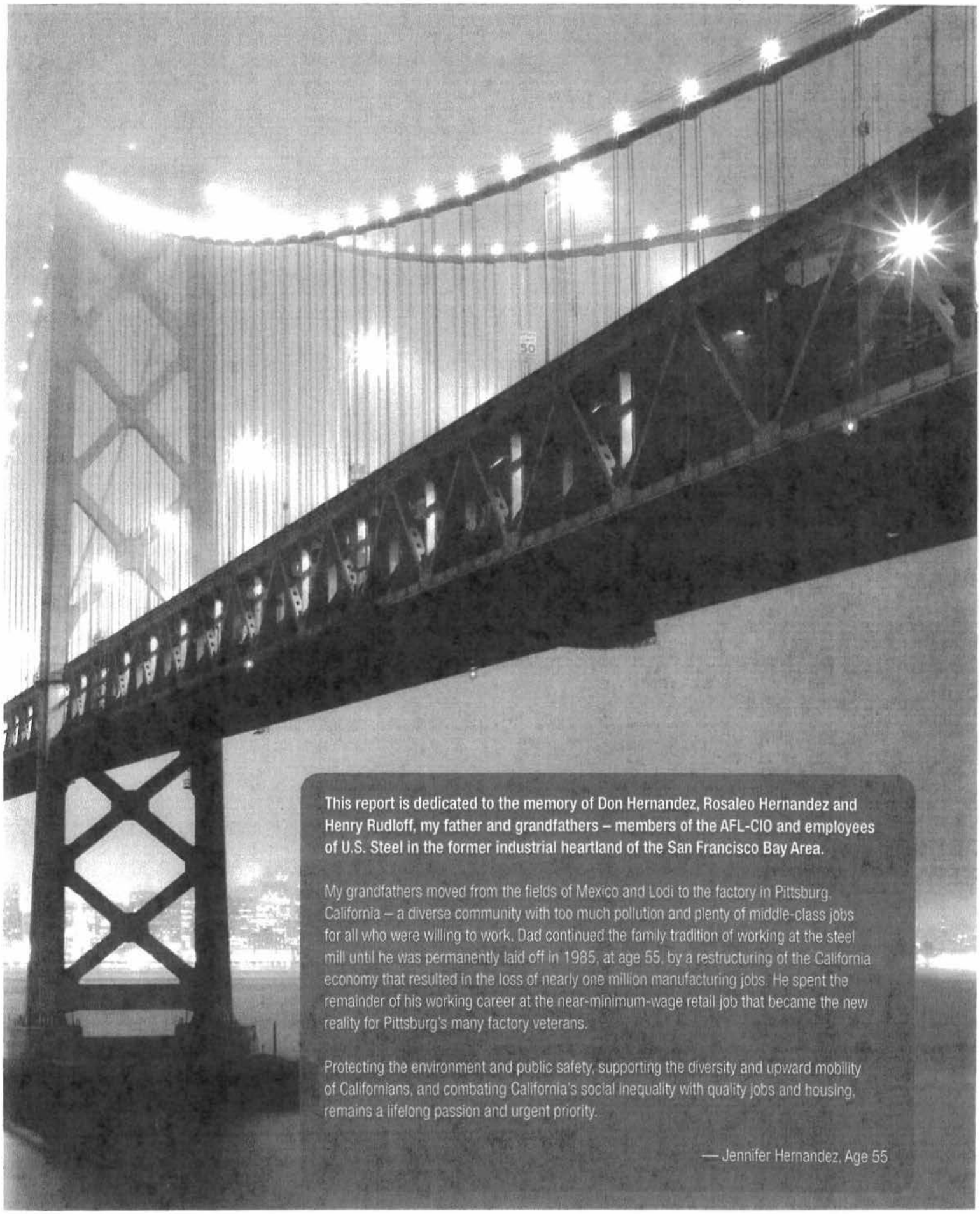
The study recommends three reforms to curtail CEQA litigation abuse, and cites the precedent for each:

1. **Extend CEQA transparency to CEQA lawsuits by requiring those filing lawsuits to disclose their identity and environmental (or non-environmental) interests.** This transparency is already required in CEQA's attorney fee motions and amicus filings.

2. **Eliminate sequential, duplicative lawsuits aimed at derailing plans and projects for which an Environmental Impact Report (EIR) has already been certified and either was not challenged or was upheld in court.** This CEQA compliance track already exists for implementation of specific plans and now-defunct redevelopment agency plans.

3. **Preserve CEQA's existing structure and access to litigation remedies for environmental purposes, but restrict judicial use of the extraordinary remedy of invalidating project approvals to projects that would cause a significant adverse threat to public health, irreplaceable tribal resources or ecological systems.** This judicial remedy restriction was granted to the Kings Arena basketball project in Sacramento.

This study demonstrates that about half of CEQA lawsuits target taxpayer-funded projects with no "business" or other private sector sponsor, and that the most frequent targets of CEQA lawsuits are projects designed to advance California's environmental policy objectives.



This report is dedicated to the memory of Don Hernandez, Rosaleo Hernandez and Henry Rudloff, my father and grandfathers – members of the AFL-CIO and employees of U.S. Steel in the former industrial heartland of the San Francisco Bay Area.

My grandfathers moved from the fields of Mexico and Lodi to the factory in Pittsburg, California – a diverse community with too much pollution and plenty of middle-class jobs for all who were willing to work. Dad continued the family tradition of working at the steel mill until he was permanently laid off in 1985, at age 55, by a restructuring of the California economy that resulted in the loss of nearly one million manufacturing jobs. He spent the remainder of his working career at the near-minimum-wage retail job that became the new reality for Pittsburg's many factory veterans.

Protecting the environment and public safety, supporting the diversity and upward mobility of Californians, and combating California's social inequality with quality jobs and housing, remains a lifelong passion and urgent priority.

— Jennifer Hernandez, Age 55

INTRODUCTION

This report analyzes all lawsuits alleging violations of the California Environmental Quality Act (CEQA) over a three-year study period: 2010-2012.[1]

Prior CEQA studies have focused on the much smaller fraction of CEQA lawsuits that actually result in a published appellate court decision on the substantive adequacy of an agency's environmental evaluation of a project.[2] This study period overlaps with the last three years of a companion CEQA Judicial Outcomes study of all published CEQA appellate court cases involving the substantive adequacy of CEQA compliance over a 15-year study period (1997-2012).[3]

A simple comparison of the number of CEQA lawsuits filed during this study period to the average number of CEQA lawsuits that result in published judicial opinions over the 15-year period of the companion study shows that only about 5% of CEQA lawsuits result in a published appellate or California Supreme Court decision. Although local media report on some of the 200-plus CEQA lawsuits filed annually, these lawsuits are not tracked systematically. This study presents the first comprehensive report of CEQA litigation in practice, and reveals the pattern of agency actions targeted by CEQA lawsuits for the entire body of CEQA petitions,[4] including the 95% of CEQA lawsuits that do not result in published appellate court opinions.

The study confirms that CEQA litigation abuse is indeed widespread. A variety of special interest groups use CEQA lawsuits throughout California to pursue non-environmental objectives, such as lawsuits targeting transit, renewable energy, transit-oriented housing and regulatory programs designed to achieve California's ambitious environmental protection and climate change laws.

The study also demonstrates that CEQA litigation is overwhelmingly used in cities, with special-interest CEQA lawsuits targeting core urban services like parks, schools, libraries and even senior housing – most often by Not In My Backyard (NIMBY) opponents who conflate their individual "environment" (i.e., the view outside their bedroom window) with environmental policies and mandates that require acceptance of neighborhood-scale changes such as making more efficient use of existing park and school facilities for California's growing (and diverse) population.

Of greatest concern at a policy and political level, CEQA litigation abuse allows polite, passionate neighbors to oppose change – in the name of "the environment" – including the changes required to address environmental priorities such as climate change, and changes required to address California's growing population, including people of different economic, ethnic, religious and other demographic characteristics than project opponents. In cases involving opposition to projects like affordable housing, mosques and youth parks, the greatest social travesty of CEQA litigation abuse is the empowerment (and concealment) of bigots.

Part 1 describes the results of the study across several key factors: what kinds of projects are targeted in CEQA lawsuits, where the targeted projects are located, what kinds of parties file CEQA lawsuits, and who bears the cost of CEQA lawsuits (and litigation preparation practices such as "overdoing" CEQA studies to reduce the potential for a lawsuit loss).

Part 2 presents the stories behind the statistics, and includes anecdotal information from published media reports and other sources about actual and threatened CEQA lawsuits to help illustrate the real-life effect of CEQA litigation abuse on housing, critically needed jobs, schools and workforce training, and on all manner of public infrastructure, from transit to libraries to renewable energy.[5]

Part 3 concludes with recommendations for three moderate CEQA statutory reforms to end egregious lawsuit abuse and return this great law to its mission: protecting the environment and public health, informing and involving the public, and assuring transparency and accountability for agency decisions that affect the environment.

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PART 1

CEQA LAWSUITS IN THE REAL WORLD – THE NUMBERS

This study is designed to provide comprehensive information about current CEQA litigation practices: what kinds of "projects" are targeted by CEQA lawsuits, how many of these lawsuits challenge "infill" projects in cities and other developed communities, what CEQA compliance tracks result in lawsuit challenges, and who files CEQA lawsuits. The aim is to inform policy discussions about the nature and extent of CEQA litigation abuse (use of CEQA for non-environmental purposes) – and inform equity and economic discussions about whether CEQA's 1970 statutory framework for private-party litigation enforcement needs to be updated to align with California's environmental priorities.

A. Politics 101: Half of All CEQA Lawsuits Target Taxpayer Projects – Not "Business"

Although the political debate around CEQA is persistently framed by many as a battle between "business" and "enviros" (environmental advocacy groups), as a legal matter, CEQA applies to all discretionary agency actions, including approvals of public construction projects, approvals of agency plans, policies, and fund allocations, and the approval of regulations and ordinances (including regulations and ordinances to reduce pollution or conserve open space). The framing of CEQA as a "business v. enviro" political debate is not supported by the data: half of CEQA lawsuits target agency projects for which there is no private sector sponsor at all,[6] and many private sector projects – such as CEQA lawsuits targeting single-family home renovations[7] – have no business sponsor either.

CEQA Challenges to Public Agency Projects

Public agency approvals to acquire or renovate parks, and build or modify all types of public facilities and infrastructure – ranging from small public service facilities like schools, fire stations and libraries to larger public infrastructure projects, such as transit systems and wastewater treatment plants – are all "projects" triggering the need for an Environmental Impact Report (EIR) or other CEQA document or determination, and all of these agency actions can be challenged in CEQA lawsuits.[8]

CEQA Litigation: Degree of Adverse Effects Often Ignored by Sacramento's Leaders and Special Interests

Special interests and political leaders in Sacramento have grown comfortable with viewing CEQA through an "enviro v. business" prism. For example, State Senator Darrell Steinberg excluded public agencies responsible for implementing projects – and complying with CEQA – from negotiation sessions aimed at seeking common ground to modernize CEQA. Stung by their exclusion, the Public Works Coalition, a broad alliance of public agencies that collectively represents nearly every school, county and special district in California, unsuccessfully attempted to join the dialogue in a plea to legislative leaders, writing:

> "It is widely recognized that many of CEQA's key requirements are fundamentally uncertain. No matter how much time and how many resources have been invested...a project opponent can craft arguments as to why a lead agency failed to fully comply with CEQA. As a result, it is very difficult for lead agencies to effectively execute CEQA decisions that can be upheld in court if they are challenged."
>
> "What often compromises the virtues of CEQA are individuals and groups with ulterior motives who exploit CEQA's uncertainties through litigation, or the threat of litigation, to achieve objectives that have nothing to do with environmental protection."
>
> "Each misuse and abuse of CEQA not only wastes scarce public resources that would otherwise fund essential public services, it also damages the integrity of meaningful environmental protection."
>
> – Public Works Coalition letter, January 29, 2013
> (*Copy available on request from the authors of this report.*)

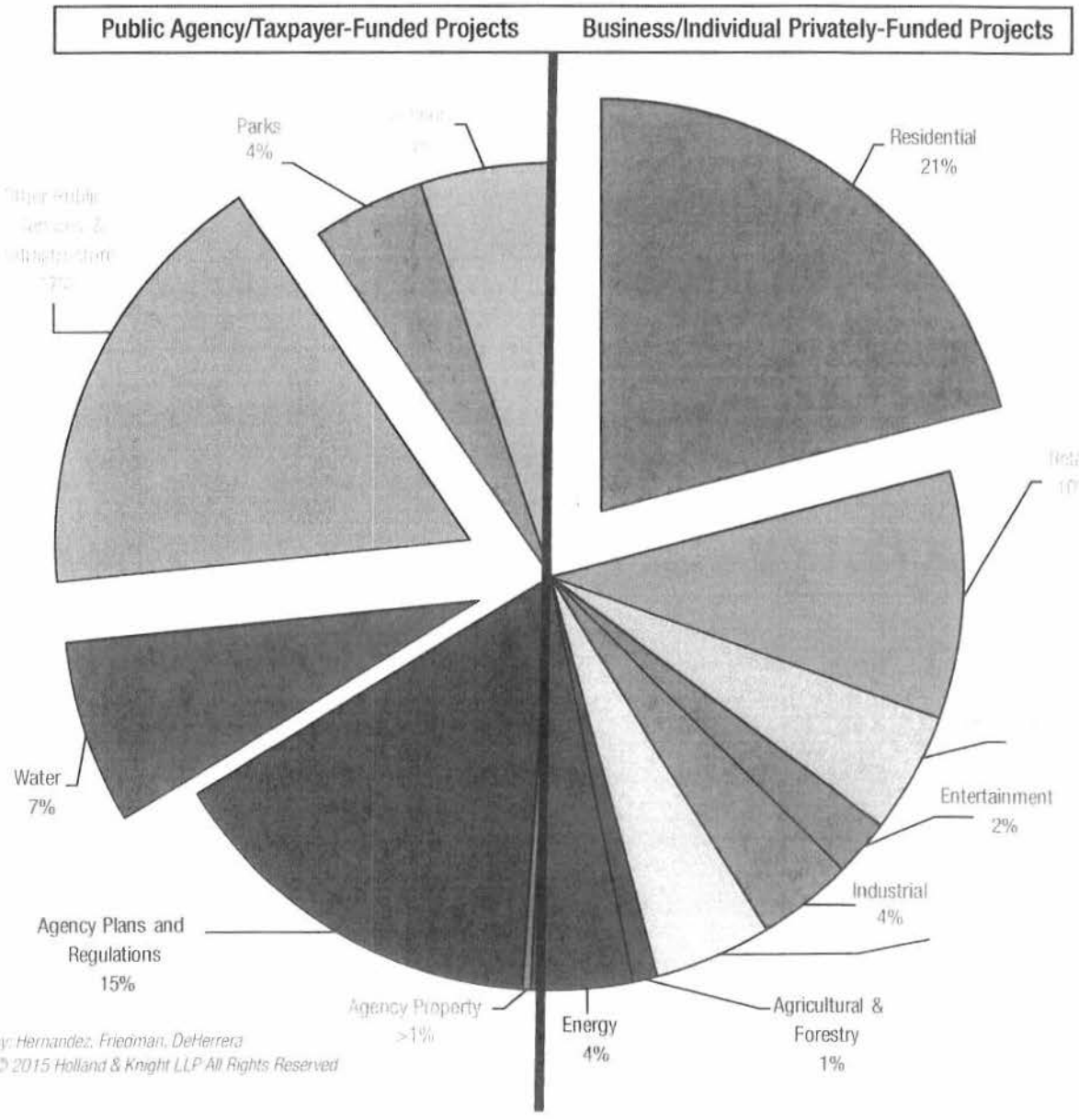
The framing of CEQA as a "business v. enviro" political debate is not supported by the data: half of CEQA lawsuits target agency projects for which there is no private sector applicant or developer.

CEQA also defines "project" to include agency actions that are mandatory under other federal and state laws. This includes developing and implementing plans and regulations covering many different topics. Again, these range from those that affect relatively large groups or areas such as General Plan updates that apply to a whole city or county, and greenhouse gas or other pollution reduction regulations that apply statewide, to agency actions that have a far smaller reach, such as a city ordinance limiting single-use plastic bags or requiring permits for marijuana dispensaries, or a city plan to improve housing affordability or focus development in areas served by existing or planned transit services.[9]

Agencies also manage property and facilities, and property management decisions that involve no physical modifications to existing facilities – such as converting an underutilized women's prison to a men's prison to relieve prison overcrowding,[10] or outsourcing management of a city-owned property[11] – are subject to CEQA, and during this study period were targeted by CEQA lawsuits.

As shown by Figure 1, about half – just over 49% – of CEQA lawsuits target agency actions for which there is no private sector proponent (business, non-profit or individual applicants seeking agency approval or funding).

Figure 1
CEQA Lawsuits Targeting Taxpayer-Funded and Privately-Funded Projects



> For the majority of CEQA lawsuits, CEQA's compliance costs, including litigation costs and obligatory payment of attorneys' fees, fall on California taxpayers - not "business."

For the half of all CEQA lawsuits targeting public agency projects, CEQA's compliance costs and litigation risks, including payment of attorneys' fees to parties successfully suing agencies, are borne by taxpayers.

If electricity generation projects (which during the study period included only new renewable energy facilities such as solar farms) and "repowered" existing electricity plants proposed to be modified to use cleaner new technologies to reduce air or water pollution[12] are added to this public sector category based on the fact that California's ratepayers must ultimately pay for these projects, just over 53% of CEQA's lawsuits involve projects that are paid for by the same taxpayer-generated revenue pool of property taxes, sales taxes and other taxes and fees that are otherwise available to pay for schools, parks, libraries, public health and social services, law enforcement, fire and emergency services, road and infrastructure maintenance, and other public agency services and facilities.

Public infrastructure is the most frequent target of CEQA lawsuits, and within this category the most frequent litigation target is transit projects – the same projects that reduce per capita greenhouse gas emissions and other air pollutants by providing an alternative to automobiles (especially for commuters). Regional and global environmental benefits are achieved by transit improvements, but local neighborhood groups forced to accept new transit systems frequently do not support these improvements, and use CEQA lawsuits to try to stop, delay or modify transit infrastructure.

For the majority of CEQA lawsuits (public agency lawsuits plus ratepayer-funded electric generation), CEQA's compliance costs, including litigation costs and obligatory payment of attorneys' fees, fall on California taxpayers – not "business." Agencies (and taxpayers) cannot recover litigation attorneys' fees if agencies win CEQA lawsuits, nor can agencies (or taxpayers) block lawsuits filed by parties using CEQA for non-environmental purposes.

Figure 1 also shows that the private-sector projects challenged in CEQA lawsuits are overwhelmingly non-polluting land uses that often raise intense localized concerns about increased population densities and resulting demands on public services and local roadways. The largest single target of CEQA lawsuits against private projects are residential projects (21%), followed by retail projects (10%), commercial (non-industrial) projects (5%) and entertainment (2%) projects. The categories of projects with the greatest potential to cause pollution or adversely affect protected species – Industrial (4%), Agricultural/Forestry (1%), Mining (5%) and Renewable Energy/Energy Retrofit projects (4%) – comprise only 14% of all CEQA lawsuits filed during the study period.

CEQA litigation overwhelmingly targets "infill" development that accommodates population and economic growth that would otherwise spill into undeveloped exurban areas.

B. CEQA Lawsuits Overwhelmingly Target "Infill" Projects, Not "Sprawl"

Another common political assertion by the entrenched special interests that defend CEQA litigation's status quo is that CEQA litigation mostly combats "sprawl" development that causes longer commutes, destroys farms and wildlands, and draws financial and human capital away from urban areas.

This study proves that the opposite is true: CEQA litigation overwhelmingly targets "infill" development that accommodates population and economic growth that would otherwise spill into undeveloped exurban areas. Of the cases that could be constructed in either "greenfield" rural or exurban locations, or "infill" locations in established communities,[13] 80% of CEQA lawsuits targeted "infill" projects, and only 20% targeted "greenfield" projects, as shown in Figure 2. It is noteworthy that at 80%, the number of CEQA lawsuit petitions filed against infill projects is higher than the 62% of infill projects addressed in reported appellate court cases.[14] As a result, this study demonstrates that earlier studies that examined only reported appellate court cases substantially understated the extent to which CEQA lawsuits target infill projects.

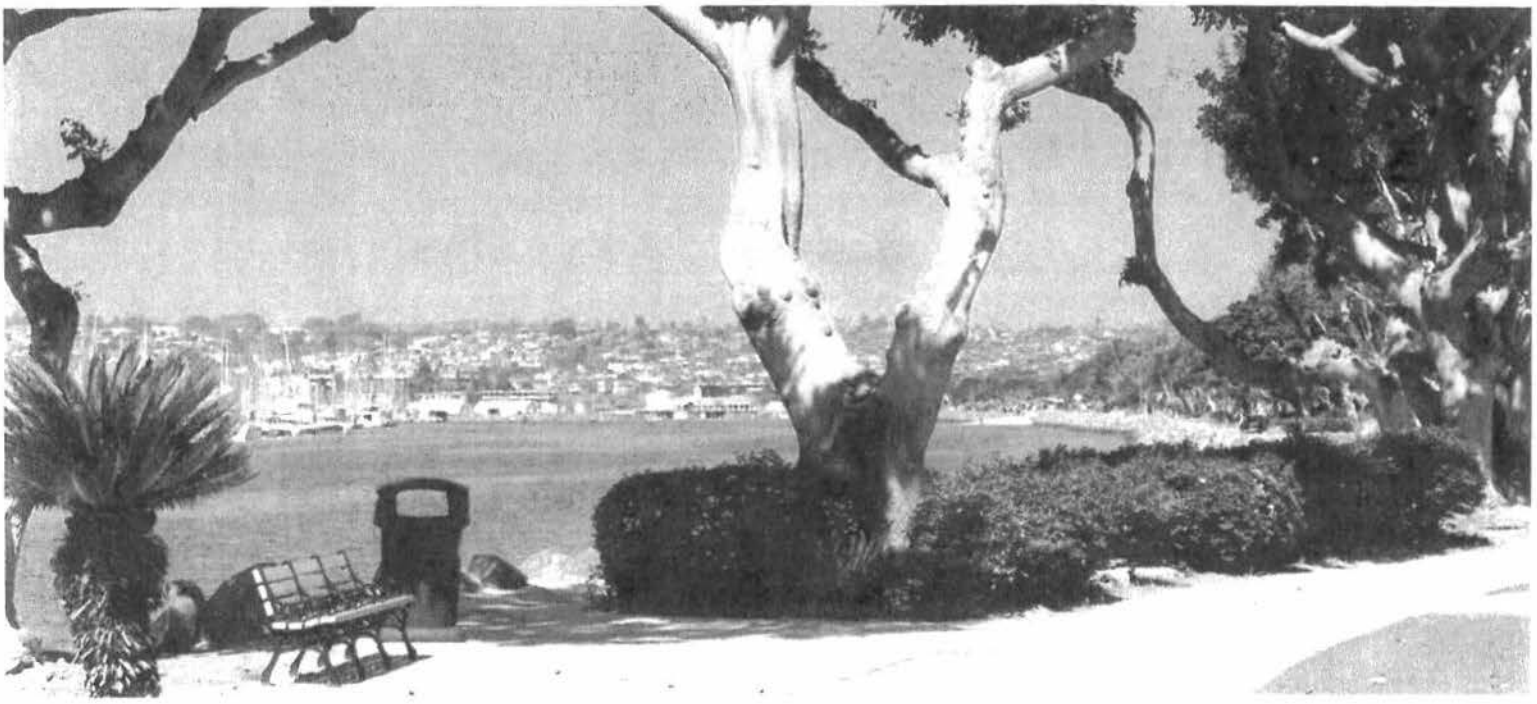
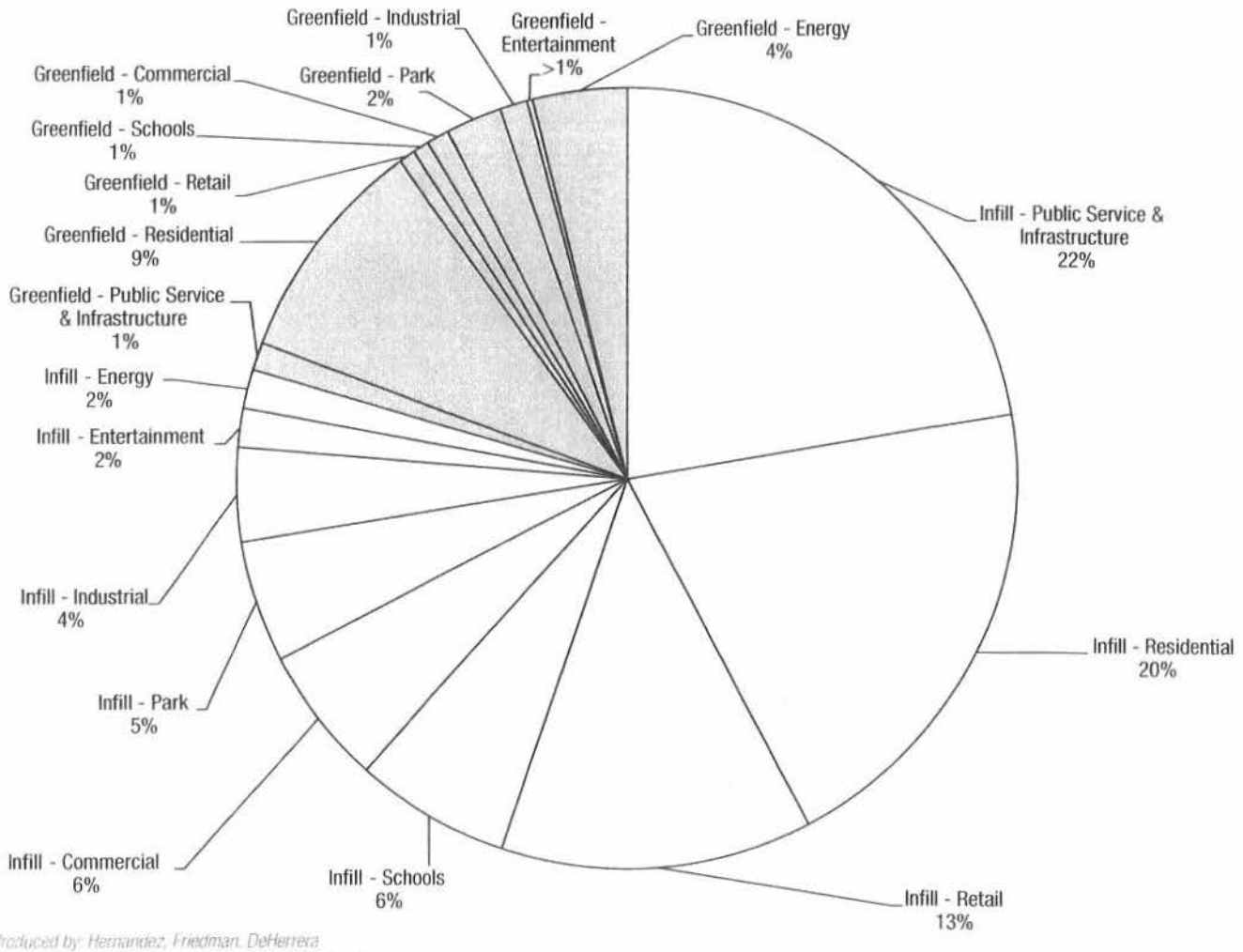


Figure 2
CEQA Lawsuits Targeting Greenfield Versus Infill Projects
(Select project types shown. See Tables 2B through 2D for all project types)



"Infill" projects include private and public sector projects located entirely within one of California's 482 cities,[15] or located immediately adjacent to existing developed areas in an unincorporated county. Projects located in county areas that are not immediately adjacent to existing development, even if they are adjacent to major infrastructure such as an interstate highway, are classified as "greenfield."

Not every challenged agency project falls into either the "infill" or "greenfield" category. For example, many agency regulatory decisions –such as statewide greenhouse gas reduction regulations or county general plans governing both developed and less developed areas of a county,[16] or water supply management projects that include physical modifications to water infrastructure that occur in a different location than the often-multiple locations where water will ultimately be delivered for consumption[17]– do not fit within this "infill/greenfield" paradigm. Similarly, although the majority of the 36 lawsuits challenging mining, agricultural, and forestry projects involved agency approvals regulating existing operations, and thus fell roughly within the "redevelopment" concept often associated with "infill" (e.g., approval of a mine reclamation plan for an existing mine), none of these inherently open-space projects that are located based on pre-existing natural characteristics such as mineral reserves, were categorized as either "infill" or "greenfield" projects.[18] The location of all challenged private sector projects other than mining, agricultural and forestry projects was classified as "infill" or "greenfield."

Infill Lawsuits by the Numbers

Of the four-fifths of the study sample that were "infill" CEQA lawsuits, Figure 3 illustrates the fact that CEQA lawsuits most often targeted the public facilities and infrastructure that served these infill area populations – and public transit systems (which exclude roads and highways) were the top target of these CEQA infill infrastructure lawsuits.[19] The second-most-likely infill target was housing. As shown in Figure 4, almost half (45%) of the lawsuits challenging infill residential projects were aimed at higher-density, transit-oriented attached units (e.g., apartments and condominiums).[20] It is also noteworthy that over 6% of all infill CEQA lawsuit targets were urban park projects, ranging from trail improvements to accommodate disabled anecdotal visitors[21] to playground and playfield improvements.[22] (Further anecdotal information about these and other types of challenged projects is provided in Part 2 of this study).

Figure 3
CEQA Lawsuits Targeting Infill Projects

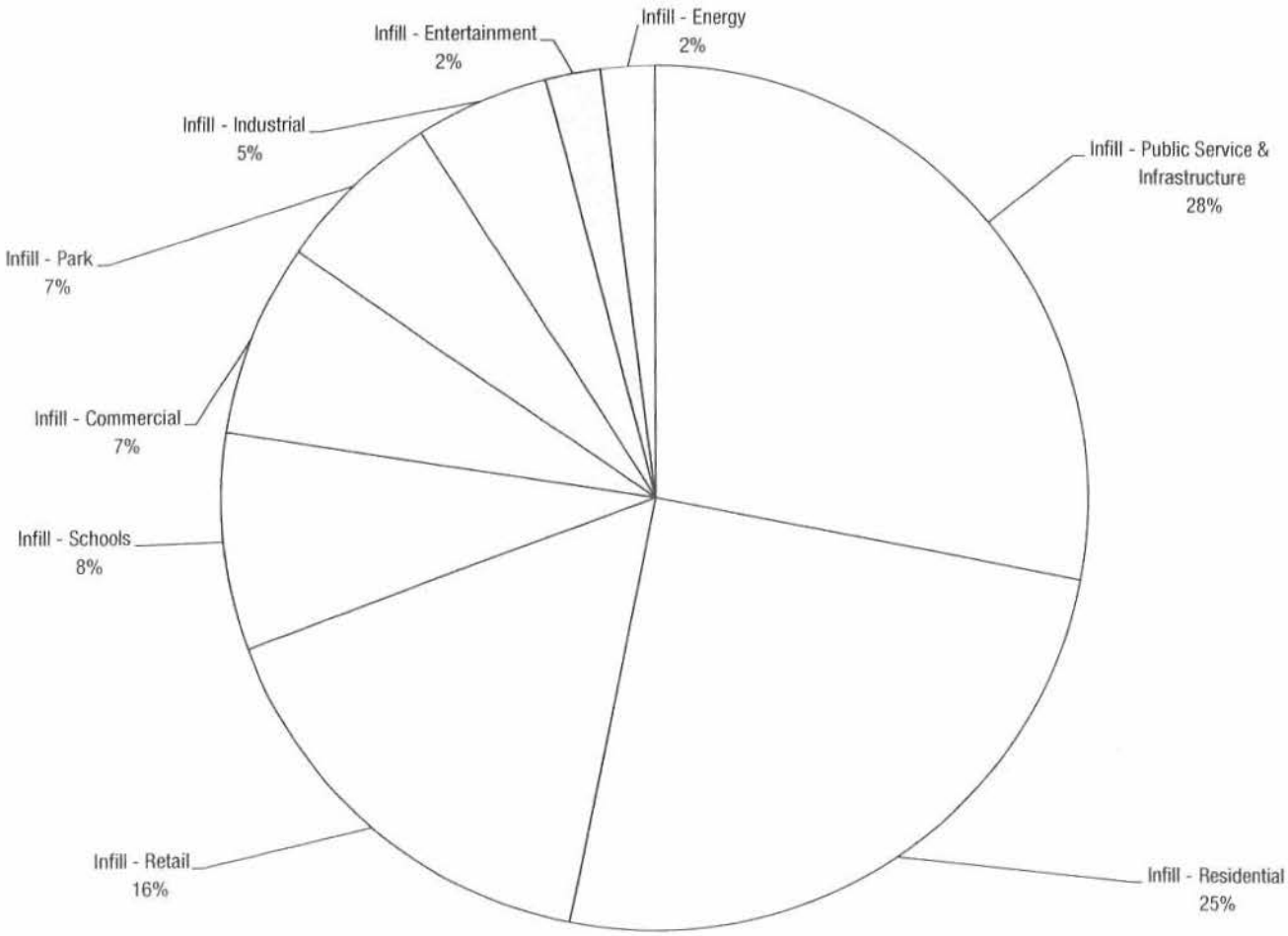


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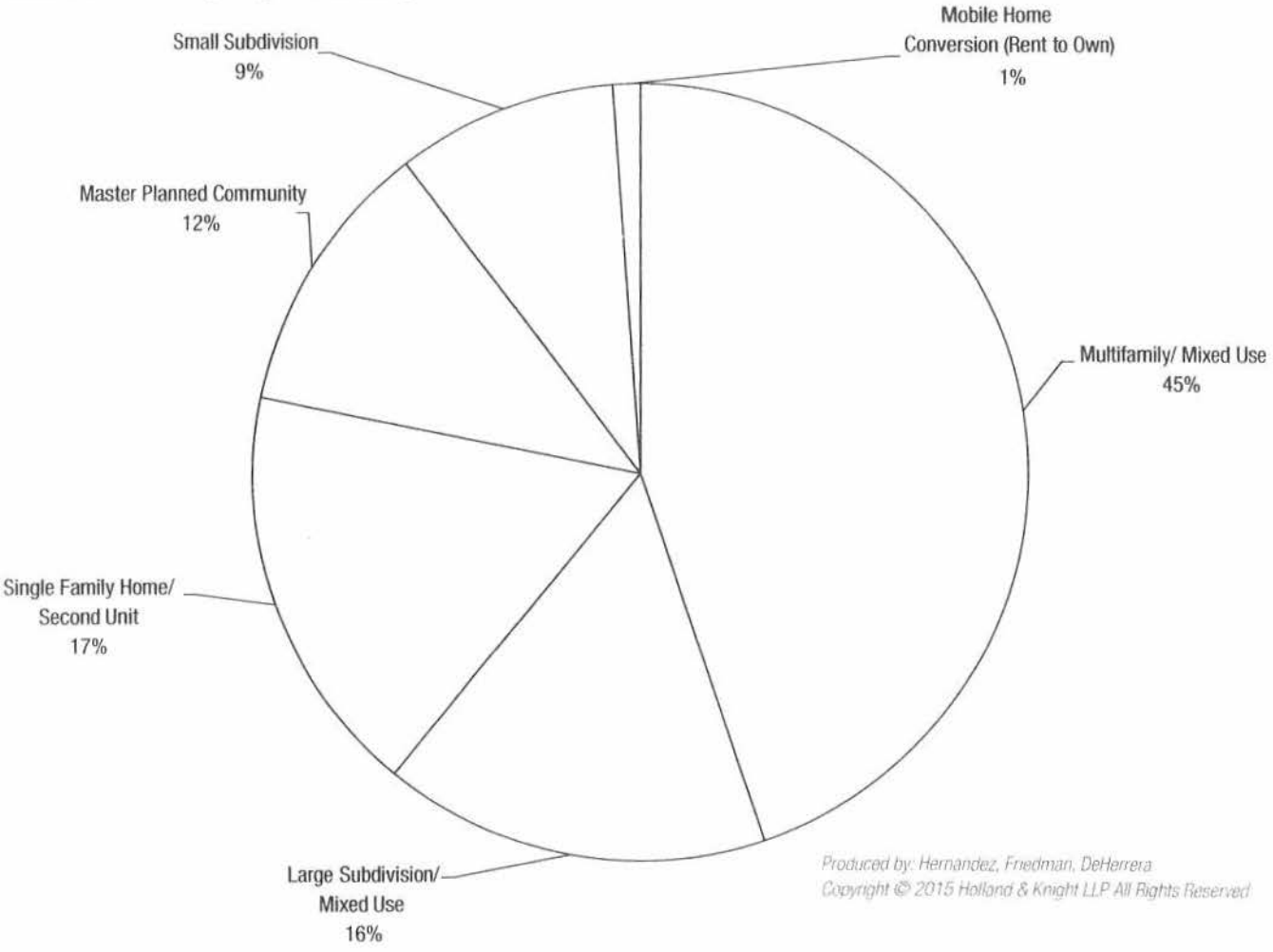
Figure 4
CEQA Lawsuits Targeting Infill Housing



Impassioned infill project opponents are typically local residents who may in principle support many statewide environmental mandates that require fundamental changes to the character of California communities by prioritizing new development with higher densities (e.g., multi-story apartment or condominium projects) along transit corridors and promoting higher-density "mixed use" projects that include residential, retail services, and employment uses (e.g., offices) on the same property, but who adamantly oppose such changes in their own community. Such projects typically provide for less parking, and cause more traffic congestion, than traditionally lower-density development patterns like single-family detached homes or traditional shopping malls. As has been observed by notable environmental advocacy groups such as the Natural Resources Defense Council and the California League of Conservation Voters, the environmental benefits of denser development patterns are regional or even global (e.g., more transit use means lower air emissions including greenhouse gases), but these overarching environmental benefits are poorly suited to the structure of CEQA.[23] In fact, localized traffic congestion can be a daily irritant to frustrated residents, and congestion can also result in higher localized air pollution levels such as diesel particulate matter.[24]

Then-Oakland Mayor (and now Governor) Jerry Brown unsuccessfully urged the California Supreme Court to Avoid Extending CEQA to Urban Design Disputes

In an unsuccessful plea to the California Supreme Court to reverse an appellate court decision allowing residents of single-family homes in a planned community to use CEQA to raise private "aesthetic impact" objections to block more affordable planned townhomes, in 2005 then-Oakland Mayor Jerry Brown wrote:

> "The appellate court decision incorrectly held that neighbors' aesthetic distaste for the city's approved lot sizes, setbacks, street width, housing style, and other design matters constituted a potentially significantly effect on the environment, thereby requiring preparation of an EIR..."
>
> "Unless the [appellate court] decision is reversed, we are deeply concerned that our city's elegant density policy of infill development will be undermined by long delays and expensive but useless analysis – analysis paralysis."
>
> "Since 2000, six separate EIRs have been prepared for various of these [higher-density, transit-oriented residential] projects at a cost of millions of dollars and unconscionable delay."
>
> "[This] illustrates the profoundly negative impacts that the escalating misuse of CEQA is having on smart growth and infill housing" and "strikes at the heart of majoritarian democracy and long standing precedents requiring deference to city officials when they are interpreting their own land use rules."
>
> "The [appellate court] found aesthetically degrading the 'excessive massing of housing with insufficient front, rear and side yard setbacks [citation omitted].' Just as cogently, other people may well conclude that the close arrangement ... fostered a cozy, neighborly intimacy. The fact that narrow streets are unfriendly to speeding cars and that neighbors are thrust into close contact may well be viewed as a superior quality of living rather than a negative impact."
>
> "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 is not justiciable environmental impacts but competing visions of how to shape urban living."

— Hon. J. Brown, amicus brief to the California Supreme Court in *Pocket Protectors v. City of Sacramento* (No. C046247) 2005. The court declined to review or reverse the appellate court decision. Mayor Brown then successfully sought a partial, time-limited CEQA exemption for Oakland's urban projects. This is an example of the "one-off" special CEQA deals periodically cut by the Legislature as discussed in Part 2 of this report.

"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 is not justiciable environmental impacts but competing visions of how to shape urban living."
– Oakland Mayor Jerry Brown (2005)

For NIMBY litigants opposed to higher-density development and other neighborhood-scale changes in their communities, CEQA statutes and case law provide many examples of the legitimacy of privatized "environmental" protection. Protection of an individual's view, protection of an individual's "quality of life" measured by convenient access to ample parking supplies, and the absence of any localized increases in ambient noise or traffic congestion, are all recognized as CEQA impacts. CEQA also does not create any ranking system for impacts: each significant impact is as significant as any other, and each warrants as much mitigation as is feasible, resulting in inevitable policy trade-offs that are then litigated by the losing side of the political debate. Policymakers may support transit and higher-density development on transit corridors; residents may not, and if they lose at the policy level their next step is the courthouse, where they can allege dozens of technical study flaws in CEQA documents, and are likely to stop the approved project if even one study flaw is identified. (Part 3 includes a proposed reform of CEQA remedies for technical study flaws.)

Other reasons petitioners challenge infill projects run the political (and policy) spectrum, and often have little or nothing to do with "the environment." Anti-abortion protesters used a CEQA lawsuit in an attempt to block a planned parenthood clinic proposed to be located in an existing building in a neighborhood that already offered abortion services, asserting that the city violated CEQA by failing to appropriately consider the noise nuisance that the protesters would themselves create in the neighborhood if the clinic was allowed to open.[25] Mosque projects were targeted by those not sharing the same religious orientation, and one case included a plaintiff calling itself a "patriot" group.[26] Transitional housing for foster youth who "age out" of the traditional foster home programs on their 18th birthday,[27] affordable housing[28] and supportive senior housing[29] were targeted with improbable assertions of increased traffic and parking congestion. In addition, concerns were reported about "those people" and "loitering youth," and fears of "increased crime and vandalism," that are more evocative of a hoped-for past era of civil rights abuses than the "modern" self-image of wealthy, liberal – and notoriously NIMBY – coastal communities.[30]

In addition, concerns were reported about "those people" and "loitering youth," and fears of "increased crime and vandalism," that are more evocative of a hoped-for past era of civil rights abuses than the wealthy, liberal – and notoriously NIMBY – coastal communities.

Greenfield Challenges

As shown in Figure 2, greenfield projects make up only 20% of the projects targeted by CEQA lawsuits.[31] Figure 5 shows the distribution of CEQA lawsuits against different types of greenfield projects. Just under half of these involve residential projects, including primarily "master planned communities" which include a mix of retail, commercial and employment components, schools and parks, along with associated public services and infrastructure, and are typically located either at the edge of existing developed areas already served by highways or other public infrastructure, or new or expanded resort projects. The second-largest category of greenfield development lawsuits targeted new renewable energy facilities, such as solar plants. Challenges to "greenfield" park projects like park trail construction or other projects designed to improve the visitor experience or increase visitation made up over 10% of the challenged greenfield projects; infrastructure and public service projects (e.g., a new high school in an unincorporated county community[32]) made up the remainder of the "greenfield" project category. More information about and examples of these projects are provided in Part 2 of this report.

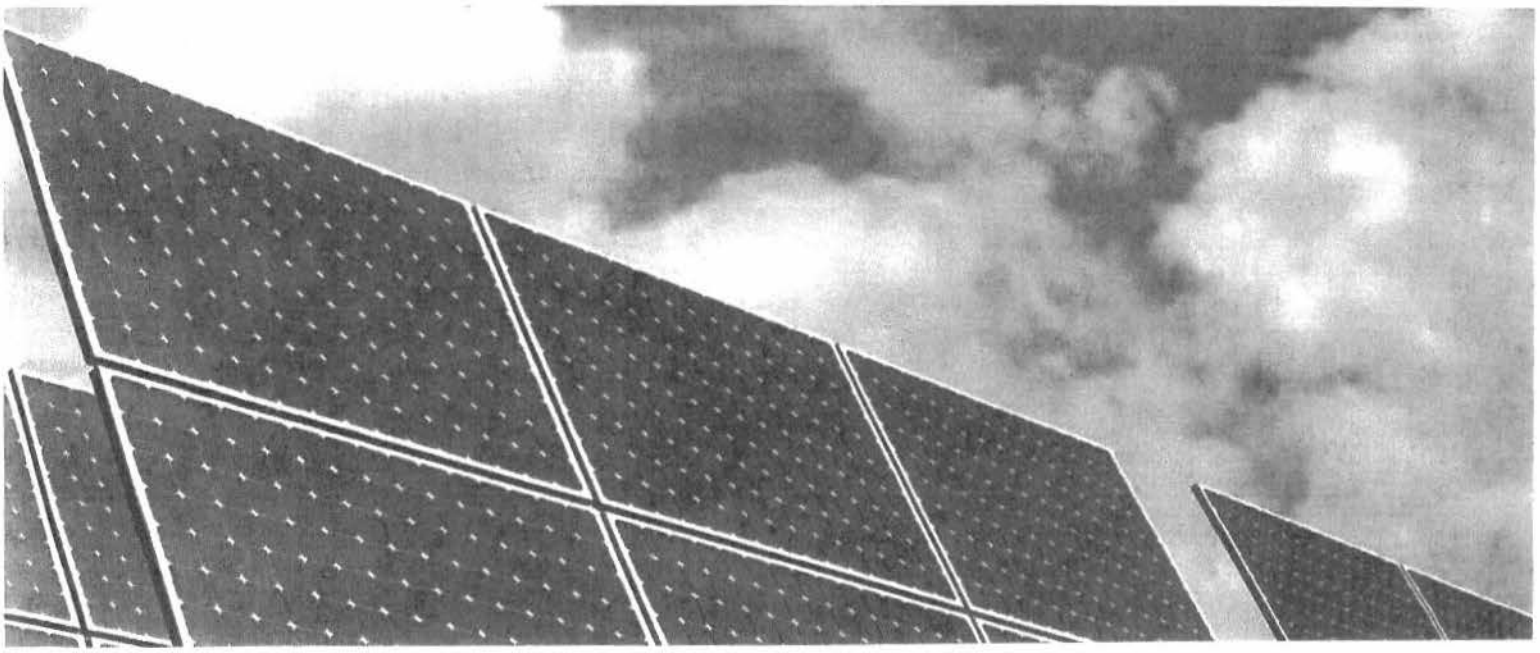
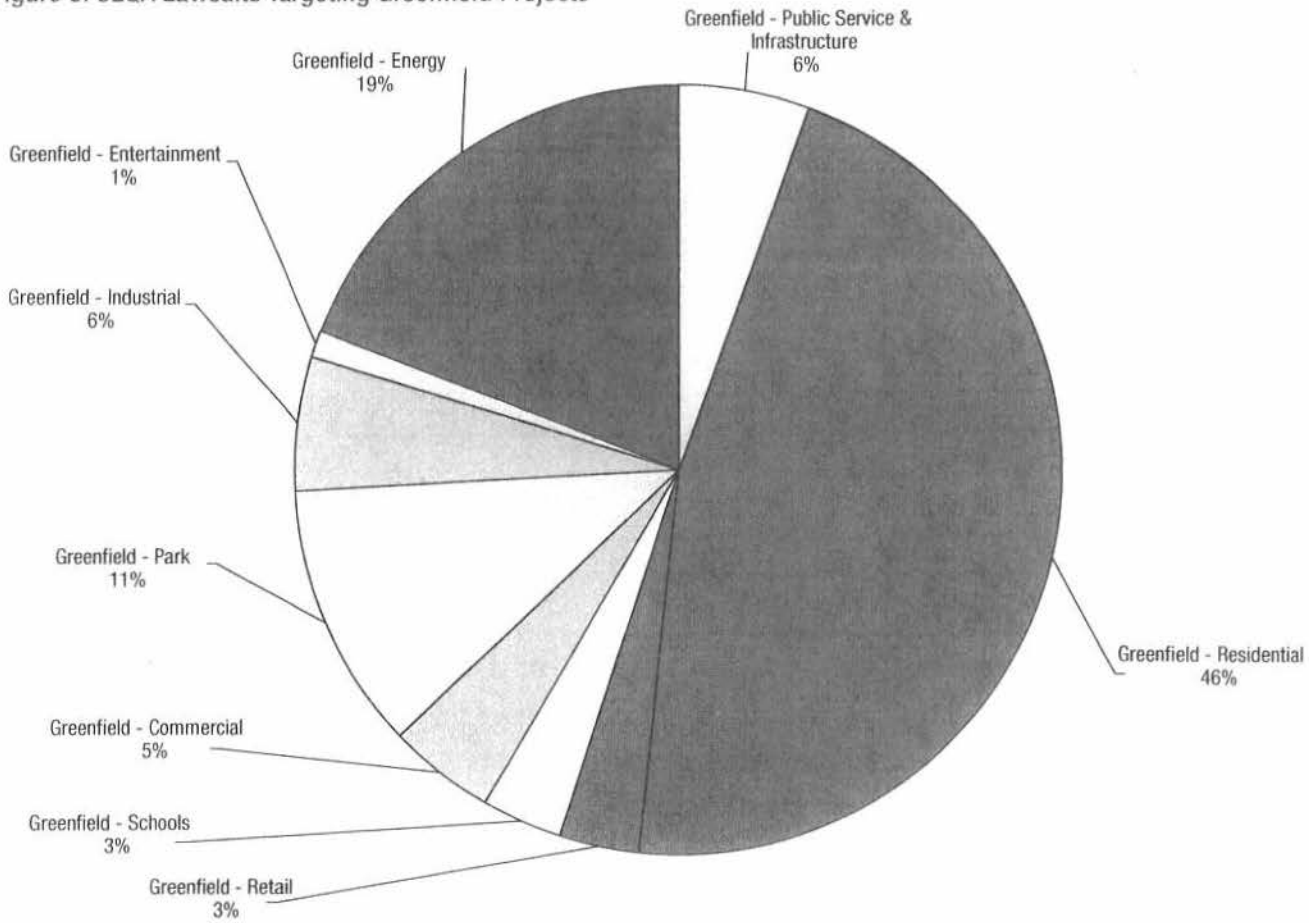


Figure 5: CEQA Lawsuits Targeting Greenfield Projects



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Bottom Line: CEQA Litigation Overwhelmingly Targets Infill Projects

This study definitively shows that housing and other types of projects that could, in principle, be located in either a greenfield or infill location are four times more likely to be sued if they are located in an infill location.[33] Notwithstanding the much higher CEQA litigation risk, the market continues to demand growth in California coastal counties. As a result, housing developers and agencies seeking to satisfy this market demand and comply with state mandates for higher-density, transit-oriented housing factor in CEQA compliance and litigation costs (and delays) when pricing projects. CEQA adds to housing costs. As the California Legislative Analyst recently reported, CEQA and other NIMBY opposition, as well as various regulatory and growth restrictions in coastal communities, have caused California's for-sale and rental housing prices to be far higher – more than double the cost – of any other state in the nation.[34]

> "Any party can file a CEQA lawsuit, even if it has no environmental purpose. For example, a competitor can file a CEQA lawsuit to delay or derail a competing project."

NIMBY opposition to coastal county housing projects has steep costs. Taking into account the cost of housing, the U.S. Census Bureau has confirmed that California has earned the dubious distinction of having the highest percentage, and by far the greatest number, of people living in poverty of any state.[35]

No one asserts that Coastal California's excessive housing costs and supply shortfalls are all attributable to CEQA litigation abuse. That said, the fact is that CEQA litigation is a weapon most often fired at infill projects: the transit-oriented, higher-density, lower energy and lower water-consuming projects that myriad state policies have determined to be environmentally superior to rural "sprawl." People who cannot afford to live in California's coastal counties are then forced inland, where housing costs drop by half or more (e.g., Inland Empire housing costs are less than half of Orange County and Los Angeles housing costs),[36] but require long workplace commutes, since more employment opportunities remain in coastal counties. Those who cannot afford proximate urban housing are then the victims of more NIMBY opposition to transportation solutions, such as transit systems and HOV-lane additions to highways. With residents of inland counties paying far more for energy (e.g., for air conditioning in hotter climates) and more for gasoline (as a result of longer commutes, plus fuel surcharges such as the cap and trade-based greenhouse gas pricing increase that became effective in 2015), the "environmental" use of CEQA litigation against infill projects by NIMBYs disproportionately targets what was once the backbone core of the Democratic party: poor, working class and minority citizens.

> Why should we continue to tolerate litigation abuse of California's premier environmental statute to block non-polluting infill projects?

> The "environmental" use of CEQA litigation against infill projects by NIMBYs disproportionately targets what was once the backbone core of the Democratic party: poor, working class and minority citizens.

C. Everybody Files CEQA Lawsuits – for Any Reason

CEQA lawsuits have several unique attributes not shared by any other environmental statute in the United States:

- **First, any party can file a CEQA lawsuit, even for a non-environmental purpose.** For example, a competitor can file a CEQA lawsuit to delay or derail a competing project,[37] and a labor union can file a CEQA lawsuit to secure an agreement that gives the union that filed the lawsuit control over which project jobs will be allocated among which unions.[38]

- **Second, a CEQA lawsuit can be filed anonymously.** Neither the public, the judge, the public agency defending the lawsuit, nor the private applicant for the 50% of the CEQA lawsuits that have a private applicant,[39] are entitled to know who is suing them. They also are not entitled to know whether the lawyer who filed the CEQA lawsuit even has a client or is simply pursuing a "bounty hunter" claim for a quick (and typically confidential) financial settlement payoff. CEQA lawsuits also can be filed on behalf of a previously non-existent, unincorporated association with a sympathetic-sounding name (e.g., "Friends of Sustainable Neighborhoods"), provided that one member of the newly formed "association" filed any agency comment at any time prior to agency approval of the project. A lawsuit may allege any CEQA violation that was raised by any party at any time prior to agency approval, even if the objecting party agrees that the alleged deficiency was adequately addressed by the agency as part of the CEQA and project approval process.

The California Legislature has consistently declined to require disclosure of the identity and interest of those filing CEQA lawsuits. In late 2014, the California Judicial Council – which has independent authority to adopt court rules requiring disclosure – declined to extend its existing CEQA litigation disclosure rules (currently applicable to those filing "friend of court" amicus briefs in CEQA cases, and those seeking recovery of attorney fee awards in concluded CEQA lawsuits), to parties filing CEQA lawsuits. The Judicial Council concluded that requiring disclosure of CEQA litigants was a policy matter to be decided by the Legislature.[40]

As discussed in Part 3, the Legislature's refusal to extend CEQA's transparency mandate to those filing CEQA lawsuits provides a vivid illustration of how the special interests that use CEQA for non-environmental purposes exert their power in the legislative arena.

CEQA lawsuits are also relatively inexpensive: a case can be brought for the cost of a county court filing fee of a few hundred dollars. In addition, lawsuits require only preparation of a complaint or "petition" (which can allege very generalized deficiencies in an agency's environmental documentation) and two briefs (an opening brief typically limited to 25 pages, and a reply brief typically limited to 10-25 pages), with one court hearing in front of a judge typically lasting less than one day. The lawsuit is decided based on the content of the agency's "administrative record," the contents of which are prescribed by statute. The challenger is required to prepare or pay for preparation of the administrative record, but there is no prompt statutory remedy available if the challenger fails to timely prepare or pay for the cost of the record. Record preparation disputes can extend the time required to resolve a CEQA lawsuit for a year or longer.

The Legislature's refusal to extend CEQA's transparency mandate to CEQA lawsuits provides a vivid illustration of how the special interests that use CEQA for non-environmental purposes wield power in the legislative arena.

In the published CEQA appellate court cases that comprise the body of jurisprudence available for determining the probable outcome of a CEQA lawsuit, challengers enjoy nearly 50/50 odds of winning.

CEQA lawsuits proceed through California's three levels of judicial review: the trial court process can extend over two years, an automatic and mandatory right to appellate court review can require another one to two years, and a discretionary appeal to the California Supreme Court can take another year or longer. All litigation process times have been stressed by substantial budget cuts to the judiciary.

The simple act of filing a CEQA lawsuit, without seeking an injunction or awaiting any judicial remedy, vests the challenger with tremendous leverage. As documented in several recent CEQA studies of appellate court decisions:[41]

- In the published CEQA appellate court cases that comprise the body of jurisprudence available for determining the probable outcome of a CEQA lawsuit, challengers enjoy nearly 50/50 odds of winning.[42]
  - Even if the agency completed an EIR – the most elaborate and costly form of CEQA document, which by statute is to be upheld if it is supported by "substantial evidence in the record" even if "substantial evidence in the record" also supports a contrary conclusion or decision – the plaintiff still prevailed 43% of the time. To put the remarkably favorable odds of winning a CEQA lawsuit into perspective, in a meta-study of 11 administrative lawsuits nationally, including 5,081 federal court cases, agency challengers lost in 69% of the cases – and the Internal Revenue Service, which is required by Congress to closely track and quickly address adverse court claims, loses only 22% of its cases.[43]

– For "Negative Declarations," which are a less costly and less time-consuming type of CEQA document, the standard of judicial review is whether an opponent has made a "fair argument" that a project "may" have even a single adverse environmental impact. Negative declarations fail to withstand judicial scrutiny in 56% of the cases.

- CEQA documents must now study in excess of 100 different "environmental" topics. For each topic, an agency must correctly address the "setting" and "baseline," evaluate the project's "impacts," and identify "significance thresholds" for measuring whether an impact is indeed "significant" or "less than significant." For each "significant" impact, an agency must then identify "feasible" mitigation measures to "avoid" or "reduce to a less than significant level" such impacts, correctly identify "reasonably foreseeable future projects or plans" in the "project vicinity" (which may result in a significant adverse "cumulative" impact – even for a project impact that has been mitigated to a less than significant level), identify and evaluate a "reasonable range" of "feasible" alternatives to a project that can attain "all or most" of the project's "objectives," explain its conclusions with "findings," and then disclose "significant unavoidable impacts" for which no feasible mitigation measure or alternative is available. It is not enough under CEQA for a project to comply with a previously adopted plan for which an EIR has already been prepared, nor is it enough to demonstrate that a project complies with California's famously strict environmental standards that govern everything from energy and water efficiency to greenhouse gases and species protection.

- It is virtually impossible for lawyers engaged in CEQA litigation, and judges deciding CEQA cases, to avoid raising questions or concerns about whether an agency correctly completed all required components of the CEQA analytical process. It is also hard for judges, once they decide that an agency "did the air quality calculations incorrectly," to conclude that the agency should not be required to repeat this or other analytical steps.

CEQA documents must now study in excess of 100 different "environmental" topics.

- The most likely remedy in the event the court rules that an agency has not completed the required level of analysis and processing is for a judge to vacate the agency's project approval, and require more CEQA study. Vacating the project approval means, simply, that the project must be halted – as is – at the time when the decision is issued (absent special dispensation by a judge, such as weather-proofing by installing blue tarps on exposed plywood roofs) for the 2-4 years (or more) needed to repeat the agency CEQA process, and then return to court for a new trial court ruling and another round of appellate court review. In a recent case, a completed high-rise apartment project with tenants was served with a tenant eviction notice when a judge determined – years after the fact – that a historic resources study of a now-demolished former Spaghetti Factory restaurant fell short of what CEQA requires.[44]

- To address many conflicting CEQA appellate court decisions, as of May 2015, the California Supreme Court has 10 pending CEQA cases under review. These cases deal with a variety of issues with wide applicability throughout California. This includes the interplay between CEQA and California's climate change laws and policies,[45] the extent to which CEQA covers public safety services, and can require as "mitigation" staffing for police and fire services,[46] the extent to which increased demand for transit is an "environmental" impact requiring mitigation,[47] and the extent to which pre-existing environmental conditions (e.g., ambient levels of noise or odors or vehicle exhaust) should be evaluated under CEQA since these are environmental impacts on a project, rather than project impacts on the environment.[48] Some of these cases have been pending for several years, and the California Supreme Court is under no hard deadline for reaching a final decision, either by ruling for or against the agency targeted by the CEQA lawsuit or by remanding the case back to the lower courts for further consideration.

- There is no limit to the number of times a project can be sued under CEQA: each discretionary approval by each agency can be the subject of a separate CEQA lawsuit. For example, more than 20 lawsuits have been filed over the past 30 years against an infill redevelopment project in Los Angeles, most of which involve alleged CEQA deficiencies,[49] including two lawsuits filed during the 2010-2012 study period for this report.[50]

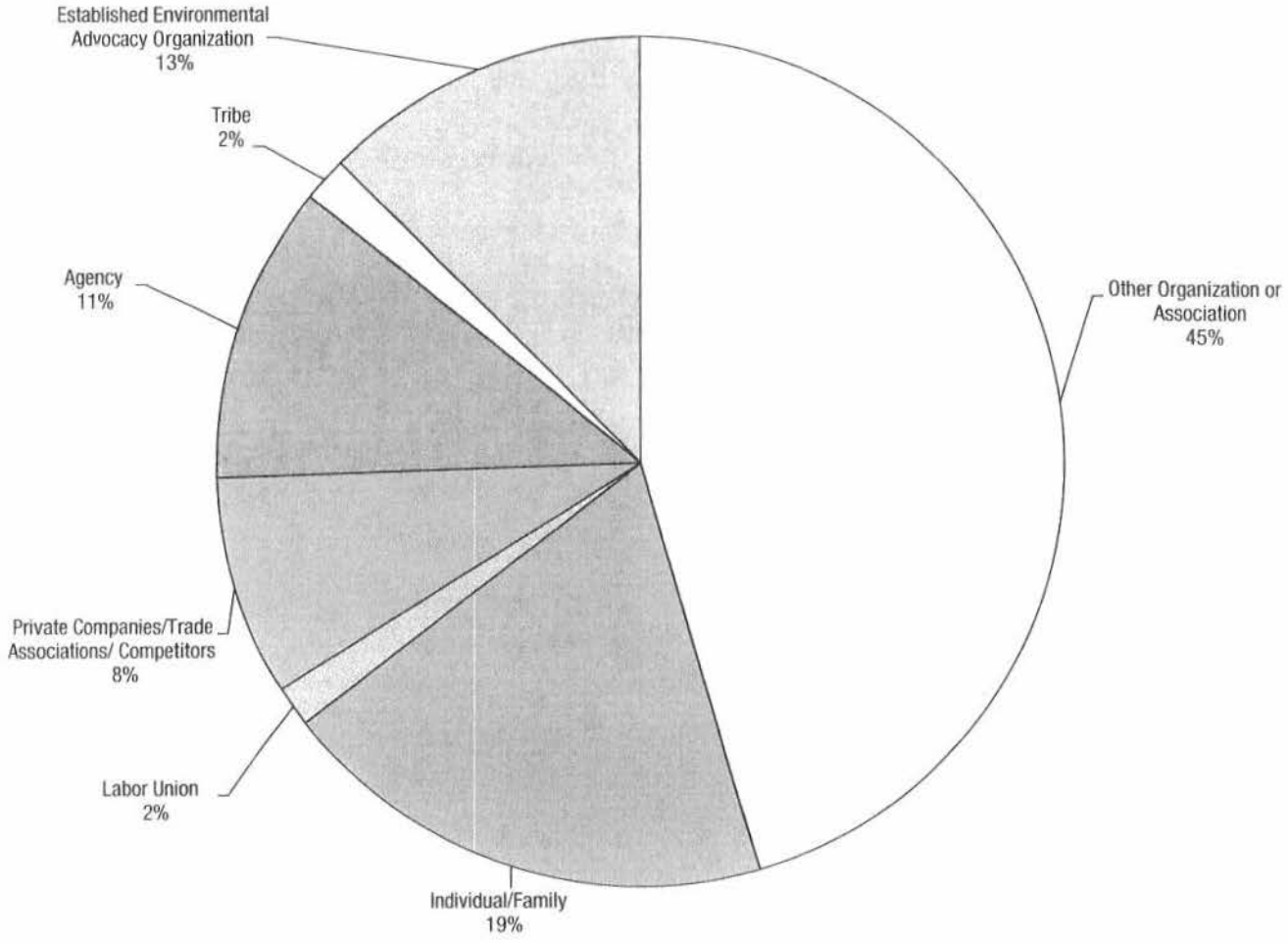
- A separate California "free speech" statutory prohibition – forbidding "strategic lawsuits against public participation" – prevents lawsuits from being filed against project opponents for any reason, such as tortious interference or even extortion.[51] In the most notorious of the recent cases, a student housing company run by enterprising alumni from the University of Southern California sought to control the student rental market by filing a CEQA lawsuit to block a project being built by a competing student housing developer. To gain further leverage, the housing company filed eight more CEQA lawsuits against the developer's other California projects, and then filed two more lawsuits against projects by relatives of the developer under a statute similar to CEQA in Washington state. The targeted developer filed a federal civil racketeering lawsuit against the student entrepreneurs, who had by then repeatedly described themselves as the "Al-Qaeda of CEQA." A federal judge declined to dismiss the federal lawsuit, and the entrepreneurs closed up shop.[52]

With these odds, these judicial remedies, these issues awaiting clarification from the Supreme Court, and these and other war stories, it should come as no surprise that banks making construction loans, and government agencies making time-sensitive grant and appropriations decisions, usually decline to fund projects while a CEQA lawsuit is pending. There is no bonding or other requirement that applies to project opponents who file CEQA lawsuits, project opponents are not required to pay attorneys' fees if the agency ultimately wins the lawsuits, and project opponents are entitled to seek judicial approval of reimbursement of their attorneys' fees and a "multiplier" or bonus amount for helping enforce an "environmental" law if they win even a partial victory on one environmental study topic regardless of whatever their real motivation is harming competitors, negotiating labor terms, derailing new environmental protections, or stopping "those people" from coming into a neighborhood.

Figure 6 presents our assessment of the types of parties ("petitioners") filing CEQA lawsuits. Because some CEQA lawsuits include multiple types of petitioners (e.g., one or more individuals and one or more groups), the total number of petitioners is larger than the total number of lawsuits filed. If there were multiple entities of the same type (e.g., multiple individuals), then only the petitioner type (e.g., "individual") was tallied. We created seven petitioner types: (1) individuals/families; (2) local/regional entities including unincorporated associations with sympathetic-sounding new names, but no readily-accessible track record of environmental litigation advocacy; (3) private companies such as competitors and trade associations; (4) other public agencies unhappy with the decision of the "lead" public agency that prepared the CEQA documentation; (5) Native American tribes; (6) labor unions; and (7) state and national environmental advocacy groups (e.g., the Sierra Club and Communities for a Better Environment).

It should come as no surprise that banks making construction loans, and government agencies making time-sensitive grant and appropriations decisions, usually decline to fund projects while a CEQA lawsuit is pending.

Figure 6: Types of Petitioners Filing CEQA Lawsuits



Produced by: Hernandez, Friedman, DeHerrera

About two-thirds (64%) of the petitioners filing CEQA lawsuits are either individuals or "other" organizations or associations. Recognized state and national environmental advocacy groups, by contrast, comprise only 13% of the CEQA petitioners. These statistics are not surprising; environmental advocacy groups generally support the types of infill development, including transit systems and other urban services, that are the most frequent targets of CEQA lawsuits. CEQA litigation abuse is primarily the domain of NIMBYs and anonymous new unincorporated entities, including those using CEQA for non-environmental purposes.

One surprising outcome of the study (to the authors, at least), however, is the frequency with which agencies use CEQA to sue each other. Agencies comprise 11% of CEQA petitioners, and largely fall into two groups: agencies seeking more "mitigation" – physical improvements to roadways or other infrastructure, or fee payments – from the "lead" agency that prepared the CEQA document and approved the project, and agencies fighting the zero sum game of allocating (and paying for) California's water resources. Although some tribal representatives have been active in CEQA reform discussions, tribes comprised only 2% of CEQA petitioners – and tribal projects were also the target of CEQA lawsuits.

CEQA litigation abuse is primarily the domain of NIMBYs and anonymous new unincorporated entities, including those using CEQA for non-environmental purposes.

Labor unions appeared as named parties in only 2% of CEQA petitions, business groups and competitors comprised 8% of the petitioner category, and inter-agency disputes accounted for 11% of petitioners.

Because the identity of those filing CEQA lawsuits is not required to be disclosed (a troubling exception to CEQA's disclosure and transparency mandates and public purpose), the authors of this study called more than 100 of the public agencies that had been targeted by CEQA lawsuits to get further information from agency planning or attorney staff about the nature of the parties filing CEQA lawsuits. From these interviews we learned the following:

- ***Business competitors***. Private sector competitive abuse of CEQA often garners the strongest political criticisms, but is part of a systematic approach to advance competitive business objectives with unconventional tactics. In "Protecting Market Share: The Boundaries of Competitive Engagement," a consulting group boasts that it is "the world leader in land use politics" and explains:

  > "The courts have sanctioned the right to organize community opposition that urges government officials and agencies to deny land use permits to applicants, even when the underlying motive of the opposition is protecting market share and eliminating competition. What's more, the courts are protecting third-party funding sources, in many cases anonymous funding sources, which support the opposition efforts in order to block potential competition."[53]

Private sector competitive abuse is not limited to direct competitors (e.g., union versus non-union grocers or other competing retailers). Sometimes economic competitors are simply fighting projects that could increase their operating costs or decrease their access to "free" public resources. For example, a surface strip mining company that depends on maintaining a very shallow groundwater level in a remote valley has filed a CEQA lawsuit against a water project that proposes to transport some of the water stored in the valley to urban users – which could affect mining operations.[54] Private party disputes over water and other localized resources can result in contract claims and other lawsuits – but CEQA lawsuits to protect the commercial interests of miners strays far afield of CEQA's environmental protection goals.

- ***Regulated party petitioners*** generally identified themselves in CEQA petitions. Regulated industries tended to file CEQA lawsuits in the name of a trade association, and used CEQA to try to delay or modify regulations by asserting that more elaborate environmental studies were required to accurately assess a regulation's true environmental impacts (e.g., local agencies targeted by a trade group to block restrictions on the use of plastic bags),[55] or to more thoroughly document the environmental trade-offs in regulations that allegedly prioritized one policy objective over others (e.g., restrictions on the use of "once-through" water to cool power plants).[56] One of the more interesting examples of this regulated party petitioner pattern were CEQA lawsuits filed against marijuana dispensary use permit ordinances, in which parties aligned with medical marijuana purveyors asserted that placing limits on the number of authorized dispensaries could drive up prices, thereby forcing people to either drive longer for less expensive pot (with resulting traffic, air pollution, and greenhouse gas emissions) or grow their own pot and thereby consume more water during drought conditions.[57]

Labor tends to use CEQA litigation (and litigation threats) to gain control of project job allocations and wages, but also uses CEQA in disputes with other labor unions.

- ***Construction trade unions*** were more likely to be identified in petitions than other trade unions, but unions filing CEQA lawsuits typically did not identify themselves as a union. Labor tends to use CEQA litigation (and litigation threats) to gain control of project job allocations and wages, but also uses CEQA in disputes with other labor unions. In the high percentage of renewable projects in the Southern California desert that were threatened or sued under CEQA, for example, two different labor petitioner groups – each affiliated with a different construction trade union – each filed their own CEQA lawsuit against the same project.[58] This occurred in a reported dispute over which union would control the jobs created by these projects, and the competing unions used CEQA lawsuits in lieu of using the federal regulatory process for resolving territorial disputes.[59] Labor CEQA lawsuits were filed even for jobs requiring payment of prevailing wages and other negotiated terms that are generally perceived as favorable by the community and policy stakeholders (e.g., agency approval conditions requiring hiring of local businesses or residents, small businesses, minority-owned businesses or women-owned businesses).[60] Such union lawsuits reportedly sought to control job allocations to union members and allies. Agencies that declined to require Project Labor Agreements (PLAs) as conditions of project approval have been particular targets of these labor tactics, such as San Diego's expansion of its convention center.[61]

- ***Non-construction unions*** are even less likely to be named in CEQA petitions, in part due to federal law restrictions on the manner in which such unions are allowed to use unconventional tactics (like CEQA lawsuits) to bargain over wage and working condition issues with their employers. By far the largest category of these cases involve CEQA challenges to non-union retailers, particularly Walmart.[62] Lawsuits filed against Walmart and similar projects were all filed by "local" groups with environmental-sounding names, although union backing of such lawsuits was well known (and open union opposition to such projects was clear in the administrative agency approval process).[63] Another noteworthy case involved a union lawsuit against the closure of a luxury clothing store, and the opening of a replacement store in a nearby city, in a reported bid to avoid the need to organize a union and enroll employees at the new store.[64]

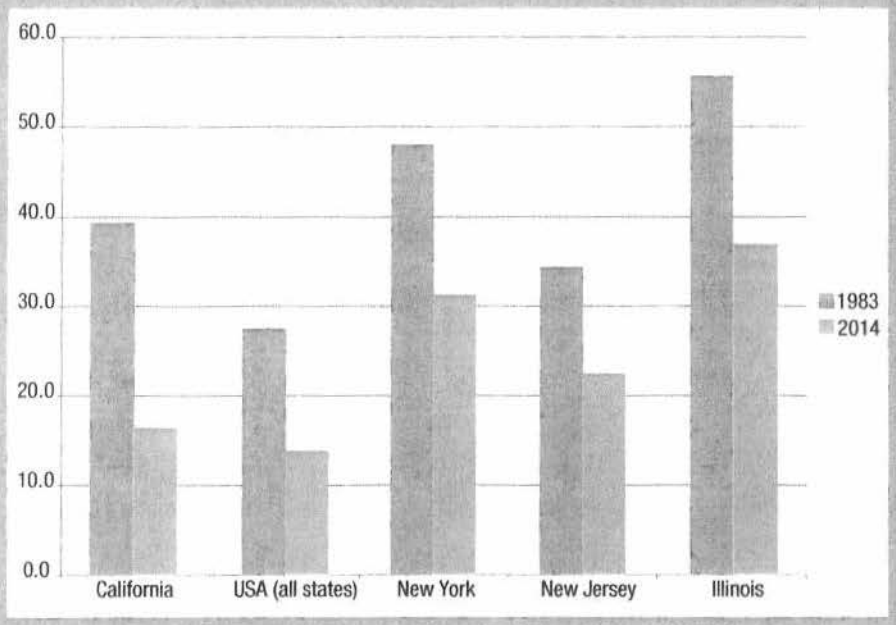
CEQA Helped Assure that the U.S. Manufacturing Resurgence Bypassed California

As commenter Richard Rider recently observed:

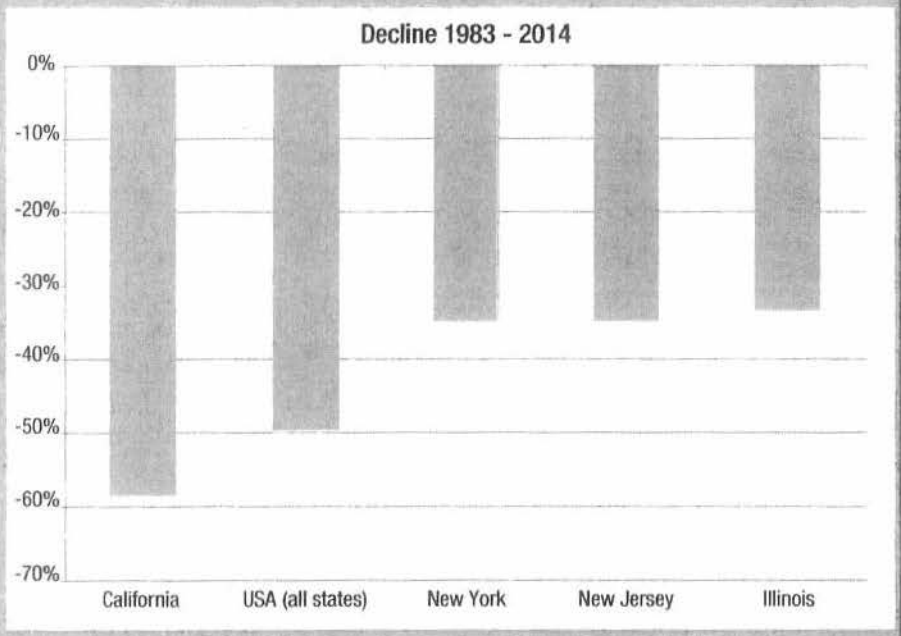
> "So, CEQA saves California?? Guess the other 49 states are cesspools of pollution and filth. Surely they envy us our protections."
>
> "Well, the other states DO like CEQA. After all, California is the engine of prosperity – for the other 49 states."
>
> "FACT: From 2007 through 2010, 10,763 industrial facilities were built or expanded across the country – but only 176 of those were in CA. So with roughly 12% of the nation's population, CA got 1.6% of the built or expanded industrial facilities. Stated differently, adjusted for population, the other 49 states averaged 8.4 times more manufacturing growth than did California."
>
> — Richard Rider, comment on Voice of San Diego article, "The Great Uncertainty Facing California Businesses" (comment posted December 21, 2014), *available at* http://www.cmta.net/20110303mfgFacilities07to10.pdfProsperity (accessed May 20, 2015)

It is noteworthy that CEQA lawsuits do not appear to have materially affected California's workforce participation in private labor unions, based on available national data.

Bar Graph 1: Percent Union Members in Construction Workforce in 1983 and 2014



Bar Graph 2: Percent Decline in Rate of Private Construction Union Membership 1983-2012



There is no evidence that California construction trade use of CEQA lawsuits (and lawsuit threats) is materially helping increase union membership in construction trades. As shown in Bar Graph 1, California construction trades have a higher rate of union membership than the national average. However, California construction trades also have a lower membership rate than other blue state flagships such as New York, New Jersey, Massachusetts and Illinois as measured over a multi-year period ending in 2014. Bar Graph 2 shows that California's construction unions have suffered a higher percentage decline in construction trade union membership relative to other states during the same period. California's construction union membership picked up slightly between 2012 and 2014, but still lags behind 24 other blue and purple states such as Illinois, New York, Indiana, Hawaii, Ohio, Pennsylvania and Wisconsin.

Job loss from NIMBY use of CEQA lawsuits (and CEQA lawsuits more generally) – which affects prevailing wage jobs, and both construction and non-construction unions – has been documented by various studies. One such analysis was prepared by the noted Southern California economist John Husing. It evaluated seven projects targeted by CEQA lawsuits and concluded that from just these projects, 3,245 prevailing wage jobs, paying workers an average annual wage of $100,502, were delayed or eliminated on an annual basis. The total affected annual lost wages and benefits was $326.1 million.

— Barry T. Hirsch and David Macphearson, Current Population Survey (CPS Outcoming Rotation Group (ORG) Earnings File (2015)), *available at* http://unionstats.gsu.edu/State%20U_1983.xls and http://unionstats.gsu.edu/State_U_2012.xlsx (accessed April 30, 2014); John Husing, CEQA Working Group, "Misuse of CEQA and Prevailing Wage Workers" (September 12, 2013), *available at* http://ceqaworkinggroup.com/wp-content/uploads/2013/09/Final-Husing-Report.pdf (accessed May 28, 2015).

Source: www.unionstats.com is an Internet data resource providing private and public sector labor union membership, coverage and density estimates compiled from the monthly household Current Population Survey (CPS). Economy-wide estimates are provided beginning in 1973; estimates by state, detailed industry and detailed occupation begin in 1983; and estimates by metropolitan area begin in 1986. The Union Membership and Coverage Database, constructed by Barry Hirsch (Andrew Young School of Policy Studies, Georgia State University) and David Macpherson (Department of Economics, Trinity University), was created in 2002 and is updated annually.

Some union lawsuits represent distinct trade-offs between construction and operating unions, highlighted in an agency appeal dispute regarding union participation in a new transit car manufacturing facility in Los Angeles.[65] For various reasons, including California's consistently poor business rankings (generally attributed to high regulatory hurdles, CEQA litigation uncertainty, and other tactics), the post-recession resurgence of middle-class manufacturing jobs in the United States has largely bypassed California.[66] A CEQA challenge to the new construction of one of the very few new manufacturing facilities proposed to be located in Los Angeles in many years – for the manufacture of transit cars paid for by Los Angeles taxpayers – was derailed by a union that filed a CEQA appeal seeking a "card check" agreement with the manufacturer. ("Card check" is an expedited process for enrolling employees in a union and bypassing the ordinary union election process.) The manufacturer initially declined to accept the "card check" procedure, and announced that it would relocate the plant outside California, at which point political intervention resulted in a compromise that created fewer prevailing wage construction jobs – the new manufacturing facility would not be built – but delivered the "card check" outcome sought by the union litigant. The press reported that there were no environmental benefits included in the negotiated outcome.[67] It is noteworthy that this example did not result in an actual CEQA lawsuit being filed, since a political compromise occurred at the agency approval level.

- ***NIMBYs.*** Notwithstanding the more frequently reported non-environmental use of CEQA by unions and business competitors, NIMBYs comprised by far the largest number of project opponents, particularly for infill projects. NIMBY opponents were often characterized as "older" or "wealthier" or "less ethnically diverse" than the part of the population that would benefit from the challenged project, particularly for urban schools, parks, and multifamily housing projects. As a noted land use expert has observed, "[t]he people who are most apt to fight things have six-figure incomes and nice houses and college and post-college degrees."[68] NIMBYs and their advocates are often personally impassioned about protecting "their" environment, defining the "environment" as their local community. In fact, one of their advocates has waged an unsuccessful campaign to banish the term "NIMBY" from public use, calling it the "N-word" of CEQA."

- ***"Greenmail" and "Bounty Hunter Lawyers."*** Numerous lawsuits filed by entities with community-sounding names were attributed to lawyers that used CEQA to extract monetary, non-environmental, confidential settlements from agency and/or private project sponsors. Several media stories have named two lawyers, including a Southern California lawyer who filed the largest number of CEQA lawsuits during the study period, as engaging in "greenmail" – using environmental laws to extract monetary settlements for private gain. There are also reported allegations of widespread violations of state and federal tax laws by dozens of the non-profit CEQA petitioners organizations formed by, and sharing the same address, relatives and colleagues of, the lawyer filing the highest number of CEQA lawsuits during the study period.[69]

NIMBYs comprised by far the largest number of project opponents, particularly for infill projects. NIMBY opponents were often characterized as "older" or "wealthier" or "less ethnically diverse" than the part of the population that would benefit from the challenged project, particularly for urban schools, parks, and multifamily housing projects.

CEQA lawsuits are filed by businesses seeking to derail competitors, labor unions wanting to control the allocation of jobs, NIMBYs opposed to neighborhood-scale change even when limited to the repair of existing houses or occupancy of existing buildings, and lawyers who collect substantial, confidential monetary settlements without ever identifying their clients. Collectively, these paint a troublesome picture of undesirable, and abusive, civil lawsuits clogging California's overburdened and underfunded judiciary.

- ***Other Community Groups.*** During interviews, there were no reports of non-environmental community advocacy groups (e.g. poverty advocates) filing CEQA lawsuits to leverage non-environmental settlement terms. There were community groups deeply concerned about localized environmental conditions, and there were "Community Benefit Agreements" as well as "Development Agreements" negotiated typically as part of the political process with agency staff and elected leaders. These agreements included providing non-environmental benefits, such as prioritizing local residents in hiring or providing affordable housing, contributing to local job training or educational programs, and supporting the arts and other activities.[70] These and similar community agreements known to the authors emerged as a result of political advocacy and organizing efforts rather than CEQA lawsuits.

- ***National and Regional Environmental Organizations.*** About 13% of CEQA lawsuits included as named petitioners established statewide environmental advocacy groups such as Communities for a Better Environment and the Center for Biological Diversity, and established regional environmental advocacy groups such as Endangered Habitats League. These lawsuits were more likely to target greenfields projects, projects or plans involving highway or industrial plant expansions, and state regulatory programs involving pollution control or resource extraction. Some local chapters of major organizations (e.g., the Sierra Club and Audubon Society) also field CEQA lawsuits, and generally pursued the same agenda as the established environmental groups that did not operate with a chapter structure. If CEQA's standing requirements (the right to file a lawsuit to enforce CEQA) was modified to be in alignment with its parent federal statute, the National Environmental Policy Act (NEPA), these environmental advocacy groups would continue to have full access to judicial review and enforcement of CEQA – and the projects these groups target tend to have a much larger environmental footprint than the infill spats that currently dominate the judiciary's CEQA litigation caseload.

- ***California Tribes*** appeared in only about 2% of CEQA cases and were more likely to participate in lawsuits with multiple petitioners including established state and national environmental organizations. Tribal projects were also targeted by CEQA lawsuits. (It is noteworthy that the study period pre-dated the January 2013 effective date of Assembly Bill 52 (Gatto), which expands CEQA requirements relating to tribal consultation and mitigation.)

CEQA lawsuits filed by businesses seeking to derail competitors, labor unions wanting to control the allocation of jobs, NIMBYs opposed to neighborhood-scale change even when limited to the repair of existing houses or occupancy of existing buildings, and lawyers who collect substantial, confidential monetary settlements without ever identifying their clients – collectively, these paint a troublesome picture of undesirable, and abusive, civil lawsuits clogging California's overburdened and underfunded judiciary.

What's most shocking, however, is that these abusive litigation tactics are being undertaken in the name of "the environment" – when in fact the environment, jobs, affordable housing, public parks, and a broad range of other important social and political priorities are derailed, delayed, or made far more costly by CEQA litigation abuse. As many commenters have noted, a powerful political alliance between labor and environmental advocacy groups has prevented CEQA lawsuit abuse reforms.

The editorial board of the *San Francisco Chronicle* recently summarized succinctly the challenge of CEQA reform:[71]

> "The problem: The 40-year-old California Environmental Quality Act is vulnerable to exploitation from interests whose motivations have nothing to do with protecting resources. Lawsuits have been filed by labor unions as leverage for organizing and even by business competitors.
>
> The solution: The law needs to be reformed to provide greater transparency on who is actually bringing a lawsuit, along with faster legal review and tighter guidelines on the basis for litigation.
>
> Who's in the way: Environmental and labor groups are adamantly opposed to substantive reforms."

The need for CEQA reform was identified as a top priority in all 14 regional conferences sponsored by the California Economic Summit, a partnership between California Forward and the California Stewardship Network.

D. CEQA Lawsuits Occur in All California Regions: More Lawsuits are Filed in Large Population Centers, but Major Projects are Challenged Everywhere

California's population is the largest and among the most diverse in the country. California is the third-largest state, and its communities are distributed among exceptionally diverse topographic and climatic zones. Despite this diversity, however, the need for CEQA reform was identified as a top priority in all 14 regional conferences sponsored by the California Economic Summit, a partnership between California Forward (a non-partisan, non-profit organization working to identify common sense steps Californians can take to make government work) and the California Stewardship Network (a civic effort to develop regional solutions to the state's most pressing economic, environmental, and community challenges).[72] One conclusion from the first summit:

> While the California Environmental Quality Act (CEQA) has strong benefits to ecosystems, public health, and environmental quality, the CEQA process has been misused, often substantially increasing costs of projects and delaying both private sector job-creating investments and critical public-works projects important to competitiveness and public safety.[73]

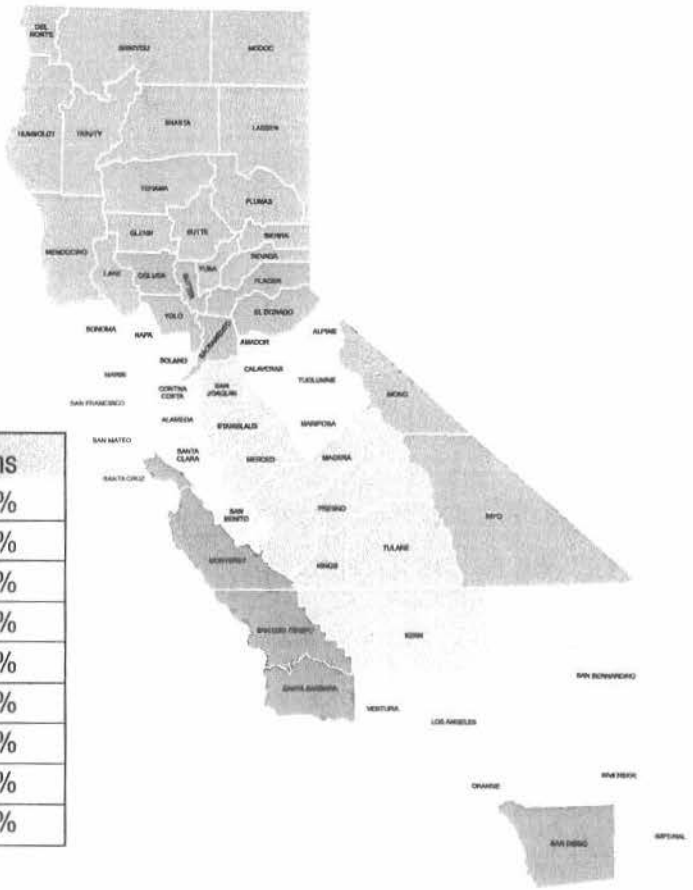
Each region weighed in with its own tales of CEQA litigation abuse, such as "document dumping" tactics used to derail project approvals by parties who ignored what was often a multi-year public review and comment process, greenmail lawsuits by bounty-hunter lawyers, and NIMBY lawsuits over a single-family home on an existing lot in an existing neighborhood.

Consensus CEQA modernization recommendations from this extraordinary collection of regional leaders from government agencies, environmental organizations, businesses, educators and other key stakeholders include:

- Increase transparency and reduce uncertainty in the CEQA administrative and litigation processes.
- Eliminate non-environmental uses of the statute (e.g., thwarting competition, NIMBY challenges to change, leveraging non-environmental monetary benefits and "greenmail").
- Refocus CEQA administrative and litigation processes to improve environmental outcomes.
- Avoid duplicative CEQA review processes.
- Focus CEQA modernization on "3E" outcomes – those that will improve the quality of California's environment, economic competitiveness and community equity.[74]

This study demonstrates how widespread CEQA litigation has become throughout the state. Figure 7 shows the distribution of the CEQA lawsuits filed during the study period in California's major regions.

Figure 7: Distribution of CEQA Lawsuits in California Regions



Map	Region	Petitions
	Los Angeles & Inland Empire	33%
	San Francisco Bay Area	22%
	San Joaquin Valley	13%
	San Diego	10%
	Sacramento Area	8%
	Central Coast	6%
	Northern California	5%
	Sierra Foothills	2%
	Mojave Desert	1%

Produced by: Hernandez, Friedman, DeHerrera

E. More Thoroughly Studied Big, Well-Funded Projects Get Sued More Often Than Smaller, Less Well-Funded Projects

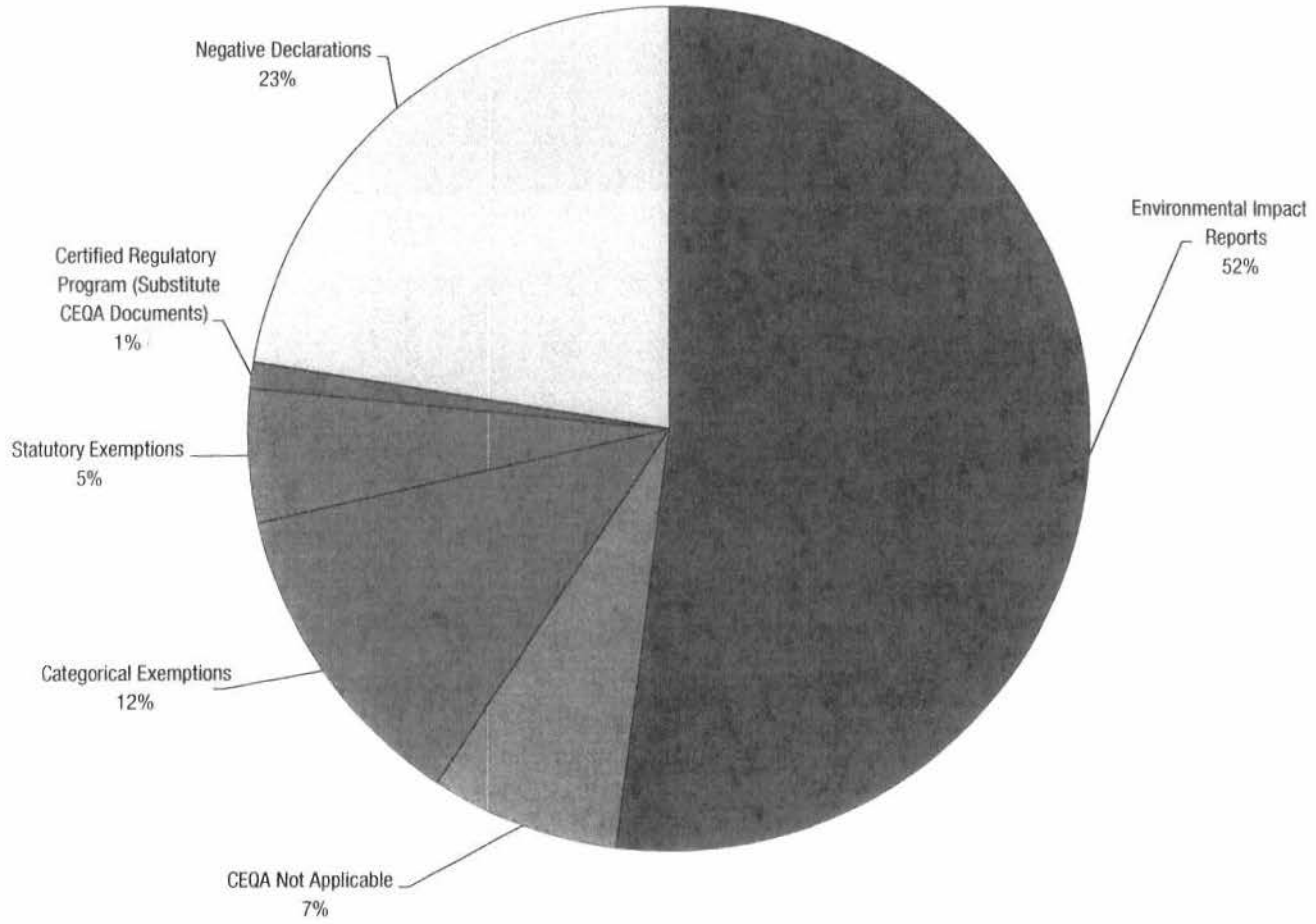
During CEQA reform debates, defenders of the CEQA litigation status quo have cited the thousands of agency decisions made in larger jurisdictions, such as Los Angeles and San Francisco, and the comparatively small number of CEQA lawsuits filed in those cities.[75] The overwhelming majority of CEQA compliance documents, however, involve the use of restricted regulatory exemptions for extremely minor projects,[76] such as repairing single family homes,[77] acquiring park lands,[78] making minor modifications to existing uses such as modifying signage or repairing piping or other infrastructure, etc.[79] Figure 8 shows the categories of CEQA compliance documentation tracks that are challenged in CEQA lawsuits.

As background, because CEQA applies to "discretionary" project approvals, and because many cities require such "discretionary" approvals for even very minor activities (e.g., building a deck in the backyard of a single-family home,[80] or opening a retail store, restaurant or even medical clinic in an existing building[81]), CEQA does indeed apply to hundreds of thousands of agency decisions that are of zero interest, and zero visibility, beyond the permit applicant and the city staffer at the building counter. In the most extreme example, by its charter *all* permits issued in San Francisco are considered "discretionary" and trigger CEQA review.

CEQA also has more than 30 regulatory "exemptions" for projects that do not typically result in any significant environmental impacts; statutory exemptions for politically-connected projects (e.g., stadiums and prisons); exemptions for practically imperative actions that could collapse under the financial, scheduling and litigation risk costs inherent in CEQA (e.g., bus stop locations and fares, groundwater management regimes); and a "common sense" exemption from CEQA reflected in the statute and case law (e.g., whether a public agency buys Coke or Pepsi for its vending machines – even if selecting one product will require longer truck trips and cause more air pollution than another).

Because CEQA applies to "discretionary" project approvals, and because many cities require such approvals for even very minor activities, CEQA applies to hundreds of thousands of agency decisions that are of zero interest, and zero visibility, beyond the permit applicant and the city staffer at the building counter.

Figure 8: CEQA Compliance Tracks Targeted by CEQA Lawsuits



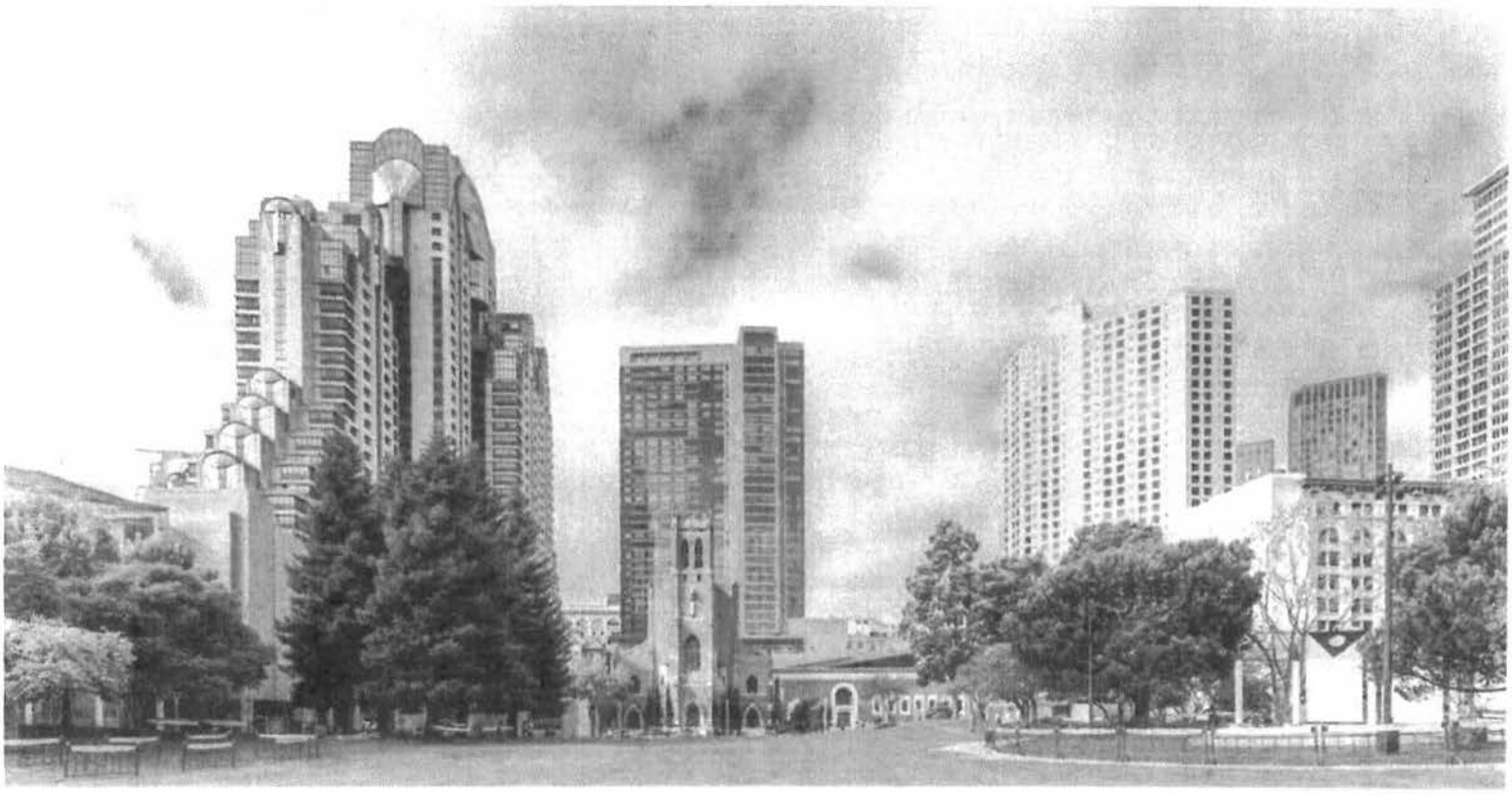
Produced by: Hernandez, Friedman, DeHerrera

The study shows that larger projects for which full EIRs are prepared, and the far more detailed environmental studies included in EIRs, get sued much more often than smaller projects that qualify for CEQA exemptions or are processed with a shorter-form "Negative Declaration." Unfortunately, larger projects and EIRs are the norm for the kinds of transformational projects that California's environmental policy mandates and diverse, growing population demand, such as utility-scale solar and wind facilities, transit systems, modifications of city and county land use plans to provide for higher-density and transit-oriented development, and larger-scale urban housing and employment projects that implement such higher-density land use plans. The cost of an EIR can exceed $1 million and require more than a year to complete, presenting a daunting economic hurdle for all but the most well-funded projects. Smaller and much more leanly funded projects, such as park trail renovations and the adaptive reuse and remodeling of existing structures (which also generally include building code upgrades to improve public safety and implement "green" state mandates like water- and energy-conservation fixtures), can spend in excess of $50,000 on less costly alternatives to EIRS such as Negative Declarations, but are also easier to topple with threatened or actual CEQA lawsuits that would cost hundreds of thousands of dollars in legal fees and project delay costs, e.g., loss of grants, bank loans and other funding sources.

> The act of simply filing a CEQA lawsuit can kill the most environmentally benign small project, while the destinies of big projects are controlled by the financial appetite of combatants willing to continue writing checks totaling millions of dollars to the legions of by-the-hour consultants and attorneys in the "CEQA industry."

CEQA lawsuits can delay, but typically do not derail, really "big" projects with ample financial resources. On the other hand, CEQA lawsuits can stop "small" projects supported by poorly funded agencies (e.g., parks and schools), non-profits (e.g., workforce training and affordable housing), small businesses (e.g., restaurant and auto repair shops) and individuals (e.g., owners of small businesses and single-family homes). The act of simply filing a CEQA lawsuit can kill the most environmentally benign small project, while the destinies of big projects are controlled by the financial appetite of combatants willing to continue writing checks totaling millions of dollars to the legions of by-the-hour consultants and attorneys in the "CEQA industry."

- **Environmental Impact Reports (EIRs)** are the most elaborate and costly CEQA compliance track, and are required for projects that may cause one or more significant adverse impacts, unless the project qualifies for a statutory or regulatory exemption, or falls within the jurisdiction of an agency that has approval to manage its own version of a CEQA process. There are different types of EIRs,



including an "addendum" process for adding new information to an EIR. All EIRs are grouped together for purposes of this study. Notwithstanding the fact that projects that undertake EIRs get the most elaborate and comprehensive levels of study and public review, they are also the "big" projects that are far more likely to attract a CEQA lawsuit: 52% of challenged CEQA projects involve EIRs. Often-passionate local disagreements about the merits of whether to proceed with the project at all (e.g., for solar and transit projects, and higher-density urban infill projects), and equally determined efforts to secure project labor agreements or delay competitors, play out in CEQA lawsuit challenges that are legally framed as EIR deficiencies, such as alleged problems with traffic or air quality technical calculations.

- **A Negative Declaration** may only be used for a non-exempt project for which there is no "fair argument" in the agency record that one or more significant adverse impacts "may" occur. A small project that does not qualify for a Categorical Exemption most often proceeds with the Negative Declaration compliance track. However – particularly in urban areas with existing environmental challenges like traffic congestion and traffic-related air pollution, or infrastructure challenges relating to water or wastewater, or temporary but bothersome construction noise or traffic diversion impacts – defending a Negative Declaration can be almost futile. Less than a quarter of CEQA lawsuits challenge Negative Declaration CEQA documents.

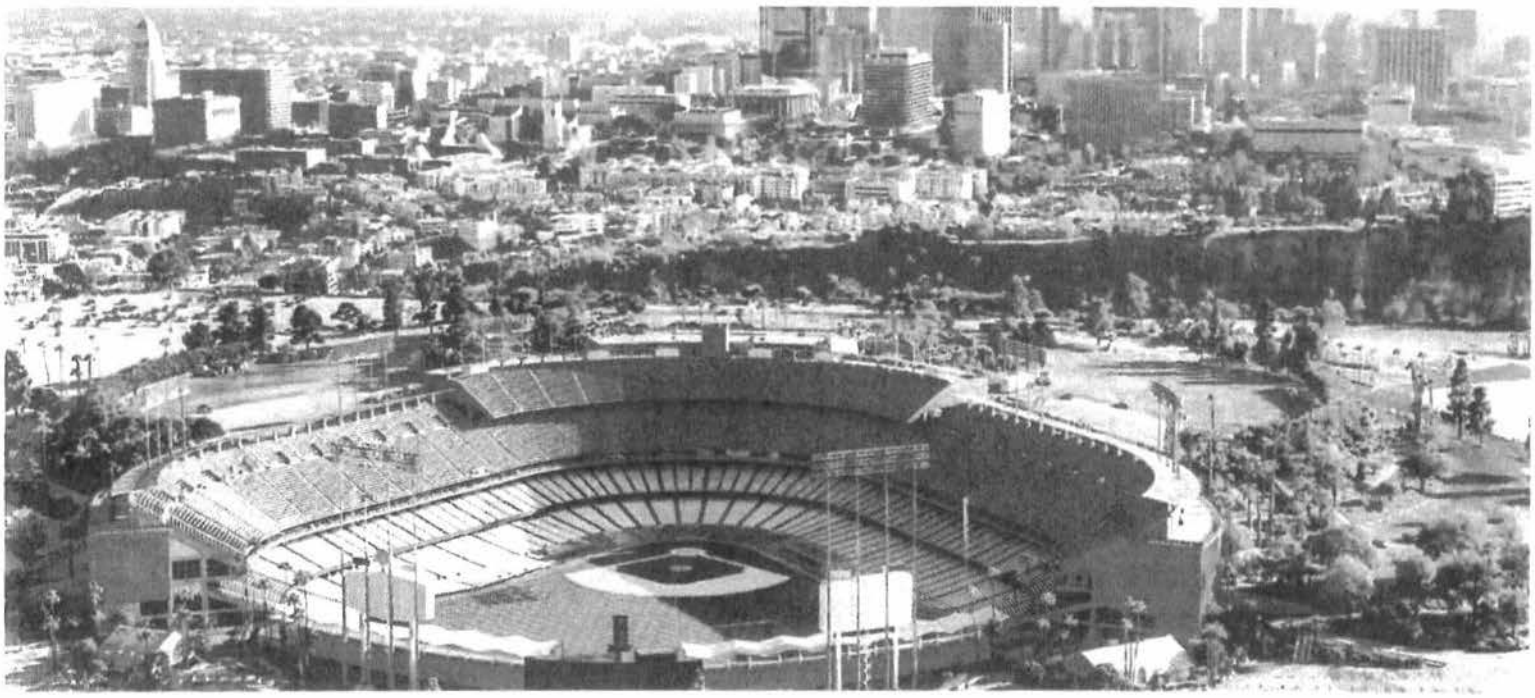
- **A project may be wholly or statutorily exempt** from one or more of CEQA's procedural or substantive projects by the Legislature (subject to the Governor's approval).

- **"Regulatory categorical exemption"** applies to projects which "normally" do not have any significant adverse impacts, and which fit within the parameters of one of more than 30 exemption "classes" included in the regulations implementing CEQA.

- **The common sense "exemption"** from CEQA arose from judicial interpretations of the CEQA statute, and is also reflected in CEQA's regulations.

Agencies are encouraged, but not required, to complete CEQA paperwork for projects that are exempt from CEQA under a statutory, categorical, or common sense exemption. CEQA petitions that alleged that agencies completed no CEQA documents were separately tallied for this study, although from our interviews we learned that the agency had concluded that the challenged project qualified for one or more exemptions.

Sometimes agencies used multiple CEQA compliance tracks, including, for example, processing a project with both an Addendum (based on an earlier EIR for an earlier version of the project or for a land use plan) and a Negative Declaration that provided an additional increment of public review processing. In these few cases, the study tally included each compliance track, and this resulted in more tallied CEQA compliance tracks than projects.



While statewide statistics are not compiled on the number of EIRs, Negative Declarations and exemption decisions made annually, there are far fewer EIRs prepared relative to the other CEQA compliance tracks. Nevertheless, EIRs are most frequently challenged and thus a higher percentage of EIRs are challenged than other forms of CEQA documents. As one of the defenders of CEQA's litigation status quo indeed reported, for Los Angeles, "all the big projects are sued."[82] This study confirms that big projects with EIRs get sued most often under CEQA, and shows that CEQA lawsuits are used far more often to nitpick the analytical adequacy of an EIR than to challenge the environmental analyses (or lack thereof) in Negative Declarations or exemption determinations.

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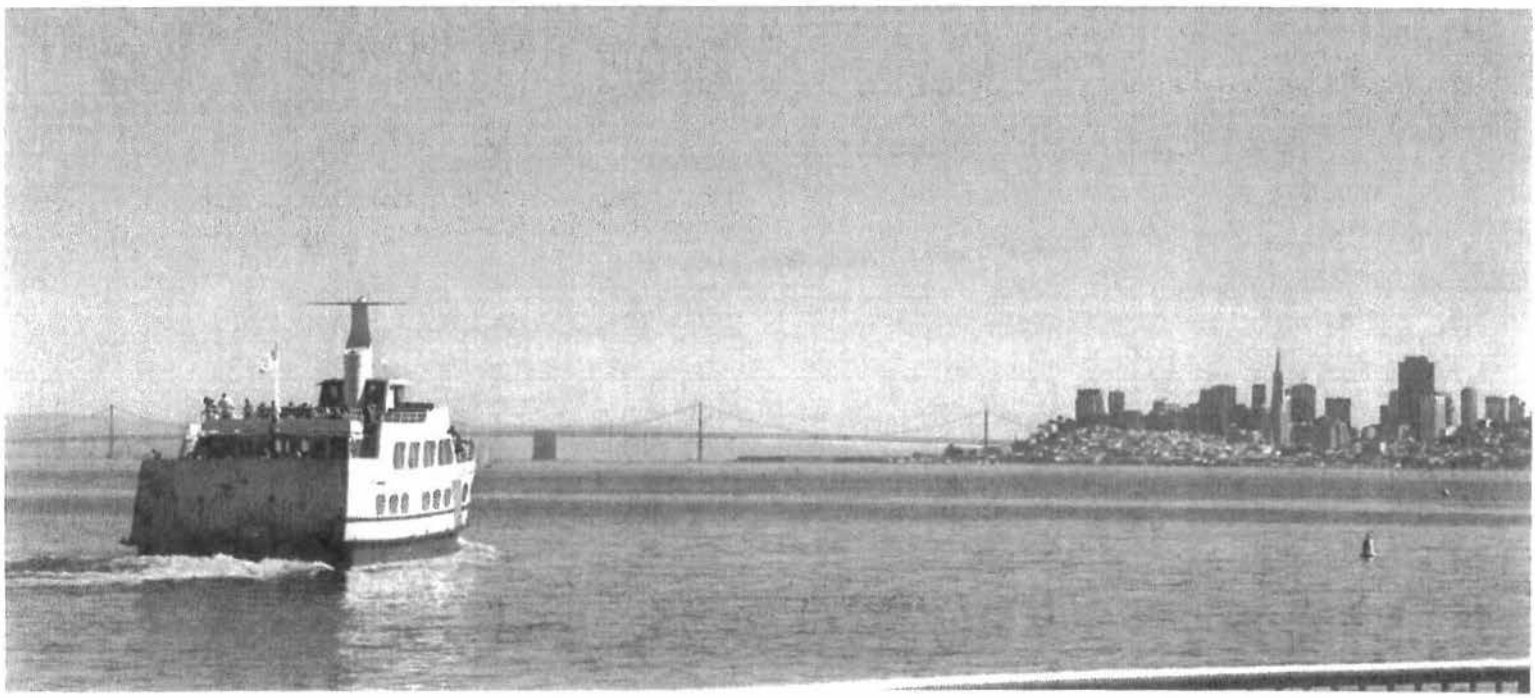
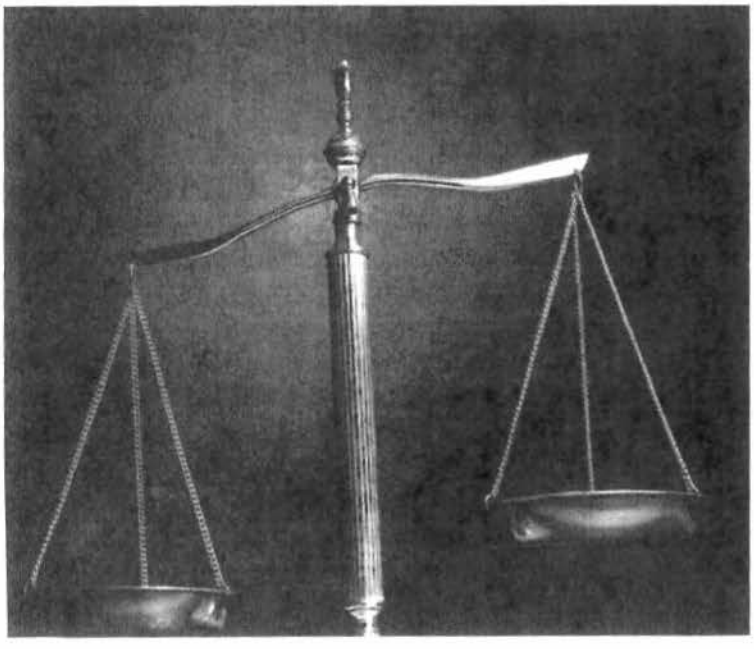


PART 2

CEQA Lawsuit Targets – The Stories Behind the Statistics

Comprehensive study statistics tell only part of the CEQA litigation story. Reviewing actual CEQA petitions filed against real projects paint a more vivid picture of the all-too-frequent (and non-environmental) abuse of CEQA as do media and other reports of CEQA administrative appeals seeking to derail projects before final agency approval. These examples illustrate fundamental and sometimes passionate disagreements about the appropriate land use or other policy decision at issue, but none involve avoiding the type of harm to "the environment" envisioned when CEQA was enacted in 1970.

Comprehensive study statistics tell only part of the CEQA litigation abuse story. Reviewing actual CEQA petitions filed against real projects paint a more vivid picture of the all-too-frequent non-environmental (and anti-environmental) abuse of CEQA.



It is also important to recognize that all of the challenged CEQA projects have already run the gauntlet required to secure lead agency approvals: only approved projects can be sued under CEQA. This approval gauntlet can include bruising and protracted public debates in community meetings, at the Planning Commission, City Council or County Board of Supervisors, and even at the ballot box among the voters in a community. Many CEQA lawsuits, especially NIMBY and labor lawsuits, are filed by the losers in these political battles – and use CEQA litigation as the final leverage they have available to overturn the decision that emerged from the democratic process. Because the act of filing a CEQA lawsuit is enough to block most forms of private and public sector funding, the stakeholders and public agency decision-makers who supported the project then lose (permanently or for the period that the lawsuit is pending) the benefits promised by the project.

Some examples of CEQA litigation in action illustrate that even lawsuits filed for "environmental" purposes involve policy disagreements, not the extent to which the "environmental" impacts of an approved project have been appropriately studied and mitigated.

- ***Stop Affordable Housing in Silicon Valley – Let's Make a Free Farm Instead.*** A Santa Clara infill site located next to a major transit center and regional mall, and bordered by single-family homes, illustrates the democratic decision-making process – and the community's loss of an important project benefit due to a CEQA lawsuit.[83] The site was formerly a small experimental farm owned by the Regents of the University of California. The Regents determined that the site was no longer suitable for this use, and embarked on a planning and development process with extensive community stakeholder engagement. Ultimately the majority of the community favored redevelopment with three components: single-family homes adjacent to the existing single-family homes in the neighborhood, a new neighborhood park for use by local residents, and critically needed market-rate and affordable apartments for seniors. A small but passionate group opposed this plan and instead lobbied for an urban farm that would produce food and provide hands-on farm education in Santa Clara. They had no money to purchase this public property for their desired use, and instead they wanted the cash-strapped UC system to dedicate this surplus property to non-profit urban farming uses. The urban farming advocates unsuccessfully filed administrative appeals to block the city's project approval, and ultimately – and again unsuccessfully – attempted to reverse the project approval through a citywide referendum vote on the project. The group also filed a CEQA lawsuit, which the courts ultimately concluded had no merit.

> During the several years that the lawsuit remained pending, the senior housing project first lost critically needed public grant funding, and ultimately lost crucial redevelopment agency funding. About a decade later, the components of the project that remained financially viable – single-family homes and a new neighborhood park – were completed, but the senior project remains derailed by funding shortfalls. The site was never destined to be an urban farm: even had the CEQA lawsuit been successful, the Regents and city would have simply corrected the CEQA study and re-approved the project. In the heart of Silicon Valley – one of the most jobs-housing imbalanced areas of California, where lengthy commutes and costly housing are both norms – seniors who may have voluntarily sold their homes if they could stay in town (thereby making existing homes available for purchase by families) lost. So did seniors in need of scarce affordable housing, and hundreds of families with seniors in need of quality local housing with senior support services. And the people who would have built and staffed the senior housing center lost, too.[84]

This case and others described below help illustrate how a CEQA lawsuit can be used to attempt to thwart the democratic process. In this case, the project was obstructed by passionate opponents who could not persuade The Regents to donate state-owned lands for non-economic uses, could not persuade the city to restrict authorized site uses to urban agriculture instead of housing for seniors and families and a new neighborhood park, and could not persuade the voters to overturn the city's decision to approve the project.

To the extent that CEQA was intended to prevent agencies from approving projects that are harmful to the environment, this and other cases demonstrate that this is simply not the objective of most CEQA litigants today. This part of our report illustrates a sample of the projects behind the statistics, along with projects that did not even make it into the study statistics because the project was killed or withdrawn or never started because of CEQA's inherently unpredictable, lengthy and costly pattern of litigation abuse for any purpose, by any party.

A. Public Agency Projects

As depicted in Figures 1 and 9, about half of CEQA lawsuits target public agency projects, plans or regulations and involve no private sector applicant, resulting in CEQA's compliance and litigation costs and risks being borne solely by taxpayers.[85] It is critical to understand that the cost of CEQA lawsuits is not simply paying attorneys and experts to defend the lawsuit. Once a CEQA lawsuit has been filed (often for well under $10,000 in court filing fees), even if the agency is ultimately determined (after 2-5 years or more of trial and appellate court proceedings) to have complied with CEQA, taxpayers can suffer hundreds of millions of dollars of increased costs. As recently reported by the *San Diego Union Tribune*:

> "[Petitioner Attorney] is big on suing local governments. He has sued San Diego many times. Sometimes he wins, as when he challenged the financing scheme for the expansion of the downtown convention center. Sometimes he accepts financial settlements. Often, he loses. But even when he loses it can cost taxpayers big time. [Petitioner Attorney] sued San Diego last year, twice, seeking to block a $120 million bond issue the city planned for street repair and other infrastructure. He lost the first suit and the second suit never got to trial. The city finally sold the bonds last week, attracting significant investor interest and raising all the cash the city wanted. But because [Petitioner Attorney] appealed the ruling in his first suit, and even though he will likely lose that too, the city had to pay a higher interest rate to the investors, 4.04% compared to the 3.8% that had been estimated. The difference in interest rates will mean an estimated $200,000 a year in additional debt service. For 30 years total, some $6 million. Thanks, [Petitioner Attorney]."[86]

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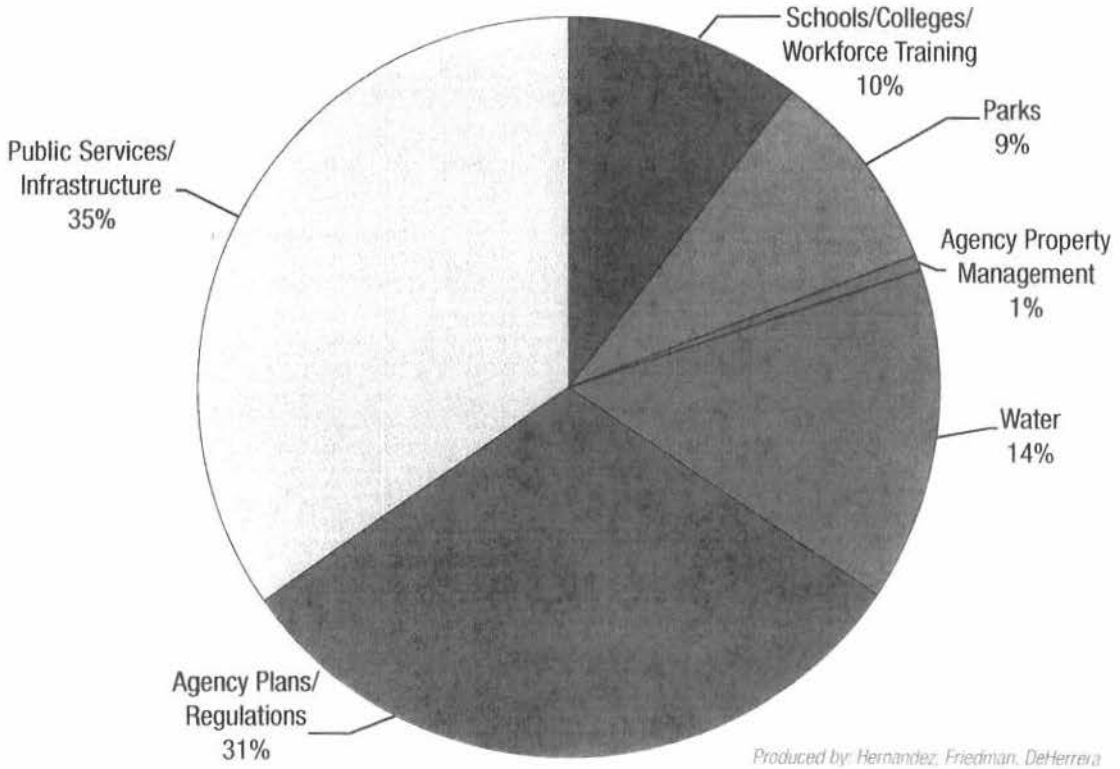
Taxpayers can suffer major financial losses even from threatened CEQA lawsuits. For example, a critical part of the $1.4 billion improvement project to construct a carpool lane and related improvements along a 10-mile stretch of Interstate 405 over the Sepulveda Pass required the replacement of an overpass at Mulholland Drive. A multi-year EIR had been completed to address scores of community concerns – but a small group of wealthy neighbors near the overpass raised aesthetic objections to the overpass design, and wanted a "world class architect" hired to build a prettier overpass. Fighting the neighbors' threatened CEQA lawsuit would have resulted in the loss of critical federal funding and hundreds of construction jobs during the depths of the Great Recession – even if the adequacy of the EIR was ultimately upheld after several years of litigation. Therefore, the agency chose to cave in, and built a modified bridge design that not only caused taxpayers millions of additional dollars, but also required two weekend closures of Interstate 405, which is one of the busiest highways in California.[87]

> Taxpayers can suffer major financial losses even from threatened CEQA lawsuits.

Taxpayer costs tell only a small part of the CEQA litigation abuse story: CEQA lawsuits hurt real people, with real needs, for non-environmental reasons.

Figure 9: CEQA Petitions Targeting Taxpayer/Ratepayer Projects



Produced by: Hernandez, Friedman, DeHerrera

1. Schools, Colleges, and Workforce Training Projects

The 2010-2012 study period saw public school funding plunge during the Great Recession.[88] Only limited federal and state funds were available for school capital projects (and public funding is most often unavailable for projects caught up in litigation), and operating budgets were reduced to near-crisis levels. Thirty-one CEQA lawsuits were filed against schools during the study period: 55% targeted K-12 projects, and the remainder targeted college and adult education training projects. Just over 90% of the petitions challenged schools in infill locations, with the vast majority of those lawsuits targeting renovations or expansions of existing campuses.[89]

Almost all school challenges were filed by neighbors objecting to increasing the utilization of existing school facilities. As discussed in detail below, converting an elementary school to a middle school, adding nighttime lighting or artificial turf to school playfields, or objecting to the construction or expansion of a school, led the litany of claims against K-12 schools. A sample of filed and threatened lawsuits against K-12 school projects follows:

- ***Everybody Hates Middle School.*** El Cerrito, a small city in the East Bay, is served by the West Contra Costa School District, which covers several cities and has a substantial student population meeting the poverty criteria required to qualify for free or subsidized lunches, a large population of students for whom English is not their first language, and other challenges common to urban school districts. The middle school serving El Cerrito was determined to be directly above an earthquake fault, and was required to be relocated. The district examined its options, and concluded that a former elementary school (mostly idled) located a short distance away from the middle school was the most suitable alternate location for the relocated middle school. The district completed the CEQA document required for the relocation of the students and reuse of the elementary school site, and – facing a statutory deadline for vacating the seismically unsafe middle school, and an expiration date for funding demolition – demolished the existing middle school and placed students in temporary trailers on the playground for the few months required to complete the relocation. Several years later, the students remain in trailers – victims of a CEQA lawsuit filed by neighbors of the elementary school who adamantly opposed converting their idled elementary school campus to a middle school. The alleged environmental harms were the usual NIMBY litany of traffic congestion and traffic-related air quality and noise, but there were also stark (and unstated, in public debate) demographic contrasts between the mostly older, white NIMBY neighbors and the young, diverse affected students.[90]

- ***Keep Schools Vacant on Nights and Weekends.*** Renovations to an elementary school that included a "multi-purpose room" – a staple of modern school construction on smaller campuses that often combines a cafeteria and an assembly space – were opposed by a passionate group of Mill Valley parents who were concerned that the multi-purpose room would be used for "other" purposes – disturbing the otherwise vacant schoolrooms during bucolic evenings or weekends in the tony Marin County suburb. The settlement cost paid by the challenged school district: more than $100,000, including more than $60,000 paid to the NIMBY group's lawyer.[91]

- ***Too Much Physical Education.*** The single-largest category of CEQA lawsuits against K-12 schools during the study period challenged installation of turf and lighting to increase use of existing sports fields.[92] Athletic facilities in many school districts pre-date the landmark civil rights legislation that ushered in today's era of girls' athletics, and increasing density – and student populations – in urban areas also exceeds the seasonal, daytime hours of availability for traditional turf fields. Add in two more layers of increased land use efficiency – "joint use" of school athletic facilities for youth and adult leagues who typically pay fees to cash-starved school districts, and national and state policy to encourage physical exercise as part of wellness and anti-obesity initiatives – and the result is clear: we must safely increase use of school sports fields. For neighbors facing increases in evening noise levels, and neighborhood parking shortfalls and traffic congestion, these national, state and regional imperatives unfairly burden their neighborhood and families, and spawned numerous CEQA lawsuits.

With neighbors lined up against kids in team uniforms, the politics of these disputes are tough. But should California's signature environmental statute be the costly, multi-year final battlefield for neighborhood opponents with the resources to immediately derail time-limited funding? Should these neighbors be able to persuade the judiciary to upend the school's decision because one expert asserts that the school's experts did the traffic count or noise study incorrectly? Since most of these playfield upgrades were processed with a CEQA Negative Declaration or Categorical Exemption, one expert that disagrees with the school's expert can be enough to derail these projects[93] since CEQA generally requires only a "fair argument" that the playfield upgrades "could" cause even one significant adverse impact (aesthetic, noise, traffic, parking,

disruption of the "character of the community"). A lawsuit loss for the school typically remains in a vacated project approval pending a full EIR costing hundreds of thousands of dollars. And the playfield upgrade battle is fought in the name of "the environment."[94]

Challenges to adult education were also most often attributed to neighbor concerns about increased utilization or changes to existing campus facilities. A sample of workforce training projects targeted in filed and threatened CEQA lawsuits follows:

- ***Preserve My Closed Landfill, Not Workforce Training for Critical Local Jobs.*** In Los Angeles, goods movement – the logistics of moving products to and from the huge regional ports in Los Angeles and Long Beach – comprises over 20% of the Southern California economy. The Los Angeles/ Long Beach (LA/LB) port complex primarily handles shipping packed in metal containers that automate the cargo loading and unloading processes. The complex is the largest port in the Western Hemisphere, and the ninth-largest port in the world.[95] Approximately 40% of all U.S. container trade, with a cumulative value of approximately $400 billion, passes through the LA/LB ports.[96] The LA/LB port complex is one of the most important economic engines in Southern California and in the state. Based on estimates published by the ports, trade through the LA/LB complex accounts for approximately 1.2 million jobs, or 15% of total employment in Los Angeles, Orange, San Bernardino, Riverside and Ventura counties. Port trade also generates nearly 1.6 million jobs, or 9% of total California employment, as shown in Table A below.

Table A: Regional and State Employment Generated by Trade Through the Los Angeles and Long Beach Ports[97]

	Five-County Region	California
Port of Los Angeles	896,000	1,200,000
Port of Long Beach	316,000	371,000
Total LA/LB Ports	1,212,000	1,571,000
Total Employment	8,091,000	17,200,000
Percent LA/LB Trade-Related Employment	15%	9%

The LA/LB ports stimulate regional and state transactions and wages that contribute to the state's gross domestic product (economic output) and generate significant state and local tax revenues. Port data indicates that trade through the LA/ LB complex produces approximately $116 billion in economic value to the state, including spending for port industry services, port-related transportation, and spending by import and export businesses. This level of economic activity is approximately 5.6% of the total state economic output (approximately $2 trillion). The ports also generate approximately $11 billion in state and local tax revenues per year, or about 11% of the state's total general fund expenditures ($100.7 billion) in 2013.[98]

Truck driving jobs in the goods movement sector are a major employment opportunity in the region, especially for adults lacking high school diplomas or strong English skills. A paved, closed landfill in the City of Los Angeles provided a perfect location for a truck driving training facility: it was proximate to transit service and candidate students from economically disadvantaged nearby areas, and could supply trained drivers to the region's ports.[99] Incensed neighbors, who had worked for years to finally shut down the landfill, objected to this training facility and insisted that there be no new uses on the paved landfill (primarily using the same "environmental" reasoning of traffic and air quality impacts, as well as noise from traffic). Neighbors lost their case with the LA City Council, but defeated the project (and its Latino sponsor) in a CEQA lawsuit. Once the CEQA lawsuit was filed, the all-important federal funding source was compromised, and this workforce housing project died.[100]

- ***Stop Jobs in Imperial County.*** According to the U.S. Bureau of Labor Statistics, Imperial County's unemployment rate in March 2015 was 19.9 %, compared to California's 6.5% statewide unemployment rate in the same month.[101] Imperial County has land – almost 5,000 square miles – and approved using less than 500 acres for a law enforcement training facility that would create 200 jobs serving students from California and other states. The training facility's sponsor also volunteered to permanently preserve more than 550 acres – about 60% of the school site – as permanent open space. The project came to the attention of the same Marin County attorney who was filing CEQA lawsuits against Imperial's solar projects (discussed below), along with a local tribe. Even though a full EIR had been prepared, the sponsors lacked the financial resources to pay to defend the lawsuit (and risk being held liable for the Marin County attorney's legal fees). The project was dropped in 2011, when annual statewide unemployment averaged over 11% and Imperial County was suffering a whopping 29.1% annual unemployment rate.[102]

The final category of school projects – colleges – tell a more diverse but now-familiar story.

- ***Old Fight, New Tactics: Town-Gown Conflicts and CEQA.*** Community colleges, California State University, and the University of California systems are not subject to local government land use permitting or mitigation fee requirements, and disputes between "town" and "gown" over campus projects (and campus contributions to local services provided by the town) have periodically flared up before and after CEQA's 1970 enactment. CEQA lawsuits provide a judicial opportunity to leverage more favorable local government outcomes for these "town-gown" disputes. Two of these (involving Cal State East Bay[103] and San Diego State[104]) are now pending at the California Supreme Court, and involve the determination of the extent to which CEQA requires mitigation for increased demands on police and transit services, as well as the extent to which CEQA can require a public university to raise or divert private funds for CEQA mitigation (instead of scholarships or other educational support purposes) after the California Legislature has declined to approve budgets authorizing universities to pay for these local agency services.

  The appellate court came down squarely against Cal State San Diego, concluding that CEQA's mitigation mandates trumped the University's authority to elect how to spend private donations and public grant funds, and also trumped the decisions of the Legislature and Governor in allocating taxpayer funds to colleges and local governments.[105]

  The appellate courts also extended CEQA's exceptionally elastic definition of "the environment" to recognize as "impacts" requiring mitigation, student use of regional trails (Hayward campus)[106] and transit services (San Diego campus). These cases have remained pending for several years, and there is no deadline by which the Supreme Court must reach a decision. Available funding for campus projects is gone or remains at risk of being redirected to less litigious campus communities.

Community colleges were also targeted by CEQA lawsuits during the study period, including expansions proposed on several campuses with time-limited and competitive state or federal funding, but involved NIMBY rather than host city challenges.[107]

All challenged public college projects involved construction activities limited to "infill" locations on existing campus properties that are expected to increase student populations and efficient use of campus facilities.

Private colleges had their share of CEQA lawsuits, although the study period included the recession, when smaller donations meant fewer campus projects. Two examples from Los Angeles tell startling tales of CEQA litigation abuse:

- ***Keep that Parking Lot Quiet.*** Emerson College proposed to build a small satellite campus on a tiny (0.85 acre) slice of Hollywood used for surface parking; the vertical project would include classrooms, dorm space, and apartments for four faculty members. An adjacent music studio asserted that the construction noise would drive them out of business, but refused to provide access for noise study experts who could evaluate the problem and find a solution. The college ultimately prevailed (a year later) after a costly lawsuit, and the project was completed.[108]

- ***Conquest Housing – the Self-Described "Al-Qaeda of CEQA" – Tries to Conquer All.*** The University of Southern California is perched on the edge of downtown Los Angeles, and has substantially grown in prestige, donations, students – and demand for student housing. Adjacent communities have objected to the "gentrification" of scarce affordable housing by university students who can pay higher rents, and USC responded with a commitment to prioritize construction of new student housing on university property, including a site located across the street from a new regional transit station. USC sought bids from qualified urban housing developers, and chose Urban Partners to complete the EIR and construct the new 421-unit dorm.

Two USC alumni who were buying up community housing for student use (the gentrification practice that had drawn community ire), and doing business for the USC Trojans as "Conquest Student Housing LLC," then attempted to derail this large new project and block their student housing competitor. Conquest filed a CEQA lawsuit against the USC Urban Partners project, but also filed CEQA lawsuits against all other pending Urban Partners projects in California and against two projects by relatives of Urban Partners principals in Washington state (where Conquest had no business operations). The lawsuits nearly destroyed Urban Partners, which had established a track record of building community support for public-private partnerships. USC and Urban Partners ultimately filed a federal racketeering lawsuit against Conquest,[109] citing to media stories reporting Conquest principals commenting on how to use CEQA to "bomb" projects and paying community members to file negative comments against their competitors. Conquest demanded that the racketeering and related claims be dismissed on the grounds that Conquest was only exercising its First Amendment "free speech" rights against the Urban Partners project. However, in a unique outcome among CEQA's competitor lawsuits, the federal district court declined to dismiss the racketeering charges against Conquest – whereupon a settlement was reached and Conquest (or at least its website) appeared to fold up shop. Stopping a transit-oriented dormitory to preserve local housing for non-student use in the name of the environment qualifies as CEQA litigation abuse.[110]

2. Other Public Service and Infrastructure Projects

Another often underreported category of CEQA lawsuits involves projects designed to provide necessary public services and infrastructure to existing communities, to adjust the use of existing facilities to respond to changing demographic or program needs, and to upgrade existing infrastructure to meet new legal mandates or service needs.[111] This category of public agency projects attracted the largest number of CEQA lawsuits during the study period.[112]

The most frequent type of local infrastructure targeted by CEQA "environmental" lawsuits were public transit projects,[113] followed by projects involving highways (all of which involved either High Occupancy Vehicle lanes or modifications to existing interchanges or crossings to address public safety concerns),[114] municipal waste management (all but one of which involved infill transfer and recycling facilities, not new or expanded landfills),[115] stormwater management (all of which were designed to improve water quality and reduce flooding),[116] telecommunications equipment (antennas and cable boxes required for improved Internet and wireless communications),[117] local street and landscaping upgrades,[118] and sewage system upgrades (such as pipe replacements).[119] No form of public infrastructure and service project was apparently too small to escape irritating at least one person enough to draw a lawsuit – a new fire station,[120] and renovations to an existing library[121] and an existing museum[122] – also drew lawsuits in the name of "the environment."

Transit projects attracted the highest number of CEQA lawsuits during the study period. Transit systems in the Los Angeles region were particularly targeted, notwithstanding legal mandates to establish and improve transit services to reduce traffic congestion, improve ambient air quality, and reduce greenhouse gas emissions.

Some samples of these taxpayer-funded public project CEQA lawsuit challenges:

CEQA's Most Frequent Infrastructure Target: Transit

Transit projects attracted the highest number of CEQA lawsuits during the study period. Transit systems in the Los Angeles region were particularly targeted, notwithstanding legal mandates to establish and improve transit services to reduce traffic congestion, improve ambient air quality, and reduce greenhouse gas emissions. Transit system investments were also a key priority of the Obama administration's job creation program during the recession, and a huge amount of federal transit became available – but only for "shovel ready" projects (i.e., funding those not mired in litigation). During the study period, several transit lawsuits were filed by cities unhappy with the location of transit stops, or of mitigation measures. Others were filed by NIMBYs, and one was filed by a property owner who reaped a stunning financial reward of public funds in what was really an eminent domain property value dispute.[123]

- ***More Study Needed of Squeaky Wheels and Grease.*** One of the more notable transit project lawsuits resulted in the invalidation of an EIR based on the alleged incomplete analysis of the potential for increased grease drippage and wheel squeals resulting from putting more passenger commuter trains on existing railroad tracks that were already being actively used for cargo and other trains.[124]

- ***Metro "Gold" Line is "Gold" – for the Holdout Property Owner.*** The Gold Line starts near Pasadena, passes through downtown Los Angeles, and then extends into East Los Angeles. It reduces downtown traffic on several stressed freeways, and serves an exceptionally diverse ridership. The Gold Line maintenance yard is in the City of Monrovia, northeast of downtown. A property owner facing an eminent domain proceeding after having declined to voluntarily sell his property for the maintenance yard responded with six lawsuits filed over a three-year period, one of which alleged that the transit agency responsible for the Gold Line had failed to comply with CEQA.[125] Litigation would have resulted in more than $100 million in delay-related costs, which would have threatened project financing. The agency ultimately settled all six lawsuits for $24 million, more than four times the assessed value of the 4.5-acre property.[126]

- ***CEQA Requires Transit to be Invisible – Right?*** Neighbors opposed to the Expo Line connecting Culver City to downtown Los Angeles (and linking to other transit lines) argued that the new light rail system should be underground to reduce environmental impacts. A surprisingly brisk four-year trip through the trial court (where the NIMBYs lost) and appellate court (where the NIMBYs lost again) culminated in a landmark California Supreme Court decision,[127] which determined that the EIR was indeed fundamentally flawed in its study of air quality and traffic impacts because it failed to analyze the project in relation to the existing environment. Continuing the surprising trajectory of this CEQA case, the court nevertheless concluded that these flawed technical studies and resulting flawed EIR evaluation was nevertheless not sufficiently prejudicial to cause ordinary people to be confused about the short-term traffic, parking, and air quality construction, as well as start-up operational disruption caused by the transit project. To summarize this surprising litigation outcome: extraordinary Supreme Court decision: the EIR was flawed on the two topics that draw the most critical court scrutiny based on the Judicial Outcomes study (traffic and air quality),[128] but the Supreme Court declined to impose CEQA's most common judicial remedy (vacating project approvals pending an EIR re-do).[129]

Other wealthy communities, such as Atherton[130] and Beverly Hills,[131] also sued to halt (or drive to the invisible and financially infeasible underground) transit projects during the study period.

No discussion of CEQA challenges to transit would be complete without the tangled story of the state's High Speed Rail (HSR) project. Although initially approved by the voters, the project has undergone a variety of adjustments based on funding, routing, lawsuits and other factors. An initial "programmatic" EIR was done for the HSR project, which was targeted by several lawsuits.[132]

Supplemental EIRs were also required under the structure of the programmatic EIR. Risking court (and funding) losses, the Brown administration successfully persuaded a federal agency that federal preemption precluded a CEQA judicial remedy that would delay or vacate HSR.[133] A state appellate court subsequently decided that federal preemption did not preclude normal CEQA processing and the full range of judicial remedies, but concluded that the first EIR was legally adequate.[134]

Several HSR CEQA lawsuits remain pending, and, as is true for many complex infrastructure projects (e.g., operation and upgrades of state water project system components, discussed in more detail below), CEQA lawsuits remain pending while subsequent related EIRs and project components or phases are approved, leaving the legal status of the overall project as well as its constituent parts vulnerable to a single adverse judicial decision in any one of several pending proceedings (often heard by different judges and appellate panels). Such uncertainty adversely affects the cost and availability of funding for these public infrastructure projects.

Most Improbable Infrastructure and Public Service Targets of CEQA Lawsuits

No critical public service facility is too critical, or too small, to be targeted by CEQA lawsuits. Again, CEQA also provides a comfortably safe haven for bigots.

- ***Mosques and Churches.*** Religious buildings earned the distinction of being the most frequently challenged non-infrastructure, public service projects. For example, CEQA lawsuits were filed against two mosques,[135] and neighbor opposition to mosques has been successful in blocking mosques without lawsuits.[136] Although the CEQA lawsuits alleged environmental impacts such as traffic and air quality, the reported public debate was more openly hostile – and more openly discriminatory – of Islam.

- ***Libraries, Fire Station, Museums and Medical Care.*** Two CEQA lawsuits challenged libraries.[137] One involved a new fire station long sought by the community but opposed by the nearest neighbors,[138] two fought museums,[139] one (filed outside the study period and thus omitted from the statistical compilation) opposed allowing air ambulance services at an existing airport,[140] and renovations prompted by seismic renovation mandates resulted in four challenges to hospitals.[141] Two of the hospital lawsuits reportedly involved unions seeking bargaining leverage;[142] the remainder of the litigants for this suite of challenges appear to be NIMBY organizations and individuals.

- ***Existing Airports.*** Continued use of airports and runway modifications of existing airports accounted for three CEQA lawsuits during the study period.[143]

- ***Prisons.*** A prison expansion,[144] a prison closure,[145] and gender conversion of a prison,[146] all drew CEQA lawsuits during the study period. The expansion and gender conversion faced community opposition; union involvement was alleged in the prison closure project. Opponents of converting a women's prison to a men's prison presented evidence that male prisons generated more traffic and traffic-related air emissions because (sadly) male prisoners get more visitors than female prisoners.

- ***Non-Vehicular Streetscape Improvements.*** Several CEQA lawsuits targeted sidewalk maintenance and landscaping. These are overwhelmingly NIMBY lawsuits. Neighbors from one street in Beverly Hills sued to block only replacement of the street trees on their side of the street,[147] a landlord sued to block demolition of a closed and crumbling elevated sidewalk based on the potential that he may have to reduce rents,[148] and there have been numerous examples of bike plan and bike path CEQA lawsuits.[149] A generational divide is evident in the bike plan lawsuits, which tend to be filed by older merchants opposed to traffic congestion and reductions in street parking.

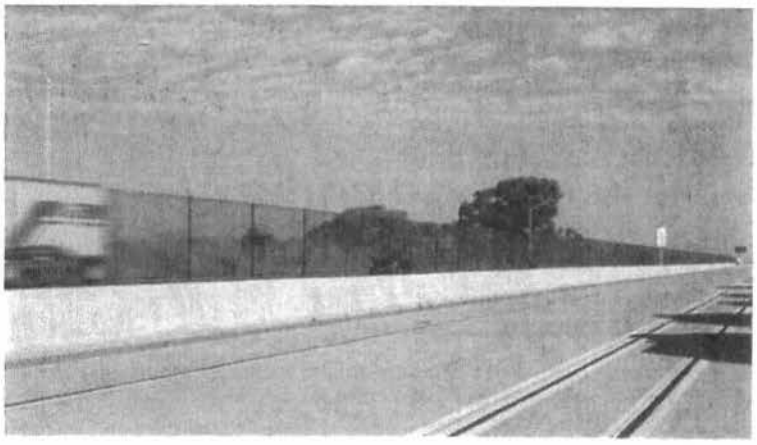
- ***Telecommunication Projects.*** NIMBY opposition to visible telecommunication equipment remains vehement in several communities, prompting numerous lawsuits and agency administrative appeals. Local residents object to adverse "aesthetic" impacts, and allege public health risks (e.g., encouraging graffiti or public urination) for surface-mounted equipment.[150]

- ***CEQA and California's Response to 9/11.*** Telecommunication equipment controversies prompted a "one-off" statutory exemption from CEQA for the federally funded communication towers that are designed to allow all emergency response personnel (from multiple agencies) in the Los Angeles area to communicate on the same frequency. The federal funding program to link local first responders was prompted by the World Trade Center attack on September 11, 2001; the substantial federal funds allocated to install the required telecommunication equipment were scheduled to expire (and could not be accessed if litigation was pending and the telecommunication project was not "shovel ready" by the deadline). To avoid losing the federal funds, in 2012 the Legislature exempted this system from CEQA – more than 10 years after 9/11.[151]

- ***High Occupancy Vehicle Lanes and Safety Improvements for State Highways.*** State highway projects were targeted by several CEQA lawsuits; all involved improvements to existing highways such as the installation of High Occupancy Vehicle (HOV) lanes to reduce congestion, promote carpooling and renewable fuel use, and reduce localized air pollution and greenhouse gases.[152] Environmental advocacy groups were more likely to be involved in these lawsuits, which reflect an ongoing policy disagreement about whether to make any improvements to highways at all – or make commuting so painful that people will just stop living in suburbs, or at least start taking transit. Transit utilization is definitely increasing (notwithstanding CEQA lawsuits against transit projects, as discussed above). The Bay Area Rapid Transit system, for example, carried 100,000 more riders in 2014 than it did five years ago, and now lacks adequate capacity to accommodate peak hour demand, recently earning a spot on the *San Francisco Chronicle's* "What's Not Working" list.[153] The extraordinarily high cost of housing in coastal counties also forces many people into less costly inland locations and long commutes; deliberate policies to maintain choking congestion on major freeways disproportionately affects inland areas that tend to have lower educational attainment levels, much lower annual incomes and much greater ethnic diversity than California's coastal enclaves.[154]

- ***Local Streets.*** The same policy debate about whether or when to invest in projects that accommodate automobiles occurs for local street improvement projects, which are more likely to be targeted by NIMBYs that are not affiliated with environmental advocacy organizations. Projects facing objections range from modifying local roads and traffic signals in order to more efficiently manage traffic and reduce congestion (and air pollution and noise from congestion), to repurposing lanes or parking spaces in order to provide more efficient and safe routes for buses and bikes.[155]

- ***Stormwater Management.*** Stormwater and flood management infrastructure – generally related to repair work, upgrades to meet more stringent water quality standards, or climate change adaptation – attracted a handful of CEQA lawsuits.[156] As with highways and streets, the extent to which infrastructure system improvements are needed to appropriately manage stormwater "upstream" (e.g., with measures to capture and reuse stormwater on individual properties) or "downstream" (e.g., with seawall or flood channel stabilization or maintenance) remains an issue of ongoing interest to environmental advocates, who tend to use CEQA in this context to leverage more or different management measures than those mandated by the Legislature or water management agencies.



- ***Solid Waste Management.*** Recycling, composting and transfer facilities in urban locations (many of which manage more than one of these functions), and landfills, were the third-most-likely targets of Public Service and Infrastructure projects (after Transit and Highways). The absence of CEQA lawsuits against hazardous waste treatment, storage and disposal facilities is notable. Many facilities have shut down (causing more waste to be transported for disposal outside California), and permit renewals of existing facilities remain largely mired in bureaucratic and political disputes; until a permit is actually renewed, no CEQA lawsuit can

be filed.[157] One state official reported to the authors that fear of having to complete an EIR on a hazardous waste facility, and the resultant risk of court losses and exposure to liability for payment of attorneys' fees to project opponents, were among the reasons that the Department of Toxic Substances Control (DTSC) had fallen years behind schedule in completing the legally mandated review and permit renewal process for the state's remaining hazardous waste treatment, storage, recycling and disposal facilities.[158]

3. Park Projects

It is tempting to summarize this category of CEQA lawsuits by saying that people who sue park projects don't want to let anyone else use "their" park. Since almost all park funding comes from taxpayer or philanthropic sources, derailing these projects with CEQA lawsuits always puts the continued availability of these fragile funding sources at risk – and can result in near-permanent shackles on the status quo.

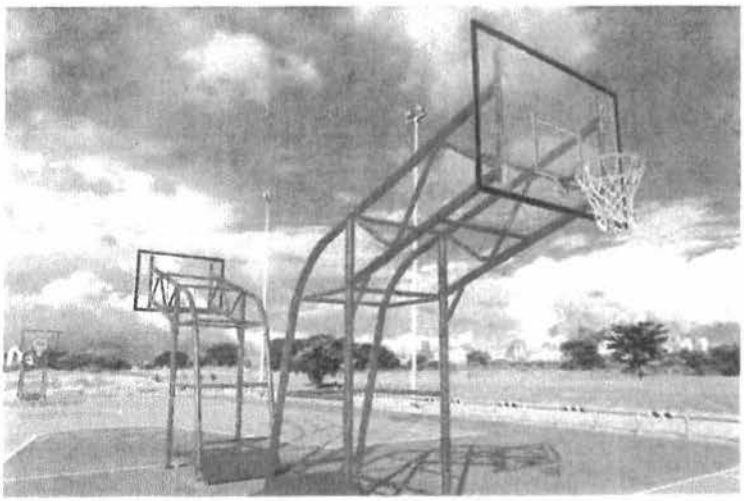
Two stories on park projects help provide context for this category of challenged projects. Although one of the two stories occurred prior to the study period, it established the most important judicial guidance for CEQA implementation for existing parks, thus making it worthy of discussion.

- ***Should CEQA Keep Trails Out of Urban Parks?*** Santa Cruz received funding to construct a trail through an urban park and make it handicap-accessible in compliance with the Americans with Disabilities Act. The California Native Plant Society sued, alleging that because the improved trail would be near a protected plant, the environmentally superior – and thus CEQA-mandated – trail alignment needed to skirt around the edge of the park, rather than through the park. Both parties spent years litigating the dispute. Ultimately, the appellate court determined that since the purpose of the project was to construct a park trail, that purpose would not be served – and CEQA did not in fact mandate – construction of a trail around, as opposed to through, the park. Project funding, and the original cost of trail construction, were left in limbo for years.[159]

- ***How Did Climate Change CEQA Litigation Cost a Coastal Park $50 Million in Philanthropic Funding?*** The Playa Vista redevelopment project, sandwiched between the Los Angeles community of Venice and the clifftop home of Loyola University, holds the dubious distinction of being sued more often than any other California project known to the authors. Almost all the lawsuits involved CEQA claims, two of which occurred during the study period. (As noted above, Playa Vista was sued more than 20 times, over more than 20 years, by a determined handful of financially able neighbors.) Decades ago, a negotiated outcome of one of these lawsuits (the only lawsuit filed by major environmental groups) was an agreement to permanently preserve and restore the coastal portion of this site to a coastal wetlands preserve. The Annenberg Foundation committed $50 million in philanthropic funds to restore the coastal marsh, build a network of trails, and construct a visitor center on this major new coastal addition to the Los Angeles park system. Faced with unceasing threats of CEQA lawsuits, and mired in a regulatory permit lawsuit now pending at the California Supreme Court alleging that it improperly considered climate change impacts,[160] the state's CEQA lead agency was unable to commit to when it would be able to finally complete an EIR for the park restructuring project, which would allow for the Annenberg Foundation to fund the completion of planned park improvements. (The agency was also on notice that it would be immediately sued as part of the ongoing pattern of NIMBY challenges to all discretionary agency approvals for the project.) The Annenberg Foundation finally withdrew its $50 million funding commitment late in 2014, and there is no identified funding source that would allow for the public access and coastal marsh restoration project long envisioned for this urban infill site.[161]

The pantheon of 27 CEQA lawsuits filed against park projects sued during the study period were almost evenly divided between open space restoration, habitat projection and related passive park use projects like trails, and active park use projects such as playgrounds and sports fields, equestrian arenas, golf courses and a shooting range.[162] In this category of challenged projects,[163] there were only two golf courses[164] (and one proposal to end golf course use),[165] and the shooting range involved an existing facility that needed to be cleaned up due to lead poisoning risks – the CEQA lawsuit was filed in an attempt to block or amend the cleanup order.[166]

The active recreation park projects, in particular, highlight the dispute between passive park users (hikers, bird-walkers) and active sport team users (derided as "recreationists" in some communities). The urban park project lawsuits also highlight notable differences in the age, class, and ethnicity of park project users versus park project opponents.



- ***Keep Those Sports Fields Idle Most of the Time.*** As with challenges to school playfield projects, high demand for sports field remains an acute, year-round need in many urban areas. Natural turf consumes water, requires fertilizers and other enhancements, cannot be used during and for some time after rainfalls, and must be periodically idled and replanted. Artificial turf, partly produced from waste tires, allows for much higher utilization rates, requires almost no water, and is easier to maintain. Night lighting also increases utilization. These sports field modifications (artificial turf and night lighting) draw concerns about traffic and parking impacts from increased utilization, and also about the relative hazards of artificial and natural turf field surfaces (although both the Environmental Protection Agency and Consumer Product Safety Commission have issued assurances about the absence of adverse health impacts of artificial turf).[167] Installing artificial turf on the Beach Chalet soccer fields in Golden Gate Fields, estimated to triple the available playing time in a location that has no adjacent residential neighbors, was the first project to utilize artificial turf that was subject to a full EIR (an unusual case since most park projects qualify for some level of streamlined CEQA study). The project was first repeatedly challenged politically, then legally in an unsuccessful CEQA lawsuit, then politically again at the Coastal Commission, and finally with a ballot box battle seen as pitting long-term, trusted environmental activist opponents (including the local Sierra Club chapter) against the families and younger residents of California's most expensive large city. The voters rejected opponents' pleas to block the project, which is now under construction after many years (following a brief post-election "sit-in" by project opponents).[168]

- ***CEQA Protects Children – Not Dogs.*** Mission Dolores Park is shared among several densely populated San Francisco neighborhoods and offers tennis courts, a basketball court, a multi-use (soccer/softball) sports field, a children's playground and an operational building that includes public restrooms. All facilities – but most acutely the restrooms, which had been shuttered for many months, leaving restroom service available only from sub-optimal porta-potties – were in acute need of rehabilitation and repair. City taxpayers responded generously and approved bonds to improve this and other parks, kicking off a multi-year planning process. Mindful of passionate feelings about the park from multiple stakeholders, the city used a portion of the bond funding to pay for a full EIR. The resulting park renovation plan had something for everyone, while largely preserving all core elements of the park. Predictably, a CEQA administrative appeal was filed. Less predictably, even in San Francisco, was the fact that the appeal argued that the park should contain two children's playgrounds rather than one playground and one dog play area because children's playgrounds are a public health issue and help combat childhood obesity.[169]

- ***CEQA Protects Eelgrass – Not Children or Dogs.*** Dolores Park was not CEQA's first encounter with dogs and children. Trail use and dogs in another Bay Area park project – a state park located on a former landfill in San Francisco Bay that spans portions of Berkeley and Albany – prompted a lawsuit by a local environmental activist who asserted that any trail (presumably used by children and dogs) could harm eelgrass visible only during low tides in the Bay's chilly waters.[170] This is only the latest chapter in the multi-lawsuit saga that helped create the East Shore State Park project. Prior to the study period, dedication of a portion of the waterfront area, which also hosts a large horse racetrack facility and related barns, to a new soccer field complex prompted a multi-year conflict between the (primarily youth league) soccer playing "recreationists" and the (primarily youth league circa-1960) passive trail/bird-watching "enviro" advocates.[171]

4. Agency Plans and Regulations

This category of CEQA lawsuits challenged decisions by agencies to approve plans, programs and regulations but did not involve physical modifications to public service facilities or infrastructure, or approvals of private sector projects such as housing or commercial development. Fifteen percent of CEQA petitions challenged these taxpayer-funded agency plans and regulations, and this category comprised the second-largest group of CEQA lawsuits filed against public agencies.

> ***Land Use Plans.*** More than 50% of the challenged regulatory projects involved city or county approvals of land use plans: General Plans, Specific Plans, Community Plans, Area Plans and Airport Land Use Plans, to guide future land use and development activities[172] and, in one case, to guide a regional transportation agency's redirection of funding to transit and higher-density housing to meet the state's ambitious greenhouse gas reduction mandates.[173]

For city and airport land use plans, NIMBYs are the dominant opponents of these plans, although some challenges are brought by environmental advocacy groups and historic preservation advocacy groups. Some communities are nearly frozen by political or legal land use planning disputes, and the cost – in money and political capital (inclusive of CEQA litigation risks) – have proven daunting obstacles to routine preparation of updated land use plans. For example, although state law requires General Plans for most cities to be updated every five years, some cities such as Los Angeles have not comprehensively updated their General Plan in decades and instead update different Plan elements or components over time, with overlapping lawsuits filed against component parts such as "community plan" land use components.[174]

County land use plans are more likely to be challenged in CEQA lawsuits filed by (or joined by) established national and state environmental advocacy groups that want to limit or preclude development outside established communities.

The major regional land use plan challenged during the study period – a lawsuit against the San Diego Association of Governments (SANDAG), which serves as a regional transportation planning agency for the allocation of federal and other funding for transportation infrastructure – is one of two pending CEQA lawsuits at the California Supreme Court regarding the application of CEQA in relation to California's climate change laws such as the Assembly Bill 32 (Pavley)[175] and Senate Bill 375 (Steinberg).[176] SANDAG's regional land use and transportation plan was found by the California Air Resources Board to be in compliance with applicable climate change laws, but the California Attorney General and Sierra Club (among others) sued alleging that CEQA requires more than compliance with statutory greenhouse gas reduction mandates.[177]

Climate change mandates currently play a major role in land use planning. These mandates range from reducing greenhouse gas emissions with renewable energy electric generation, and cleaner cars and fuels, to (of greatest relevance to the land use planning process) redirecting future California growth to higher-density, transit-oriented development patterns (e.g., requirements that communities plan to authorize development of assigned numbers of affordable and market-rate housing units).[178] Senate Bill 375 and other climate-related laws and policies collectively provide a framework mandating that cities and counties fully accommodate predicted population growth levels that are often far higher than has ever been permitted, and requiring higher-density development patterns such as "granny units" (second units in single family homes), more affordable and/or smaller housing types with higher-density (e.g., multi-story apartment and condominium projects), and more transit and fewer accommodations for personal cars (i.e., fewer or separately priced parking spaces, intentionally congested roadways and highways to discourage peak hour automobile use, etc.).

Local stakeholders in many communities oppose the foundational changes that land use plans implementing these climate change mandates will cause, along with the environmental impacts from plan implementation. These impacts – and trade-offs – are required to be disclosed in the EIRs prepared for these land use plans. Several agencies have documented the environmental trade-offs between plans that allow for primarily continuation of California's traditional suburban-scale lower densities, plans that allow for a mix of densities but with a far greater focus on transit corridors and higher-density urban centers, and plans that allow only high density urbanized development and transit.

To date, California's regional planning agencies – and the greenhouse gas reduction targets established by the Legislature – allow for the middle course (the mix, with increased transit and higher densities in urban cores like downtown areas of even smaller towns), acknowledging the panoply of adverse CEQA impacts caused by either of the other two planning extremes. In the California Supreme Court case against SANDAG referenced above, and in a separate case involving a Los Angeles development project that was included in the Southern California Association of Government regional plan that met greenhouse gas reduction goals,[179] environmental advocacy groups have argued that CEQA requires the more extreme plan – transit and high density development – based on climate change imperatives. This fundamental land use policy dispute is being played out in the context of CEQA litigation, while, on a parallel track, the Governor

> Opponents of plans currently have endless "second bites" at the CEQA litigation apple, since both the land use plan, and every project undertaken to implement the approved plan, can be separately litigated by the same party under CEQA.

and legislators are debating whether to adopt new greenhouse gas reduction goals, which would be rendered far less relevant if the Supreme Court decides that CEQA itself requires implementation of "all feasible mitigation measures" to achieve an 80% greenhouse gas reduction goal for the state.[180]

Land use plans have definite consequences to the physical environment as well as to the softer "environment" that people identify as the existing character of their community. In most communities, land use plans are funded entirely from general taxpayer funds. Many commenters have noted that the frequency of plan updates, and the quality of plans and accompanying CEQA documents, is necessarily limited given the many competing uses of these general funds. Opponents of land use plans currently have endless "second bites" at the CEQA litigation approved apple since both the plan, and every project undertaken to implement the approved plan, can be separately litigated by the same party under CEQA. Though outside the study period, three lawsuits filed against the Bay Area's regional greenhouse gas reduction plan provide an excellent snapshot of the deep policy divides regarding the ability of existing communities to retain their "character" and the role of CEQA in mandating greenhouse gas reductions to address global climate change. The first lawsuit was filed by a Marin County group alleging that the EIR and plan were defective in that there are other effective ways of reducing greenhouse gas emissions (e.g., greater reliance on electric cars and renewable energy) that had far fewer environmental impacts to existing communities; the second was filed by an association of developers that alleged that the EIR and plan did not provide an enforceable mechanism to require notoriously anti-growth communities (like Marin) to accept the high housing densities required by the plan; and the third was filed by environmental advocates who alleged that the EIR and plan failed to go far enough in removing or otherwise reducing emissions from vehicles – especially heavy trucks – from highways near poor communities.[181] From the authors' perspective, each of these lawsuits present clear policy arguments – none of which are best resolved by a judiciary parsing through thousands of pages of technical studies in the context of a CEQA lawsuit.

- ***Local Regulations: Plastics, Pot and Potpourri.*** Another frequently challenged regulatory agency action during the study period were local ordinances to ban or limit the use of single-use plastic bags, and local ordinances to regulate medical marijuana dispensaries.[182]

  - » Plastic bag lawsuits were generally attributed to plastic bag manufacturers and trade associations, who also continue to oppose recently adopted legislation imposing statewide plastic bag restrictions. The Supreme Court has affirmed the right, under existing CEQA legislation, of a non-California plastics manufacturer trade association to file CEQA lawsuits.[183] Dozens of other cities have also prepared CEQA studies and have defended CEQA lawsuits (at substantial taxpayer expense) in support of plastic bag ordinances.[184] Plastic bag use advocates have raised various arguments about the relative impacts and benefits of single-use plastic bags, including for example food safety, and the relative impacts and costs of alternatives such as paper bags.

  - » Medical marijuana ordinances have been adopted by some agencies, since local business and occupancy license rules for this previously illegal use did not exist prior to voter approval in 1996 of California's medical marijuana initiative (Proposition 215).[185] Several local agencies that have attempted to adopt ordinances limiting or requiring permits for medical marijuana (similar to those required for adult bookstores or liquor stores) have been targeted by CEQA lawsuits alleging that such an ordinance cannot be adopted without exhaustive environmental studies and a full EIR.[186]

Most other regulatory agency challenges to local agency actions involve other types of ordinances (e.g., regulation of views, billboards, trash and stormwater management, water conservation, etc.).[187] Some are brought by parties objecting to being regulated, others are brought by advocates seeking more stringent regulations, and some are simply "one-off" challenges filed for leverage against the target agency.

- ***Regional Agency Regulatory Challenges.*** Several regional agencies were the target of CEQA lawsuits during the study period,[188] and two of these remain pending after many years of litigation at the California Supreme Court.

  - The San Diego Association of Governments (SANDAG), discussed at length above, is enmeshed in a pending Supreme Court CEQA case regarding the extent to which CEQA imposes a different or more stringent greenhouse gas reduction mandate on regional land use and transportation plans than the greenhouse gas reduction targets established for such plans under SB 375.[189]

  - The Bay Area Air Quality Management District (BAAQMD) established recommended CEQA "thresholds" for determining whether air or greenhouse gas impacts should be considered "significant," and the California Supreme Court is evaluating whether CEQA requires an evaluation of the environment's impact on a project (at issue is a threshold requiring that a project examine and mitigate for pre-existing ambient levels of toxic air contaminants, typically from diesel vehicular exhaust), or whether CEQA applies only to a project's impacts on the environment.[190] (This is a fundamental CEQA issue, since numerous appellate court decisions have concluded that CEQA requires assessing the environment's impact on a project, but several appellate courts have reached opposite conclusions including one of the infamous Playa Vista project lawsuits).[191]

Other CEQA lawsuits targeted regional agency regulatory requirements regarding water quality, such as agricultural runoff.[192]

- ***State Agency Regulatory Challenges.*** State agency regulatory challenges involve challenges either by the target of the regulation, or by environmental advocates seeking a judicial interpretation of CEQA that requires the agency to expand or modify regulations that are otherwise consistent with the statutory mandate.

For example, similar to the pending SANDAG lawsuit, environmental advocates argued that CEQA prohibited, or at least more severely constrained, the California Air Resources Board's ("CARB") proposed cap and trade program for reducing greenhouse gas emissions from the industrial and fuels sectors; CARB lost the first lawsuit, and won the second after completing a more thorough CEQA study of its cap and trade regulations.[193]

Other challenged state regulations involve pesticides, protected species, oil and gas production, mining and maritime resources. It is noteworthy that regulated parties tend to file CEQA lawsuits challenging regulations in Sacramento or Fresno County, and environmental advocates tend to file CEQA lawsuits challenging regulations in Alameda County or San Francisco.[194]

5. Water Projects

Forty-four CEQA lawsuits (7%) challenged water projects during the study period.[195] One involved removing a dam;[196] the remainder all involved disputes about the management, extraction, allocation or transfer of groundwater and surface waters, including surface waters conveyed by the state and federal water systems that link to the Sacramento delta. The intersection between California's byzantine water rights laws and CEQA is, at best, oblique. The California Legislature adopted the most significant new groundwater legislation in California's history in 2014, the Sustainable Groundwater

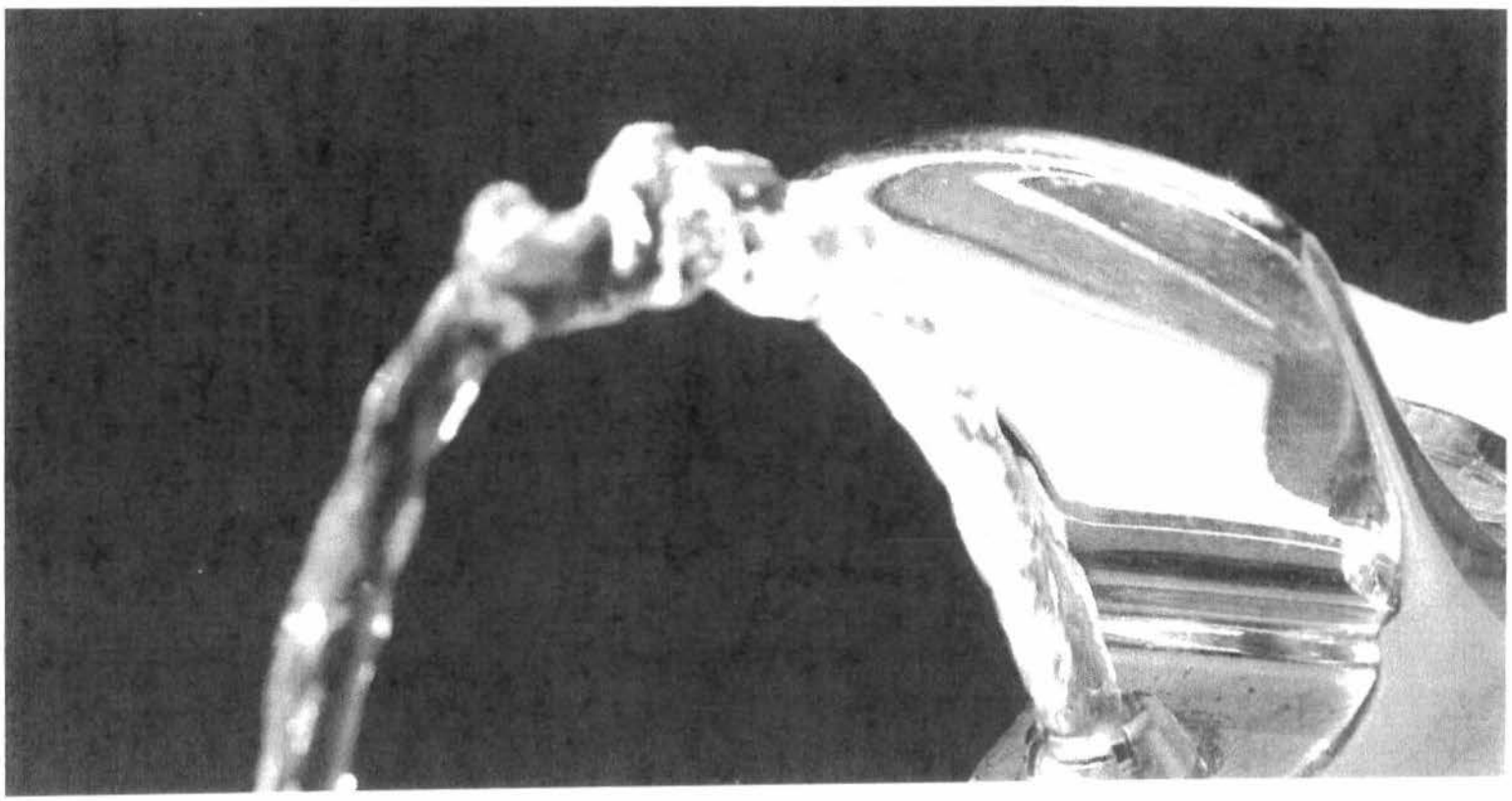
> The current drought emergency has brought renewed attention to water resource management. California's often-bitter water combatants continue to block CEQA reform for any significant water-related infrastructure, including reclaimed water plants, desalination facilities, and new groundwater and surface storage facilities.

Management Act of 2014 (SGMA), which requires, among other features, preparation of groundwater management plans for various groundwater basins.[197] So uncertain is CEQA's application to water rights and management issues, and so cumbersome, costly and unpredictable are CEQA's compliance costs and litigation outcomes, that the Legislature elected to simply exempt the new groundwater management plans from CEQA altogether.[198]

Water lawsuits involve the most frequent use of CEQA litigation by one agency against another agency, and reflect the dire reality – even before the current drought – of California's zero-sum water resource allocation decisions. For every party finding "new" water there is a party who believes it lost a real or perceived right to that water, or were over- or under-compensated – in money or CEQA mitigation – for challenged projects that range from one-time water transfers, to system storage or conveyance modifications, to rights to store and use flood waters from winter storms (often not fully "claimed" under water rights laws), to the use of water for particular purposes. Several of the lawsuits filed during the study period involved the state and federal water projects, both of which draw water from the Delta for transport to the Central Valley and Southern California.[199] More creative, and larger, water projects drew multiple lawsuits. For example, the Cadiz water project, which proposes to transfer groundwater fed by desert mountain stormwater runoff from a remote inland valley to coastal Orange County, drew seven lawsuits, (only four of which were provided to the authors in response to the California Public Records Act request): a labor union group sued, a mining company stripping salts and minerals from shallow valley surface water sued, and two suits were filed by multiple national environmental advocacy groups (the Center for Biological Diversity, Audubon Society, Sierra Club, etc.).[200]

The current drought emergency has brought renewed attention to water resource management. SGMA requires preparation of Sustainable Groundwater Management Plans that include mandatory elements including achievement of sustainable groundwater management practices to avoid potentially catastrophic overdrafting of California's groundwater resources.[201]

It is noteworthy that the Legislature and the broad coalition of key stakeholders – including environmental advocacy organizations – that supported SGMA also quietly concurred that Groundwater Management Plans would be statutorily exempt from CEQA.[202] Similarly, Governor Brown's emergency declarations on the drought have included limited CEQA exemptions imposed under emergency authority.[203] Nevertheless, California's often-bitter water combatants continue to block CEQA streamlining for any significant water-related infrastructure, including reclaimed water plants (which allow for the treatment and reuse of sewage), desalination facilities, and new groundwater and surface storage facilities.



An interesting example of a CEQA water project lawsuit, although not filed during the study period, was removal of sediment buildup in an existing reservoir located in Los Angeles County. Sediment removal would restore the dam's water storage capacity and protect lands downstream from the reservoir from flood risks. To reduce localized impacts, the sediment removal plan was to be implemented over five years – and to avoid impacts to sensitive species and flood-related risks, the sediment removal could only occur between April and October. The local Audubon Society chapters and a neighbor group sued alleging that less sediment removal was really needed, and that the EIR failed to adequately consider traffic, air quality and greenhouse gas impacts.[204]

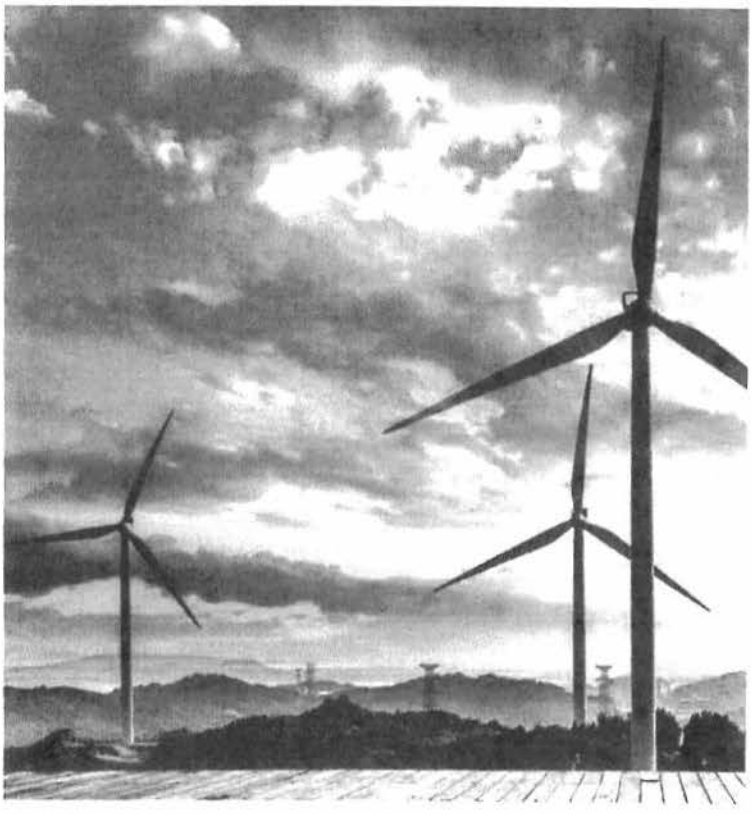
CEQA, which in its heyday was used to challenge nuclear plants, coal-fired plants and plants burning hazardous waste or garbage, is now used most frequently to challenge solar and wind renewable energy projects – precisely the "green" projects that are most critical to meeting California's climate change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

6. Energy Projects

Four percent of the CEQA petitions filed during the study period involved energy projects.[205] The highest number of petitions (46%) challenged solar projects, with wind projects coming in second place.[206] Retrofits of existing natural gas and biomass electric generation plants wanting to install cleaner energy or lower-water consuming technology were targeted in 16% of the petitions.[207] Relicensing one hydropower dam, and allowing more geyser-field steam to power an existing electric generation plant, comprised the two challenged hydro projects.[208] One existing biomass project seeking a clean energy retrofit approval was challenged,[209] along with two new biomass facilities, one facility that proposed to repurpose agricultural wood waste for energy consumption was sued,[210] and another facility proposed to gasify sewage sludge for electric consumption.[211]

Natural gas, once considered the environmental gold standard for power plant production, comprises the only non-renewable fuel in an energy production facility targeted by CEQA lawsuits. 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.

The challenged solar projects were primarily located in the California desert; the highest number of lawsuits were filed in Imperial County, followed by Kern County.[212] Multiple lawsuits were filed against several projects, including lawsuits filed by two union groups competing for job allocation and wage/benefit agreements (Project Labor Agreements).[213] Many of these projects relied on federal or state funding that required workers to receive "prevailing wages" and related benefits, so the competing union lawsuits were just that – use of CEQA lawsuits to leverage PLAs for each union group.[214]



Labor-aligned economists have made a compelling case for the need for jobs during the recession, especially in hard-hit Imperial County, which had the highest unemployment rate of any county in the United States.[215] One major obstacle to creating new jobs in the county is the fact that a pending CEQA lawsuit generally disqualifies renewable energy facilities from receiving federal grants (and then financially equivalent tax credits) of up to 30% of a facility's capital costs from the federal government under financial incentives programs begun in 2009. While harshly critical of the consequences of losing Imperial County employment opportunities to a proposed solar facility in Mexico, the union groups using CEQA lawsuits against solar projects in Imperial County were comfortable in playing a game of "chicken" with solar developers who could not afford to lose federal subsidies. The story of union use of CEQA lawsuits and litigation threats against solar projects was reported in detail in *The New York Times*:

> "When a company called Ausra filed plans for a big solar power plant in California, it was deluged with demands from a union group that it study the effect on creatures like the short-nosed kangaroo rat and the ferruginous hawk. By contrast, when a competitor, BrightSource Energy, filed plans for an even bigger solar plant that would affect the imperiled desert tortoise, the same union group, California Unions for Reliable Energy, raised no complaint. Instead, it urged regulators to approve the project as quickly as possible.
>
> One big difference between the projects? Asura had rejected demands that it use only union workers to build its solar farm, while BrightSource pledged to hire labor-friendly contractors."[216]

The Times went on to quote several stakeholders in this then-unfolding 2009 story about CEQA lawsuits against subsidized renewable energy projects:

- A representative for the state's contractors asserts that "[t]he environmental challenges are the unions' major tactic to maintain their share of industrial construction – we call it greenmail," and estimates that it raises project costs by approximately 20%.

- A Sierra Club representative who is politically aligned with labor (a "blue-green alliance"): "It's not a warm fuzzy thing they are doing; it's a very self-interested thing they are doing. But it has a large ancillary public benefit."

- A solar developer reports, "Let's just say that it is clear to us from experience that if we do not enter into a project labor agreement, the costs and schedule of the project is interminable."

- An attorney representing the union noted, "We've been tarred and feathered more than once on this issue. We don't walk away from environmental issues."[217] In fact, there are numerous instances of unions "walking away" once a Project Labor Agreement is executed, particularly prior to final administrative agency project approval as was the case with the Los Angeles subway car manufacturing facility dispute.

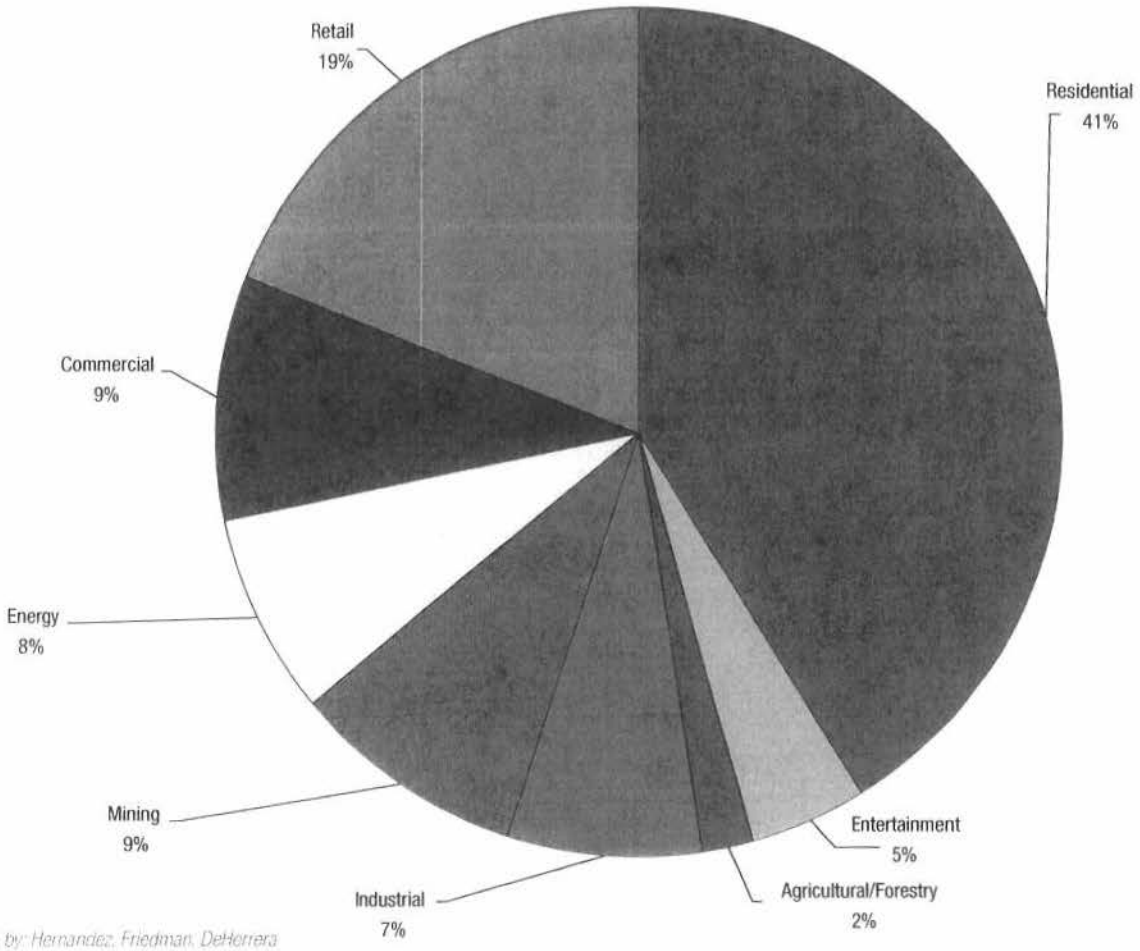
Union use of CEQA litigation threats and CEQA lawsuits continues to focus on projects that are mandated – or at least fully aligned – with California's climate change mandates, including green manufacturing and infill residential development, as described in the next section of this report.

B. Private Sector and Commercial Projects

As shown in Figure 10, approximately 41% of challenged private sector and commercial projects involve housing. In fact, housing projects drew the highest number of CEQA lawsuits during the study period.

A *New York Times* article on union use of CEQA lawsuits against solar projects compared two proposals, both with potential environmental issues. California Unions for Reliable Energy objected to one project where using union-only labor was rejected - but it supported another where the hiring of labor-friendly contractors was promised.

Figure 10: CEQA Petitions Targeting Private Sector Projects



Produced by: Hernandez, Friedman, DeHerrera

Retail projects were the second most likely privately-funded projects to be challenged (19%); just over 50% of these challenged retail projects involve Walmart or a similar "big box" store, and the challenges were generally attributed to unions representing retail clerks working for Walmart's competitors, with reported involvement in some instances by Walmart competitors and/or NIMBYs.[218]

Commercial projects, such as offices and hotels but excluding warehouses, were the next-mostly-likely project to be challenged, at just under 10%. These were generally attributed to NIMBY opposition, although unions were reportedly involved in a convention center and some hotel challenges.[219]

The study period also included 28 lawsuits against mining and oil and gas extraction projects. Mining projects, most of which involved aggregate mines for gravel extraction and processing, comprise about three quarters of these petitions, with the remainder challenging oil and gas extraction projects. Challenged projects typically involved activities on existing sites, and included both increased extraction activity and environmental reclamation and restoration.[220]

Industrial projects, more than half of which were warehouses linked to the Southern California logistics and goods movement sector that includes the Ports of Los Angeles and Long Beach, comprise 7% of CEQA lawsuits filed against privately funded projects during the study period. All remaining industrial projects were in economic sectors with pricing structures that place a premium on proximity to customers (e.g., asphalt mixing,[221] bakery[222]), and essentially serve proximate populations within California.[223] None of these "industrial" targets of CEQA lawsuits could easily be located outside of California. Industrial projects that have locational flexibility, including both new and existing manufacturing facilities, were not targeted by CEQA lawsuits because it appears that virtually no major

> Industrial projects that have locational flexibility, including both new and existing manufacturing facilities, were not targeted by CEQA lawsuits because virtually no major new manufacturing facilities were proposed during this period. This cannot be attributed to the recession or outsourcing manufacturing jobs overseas: the United States has actually experienced a resurgence of manufacturing jobs.

new manufacturing facilities were proposed during this period. This cannot be attributed to the recession or outsourcing manufacturing jobs overseas: the United States has actually experienced a resurgence of manufacturing jobs. As noted in the authors' *Social Equity* report:

> California job growth particularly lags far below the national average in manufacturing, and the state's regulatory system is consistently rated as the worst in the country for business development. In 2010-2014, the state added only 4,400 manufacturing jobs, compared with 672,000 new jobs in the rest of the country. Manufacturing jobs provide some of the highest income opportunities for less educated workers than other working and middle class employment options. In January 2015, for example, the *Los Angeles Times* reported that the state's relatively poor manufacturing employment growth since 2010 (1% versus 6.7% for the U.S., and 15% in many states, such as Indiana and South Carolina) hurts California's middle-class workforce because manufacturing is "the classic path to higher paying jobs for less-educated workers." The state's diminishing ability to sustain quality middle class employment options is consistent with the increases in poverty, inequality and relatively slow growth of high school and community college educated residents California has experienced since 1970.[224]

An assortment of entertainment projects – an amusement park, a tribal casino, an annual fireworks display and other routine community events at public parks, and two dance/music facilities – comprised 5% of private sector project CEQA petitions.[225] These lawsuits were reportedly all linked to either NIMBYs or "greenmail" lawyers.

Two percent of the private sector CEQA petitions involved agricultural projects: primarily wineries (including those with tasting rooms or other visitor-serving facilities); and these lawsuits were filed by NIMBYs.[226] There was also one timber management project (a freight train linkage to more efficiently transport authorized harvested timber, replacing some trucks and resulting in a net decrease in air pollutants and greenhouse gas), filed by an environmental advocacy group opposed to timber harvesting.[227]

Some commercial and entertainment projects are owned and managed by public agencies as part of economic development or related efforts, such as convention centers, fairgrounds and major sports facilities. Because these types of projects are also sponsored by the private sector, they are included in the compilation of private sector projects. As a result, the study slightly understates (by less than 5%) the number of agency projects targeted by CEQA lawsuits.

Finally, energy projects are also categorized as private sector projects, although given the combination of substantial federal and state subsidies, and regulated ratepayer payment structures, these projects were also referenced in the narrative discussion of public sector projects in the preceding section of this report.

1. CEQA and Middle Class Jobs in Signature California Industries: Green Technology and Entertainment

A persistently under-reported result of CEQA's chronic litigation abuse is job loss, particularly in the middle class job sector. Job loss from NIMBY use of CEQA lawsuits (and CEQA lawsuits more generally) – which affects prevailing wage jobs, and both construction and non-construction unions – has been documented by various studies. One such analysis was prepared by the noted Southern California economist John Husing. It evaluated seven projects targeted by CEQA lawsuits and concluded that from just these projects, 3,245 prevailing wage jobs, paying workers an average annual wage of $100,502, were delayed or eliminated on an annual basis. The total affected annual lost wages and benefits of $326.1 million.

Unaffordable housing and wealthy stockholders are a green technology hallmark of California's economic recovery, but two of California's most successful companies passed on the opportunity to create jobs for middle-class workers by choosing to open their new manufacturing plants in Nevada[228] (Tesla) and New York (SolarCity).[229] These companies did not "race to the bottom" at the expense of American workers; they "raced to the market" by siting facilities that they knew could be opened – on time – in America.

Jobs Are A Public Health Priority Ignored by CEQA

Risa Lavizzo-Mourey, MD, MBA, and president and CEO of the Robert Wood Johnson Foundation, joined Mark Pinsky, president and CEO of Opportunity Finance Network, to urge recognition of the relationship between public health and employment:

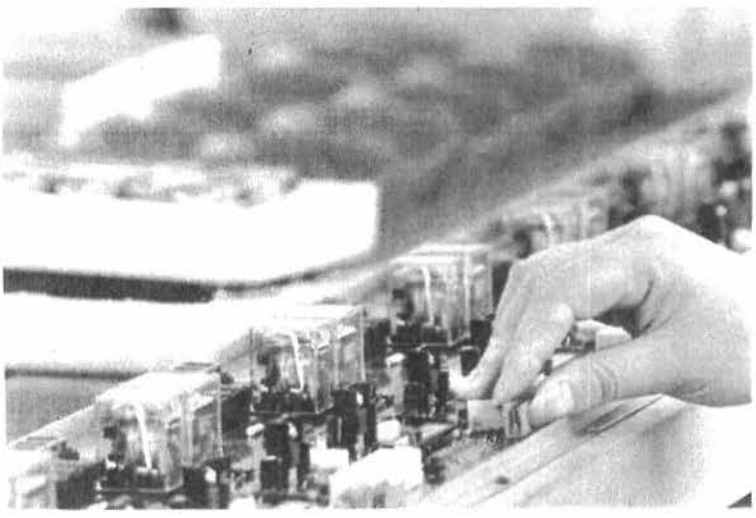
> "Economic growth and job creation provide more than income and the ability to afford health insurance and medical care. They also enable us to live in safer homes and neighborhoods, buy healthier foods, have more leisure time for physical activity, and experience less health-harming stress."
>
> "We need to recognize that income security and economic opportunities lead to a healthier, more productive workforce and reduced healthcare costs, which in turn, leads to a stronger economy."
>
> "The end goal? Create and sustain job growth across the country. Improve communities. Improve health. Give people the opportunities to make smart, healthy decisions so that they can act in the best interests of their communities, themselves, and future generations."

As noted by the editorial board of the *San Diego Union Tribune*, there is a "manufacturing renaissance in the United States – a phenomenon that stops at the California border."

California job growth lags far below the national average in manufacturing. The *Los Angeles Times* reported that this hurts California's middle-class workforce, because manufacturing is "the classic path to higher paying jobs for less-educated workers.

As noted by the editorial board of the *San Diego Union Tribune*, there is a "manufacturing renaissance in the United States – a phenomenon that stops at the California border."

> "Manufacturing jobs are a classic stepping stone into the middle class, paying much better than service or retail work. Such jobs in the aerospace and automobile industries were a central pillar of the state's economy from World War II to the end of the cold war. Then California and the rest of the United States began to hemorrhage millions of manufacturing jobs to lower-cost nations, especially China. In the last half-dozen years, however, as wages soared in China and as exploding U.S. natural gas and energy production drove energy costs down, we've seen a 'reshoring' phenomenon in which dozens of manufacturers have returned to America – sometimes to the states in which they were originally based. Except the Golden State. Returning manufacturers take "a fresh look at the whole country. Unless you're forced to be in California for some reason, increasingly it's hard to find reasons that you have to be here." Manufacturing jobs in California have edged up 1% over the past five years versus about 7% nationally. Unfortunately for the millions of state residents without white-collar job skills, these sorts of statistics don't seem to bother California's dominant Democrats. Environmentalists are more likely to see factory jobs as grubby and unsavory than as welcome. There's also the view offered by Governor Jerry Brown and others that amounts to a shrug – there's nothing anyone can do about the fact that lots of people want to live here, so of course California will be an expensive place to live. That's only partly true. The streamlining and fine-tuning of the California Environmental Quality Act recommended by the past three governors would make building factories much cheaper."[230]



CEQA litigation risks make it impossible for companies with locational flexibility – such as manufacturers – to predict when they can open state-of-the-art manufacturing facilities for green technology, even if they comply with all of California's stringent environmental and labor laws, and earn community support and aging appeals.

California is a Global "Market-Maker" for Electric Vehicles – But Loses the Tesla Battery Manufacturing Plant to Nevada and SolarCity Solar Panel Manufacturing Plant to New York. California was unsuccessful in its effort to persuade Tesla to locate its next major manufacturing facility – building batteries for cars and buildings – in California. SolarCity and Tesla were both offered significant financial incentives by their host states, but California officials were unwilling to commit even the state's newest lucrative revenue sources – cap and trade revenues from the sale of GHG emission allowances – to these major middle-class job creation projects.[231]

The cost to Californians seeking jobs: thousands of long-term middle-class jobs and related economic benefits that would have been created for Californians by the new Tesla and Solar City manufacturing plants.

Manufacturing jobs lost to higher-emitting GHG states is indeed an effective approach to reducing GHG produced in California – but the loss of middle-class manufacturing jobs based on CEQA litigation uncertainty also increases global GHG emissions and deprives Californians (and California taxpayers) of the jobs and revenues sparked by the state's climate policy leadership.[232]

As another example of California's signature "new economy" companies, Google, recently explained that its major fiber facilities would not be built in California "in part because of the regulatory complexity here brought on by CEQA and other rules. Other states have equivalent processes in place to protect the environment without causing such harm to business processes and therefore create incentives for new services to be deployed there instead."[233]

Tesla and SolarCity, along with Google, are building companies and divisions based on the renewable energy and electric car mandates adopted in California. None of these companies have complained about California's stringent air and water pollution regulations, or species protection, water conservation, open space preservation, and workplace safety laws and regulations. CEQA – and specifically the schedule delays and uncertain outcome of often non-environmental use of CEQA litigation – is a unique challenge that can, with no cost to taxpayers, be fixed with the moderate legislative reforms discussed below.

California Has Shrinking Share of Private Sector, Non-Construction Jobs Relative to Other Democratic Party Strongholds

Union use of CEQA litigation as a labor bargaining tool for non-construction private sector employers is subject to different federal labor laws than those that apply to building trades; generally, organized labor cannot use CEQA litigation to secure workplace jobs or negotiate wages or working conditions with manufacturing, office, hospital or other private sector employers. Union use of CEQA outside the building trade sector is nevertheless widely reported in CEQA disputes, especially involving challenges to retail projects (e.g., Walmart), hotels, hospitals and major public venues (e.g., sports stadiums and convention centers). Project Labor Agreements (PLAs) secured by construction trades can also include non-construction job provisions.

Notwithstanding union use of CEQA lawsuits against employers, California's private sector union participation rates remain much lower than other traditionally union-supportive, Democratic Party strongholds such as New York, Hawaii and Michigan, and have even fallen well behind red states such as Alaska, Nevada and Kentucky. For example, California's percentage of union jobs in the manufacturing sector, 7.2%, ranks 20th – behind Alaska, Delaware, Hawaii, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Washington, West Virginia and Wisconsin.

Since none of the states with greater manufacturing sector union participation than California allow anonymous or union use of environmental lawsuits for non-environmental purposes, traditional political organizing, rather than CEQA litigation, appears to account for the greater success of unions in other blue (and even red) states.

— Sources: Barry T. Hirsch and David Macphearson, Current Popuation Survey (CPS Outcoming Rotation Group (ORG) Earnings File (2015)), *available at* http://unionstats.gsu.edu/State%20U_1983.xls and http://unionstats.gsu.edu/State_U_2012.xlsx (accessed April 30, 2014); John Husing, CEQA Working Group, "Misuse of CEQA and Prevailing Wage Workers" (September 12, 2013), *available at* http://ceqaworkinggroup.com/wp-content/uploads/2013/09/Final-Husing-Report.pdf (accessed May 28, 2015).

> Another of California's signature "new economy" companies, Google, recently explained that its major fiber facilities would not be built in California "in part because of the regulatory complexity here brought on by CEQA and other rules."

Longstanding California companies have also relocated their headquarters and other facilities outside the state, again resulting in significant middle-class job losses (especially in Los Angeles) that are unlikely to be recaptured given the locational flexibility and shareholder duties of corporations. Some of the companies that shuttered headquarters and major facilities in California under the current Administration include Nestle,[234] Toyota (3000 jobs in Torrance),[235] and Occidental Petroleum.[236] Media reports regarding employers departing to other states indicate that Texas, Arizona, Nevada, Utah and Florida are top destinations; all of these states have significantly higher per capita GHG emissions than California.[237]

Even the environmental "mitigation" programs of the "clean and green" technology sector have been targeted with CEQA lawsuits. Silicon Valley's employment growth has been nothing short of extraordinary, but the Bay Area's housing supply continues to lag far behind demand. Large employers have responded (sometimes voluntarily, and sometimes as a "mitigation measure" imposed under CEQA as part of the project approval process), with programs to reduce employee automobile commutes.

The most visible and costly of these programs are bus fleets that fan out across the Bay Area to transport employees to and from work. (Burbank's movie studios have collaborated on similar bus fleets, as have other large employers, such as some campuses of the University of California.) A coalition of groups alarmed by the influx of technology workers to San Francisco neighborhoods, filed a CEQA lawsuit against the city's regulation of bus stops for this fleet of transit mitigation buses.[238] (A union group seeking to force the employers to use bus contractors with union drivers also joined in the CEQA lawsuit.) The lawsuit alleges "gentrification" as a new environmental impact requiring analysis and mitigation under CEQA (including the argument that lower-paid workers forced out by high housing costs have to commute longer), along with allegations that the bus fleet itself causes unacceptable traffic congestion, noise and air pollution on city streets.[239] A fully occupied bus replaces 120 cars, reduces the need for tech employees to own cars (thereby reducing the need for parking), and has lower collision risks than the fleet of displaced cars. The bus fleet for multiple employers now exceeds 500, resulting in 50,000 fewer round-trip automobile commute trips daily. One major employer agreed to require union drivers, but the CEQA lawsuit remains pending.[240]

Clean and green technology companies are not the only major employment centers targeted by CEQA. Another signature California industry, entertainment, is likewise targeted by a range of CEQA lawsuits.[241]

The wildly successful Harry Potter books and movies hit the market more than 10 years ago, with the last movie in the series released in 2009. Universal Studios acquired the right to develop a Harry Potter theme park ride and related attractions at both its Orlando and Los Angeles amusement parks. The Orlando Harry Potter theme park opened in 2010, and instantly became a top-ranked tourist attraction that helped sustain visitation during the recession. The Los Angeles Harry Potter theme park had a very different adventure: as an integral component of the Universal Studio "Evolution Plan" for the 397-acre studio and amusement park campus, the project first went through nearly a decade of administrative processing, including CEQA studies, and an extensive community outreach process that eventually enlisted 7,500 active supporters.[242] The project was designed to include the Harry Potter ride and other amusement park upgrades, renovated movie and television production facilities and offices for NBCUniversal studios, and 3,000 higher-density, transit-oriented residential units in an urbanized area of Los Angeles County.[243] Bowing to intense neighborhood opposition to higher-density housing, the project's residential component was ultimately dropped (notwithstanding acute housing needs and an affordability crisis in Los Angeles and other parts of Coastal California),[244] and the project was finally approved in 2013.[245] The CEQA lawsuit challenge was filed in 2014, when neighbors who had successfully demanded that park-related traffic be routed away from their neighborhood onto a new freeway interchange sued to stop the closure of the substandard former interchange as part of the freeway improvements.[246] California still does not have a Harry Potter ride – while Florida has reaped five years of Harry Potter jobs and tourism dollars. The Los Angeles Universal Studio project was projected to create 30,000 permanent jobs.[247]

> Clean and green technology companies are not the only major employment centers targeted by CEQA. Another signature California industry, entertainment, is likewise targeted by a range of CEQA lawsuits.

Farther north, in the land of Star Wars, after nearly 10 years George Lucas had finally won approval in 1996 for a long-range Master Plan for the Grady campus in Marin County that hosts LucasFilms, Industrial Light and Magic, and other game design and related Lucas enterprises. After many more years of post-approval processing, in 2012, Lucas was on the verge of receiving final approvals to actually construct just a fraction of the development previously approved in 1996 (by which time he had also agreed to scale back the approved project and instead preserve more open space and restore a creek). Neighbors in notoriously anti-growth Marin County were having none of it, even neighbors who had moved in after the 1996 "vested" approval for the campus Master Plan. Lucas was likewise fed up, and on the eve of project approval – facing the certainty of neighbor CEQA lawsuits, and the uncertainty of the timing and outcome that comes with CEQA lawsuits – he withdrew his application after having spent millions of dollars and many years attempting to complete the two full cycles of CEQA processing required by Marin County.[248] Lucas is one of the county's very few large employers (and corporate taxpayers), but a handful of neighbors could invest a few thousand dollars in a CEQA lawsuit guaranteed to buy years of litigation uncertainty. The final score: neighbors win, Marin (and California) loses 800 construction and permanent jobs, hundreds of millions in tax revenues and other indirect economic benefits, and more than $50 million of environmental restoration work planned for the 78% of the campus proposed for permanent open space preservation.[249] A new skirmish in this neighbor dispute was initiated in early 2015, when Lucas announced he would seek approval to build quality affordable housing in Marin (an extremely high-cost, low-supply housing market) – without seeking scarce federal and state affordable housing funding.[250] His wealthy neighbors immediately voiced their vehement opposition to this new project as well, and the affordable housing proposal has also been abandoned.

2. CEQA and Small Business

The U.S. Small Business Administration reports that small businesses have created about 75% of the net new jobs created in the economy.[251] CEQA litigation abusers, particularly NIMBYs and competitors, have found small business to be an easy target.

One well-reported story involves Moe's Gas Station, a small independent station operating next to a freeway interchange in the heart of Silicon Valley. Moe's decided to add a new pump island (three new gas dispensers), and Moe's neighbor – a competing small gas station – used aggressive CEQA tactics to try to derail Moe's.[252] The competitor first unsuccessfully tried to block the project as part of the city's administrative review and approval process, which included a CEQA study and approval of a "Negative Declaration" confirming that the project would cause no significant adverse impacts. The majority of Negative Declarations fail in reported appellate court cases examined over a 15-year study period,[253] and sure enough, Moe's competitor won its CEQA lawsuit challenge to

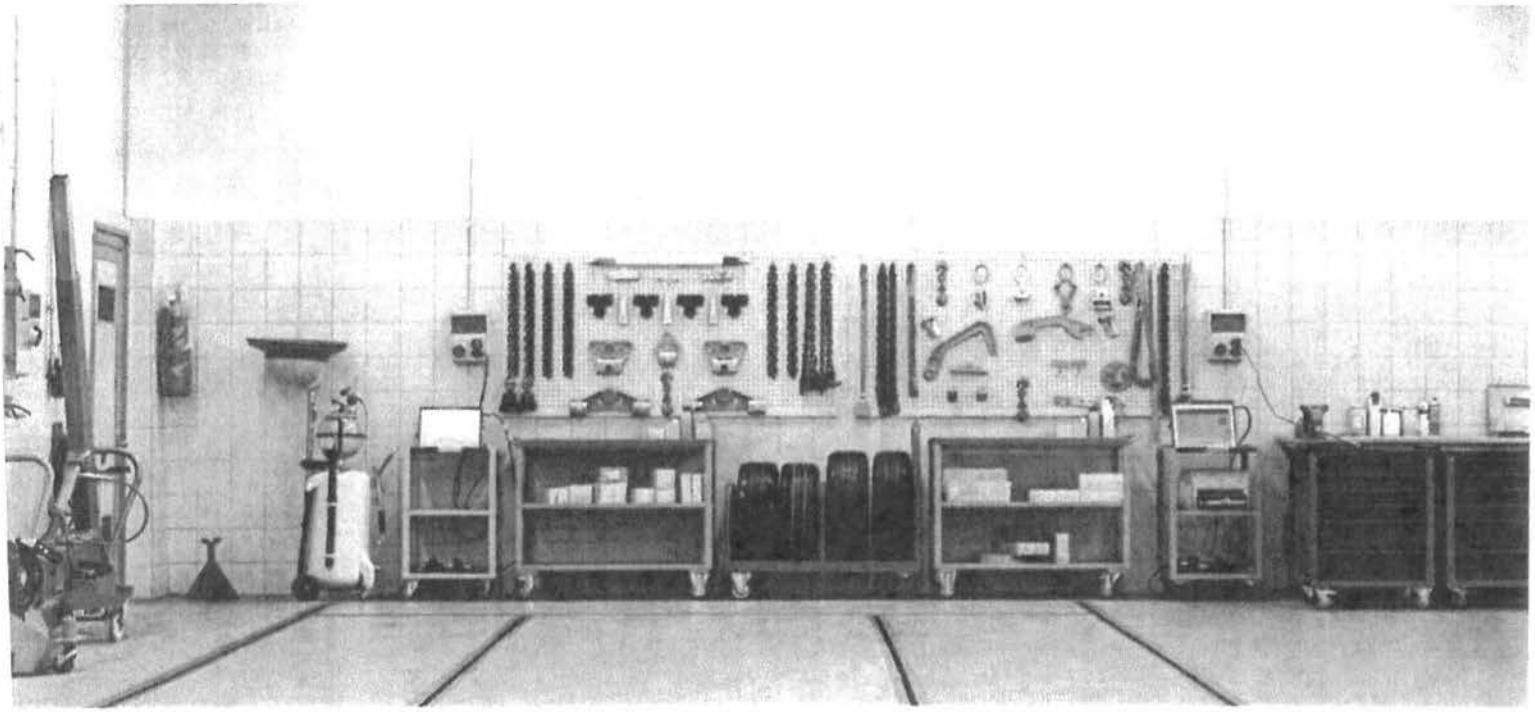
> One well-reported story involves Moe's Gas Station, a small independent station operating next to a freeway interchange in the heart of Silicon Valley.

the Negative Declaration – and Moe's approval was rescinded. Moe was next required to prepare an Environmental Impact Report, at a reported cost well in excess of $100,000, and repeat the CEQA administrative process for longer than a year. Moe's competitor filed various objections to increase the cost of the studies and delay completion of the process, but ultimately Moe got his approval – and his competitor promptly responded with another CEQA lawsuit. Moe won the second lawsuit, and got to build the small new pump island. Total costs for this gas station expansion: more than $500,000 for Moe and the city.[254]

In the San Diego County community of Poway, an automotive repair shop decided the neighborhood could not support a new competitor – and filed a CEQA lawsuit challenging the business license (for use of an existing facility) of a new automobile repair shop. Like other Negative Declaration challenges, Poway lost – but the judge (who in that case was fully aware of the competitor's identity and interests) elected to simply order more environmental study rather than shutting down the targeted business. Nearly $200,000 later, the new, minority-owned auto repair shop survived the CEQA gauntlet – notwithstanding an 18-month ordeal, and a disabling increase in its debt burden and other unanticipated business costs.[255]

Similarly competitor-based lawsuits range from freeway interchange "travel plazas" to large regional malls.[256]

In Berkeley, where CEQA was the tool of choice used against a proposed Starbucks occupancy by a Peet's-loving group of neighbors, CEQA remains a favorite for neighbors opposed to new occupants of existing storefronts. The proposed occupancy of vacant storefront proposed by the owners of a very successful downtown Mexican restaurant ran headlong into the wealthy, white reality of the city's tony "Elmwood" district – who also used CEQA to oppose restaurant occupancy of the same space in 2007.[257] This study shows that 17% of lawsuits filed against retail projects involve challenges to the occupancy of existing structures.[258]

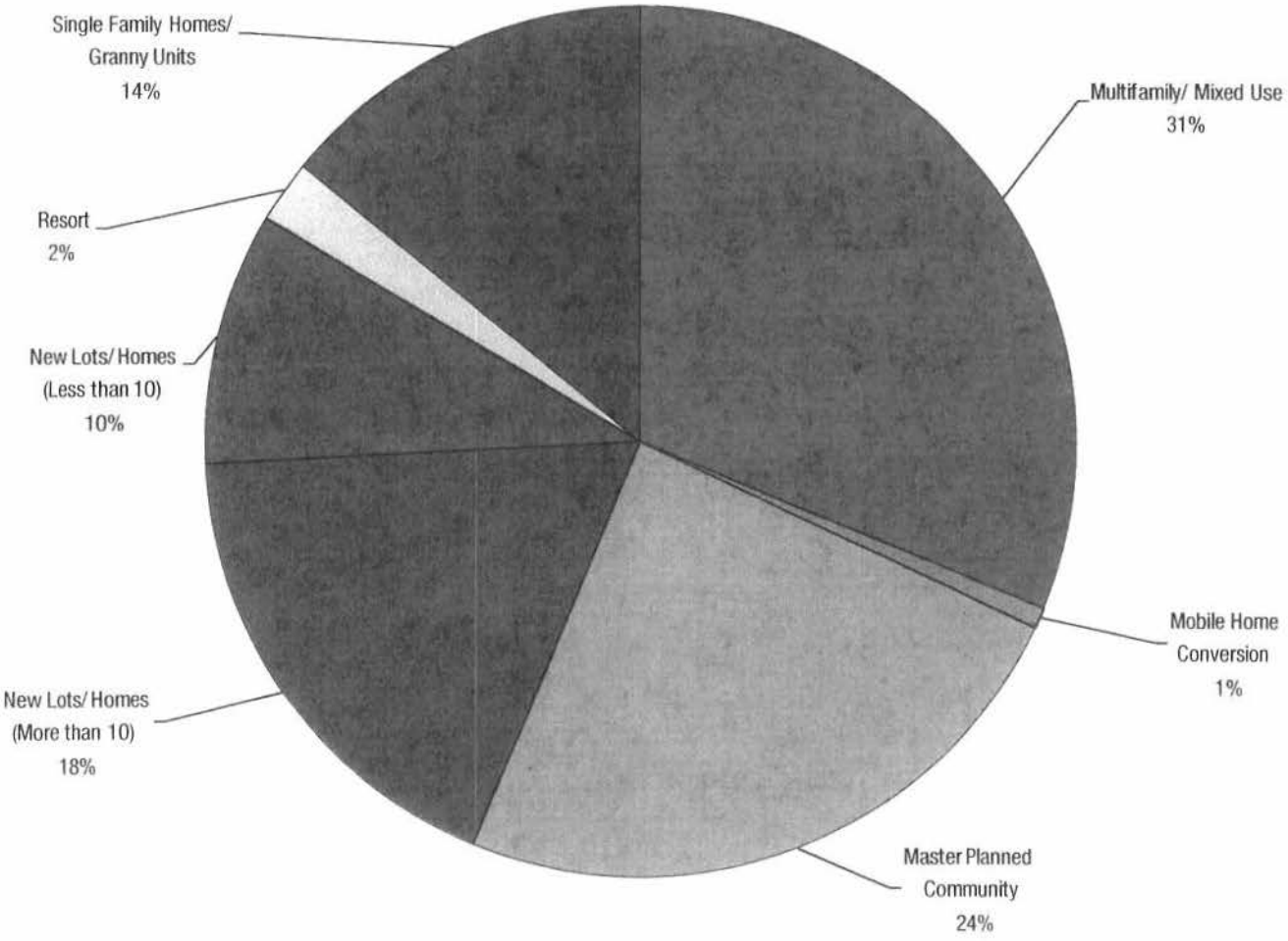


A range of other small commercial businesses – restaurants, neighborhood retailers, the Planned Parenthood clinic in South San Francisco, clinics – were targeted by CEQA lawsuits, even if the project involved only occupancy of existing buildings.[259] The environmental consequences of actually occupying a vacant structure – familiar infill "impacts" like traffic (and traffic-related impacts like air quality, noise, parking and greenhouse gas) – are the focal points of these NIMBY-inspired lawsuits.

3. CEQA and Housing

Housing is the single largest target of CEQA lawsuits. As shown in Figure 1, 21% of lawsuits challenged residential projects. Figure 11 takes a closer look at the various types of housing projects being challenged, and confirms that CEQA lawsuits most often target higher-density housing in urban locations – precisely the type of housing that *must be built* to comply with current California environmental climate change priorities such as AB 32 and SB 375.

Figure 11: CEQA Petitions Challenging Residential (and Mixed Uses Including Residential) Projects

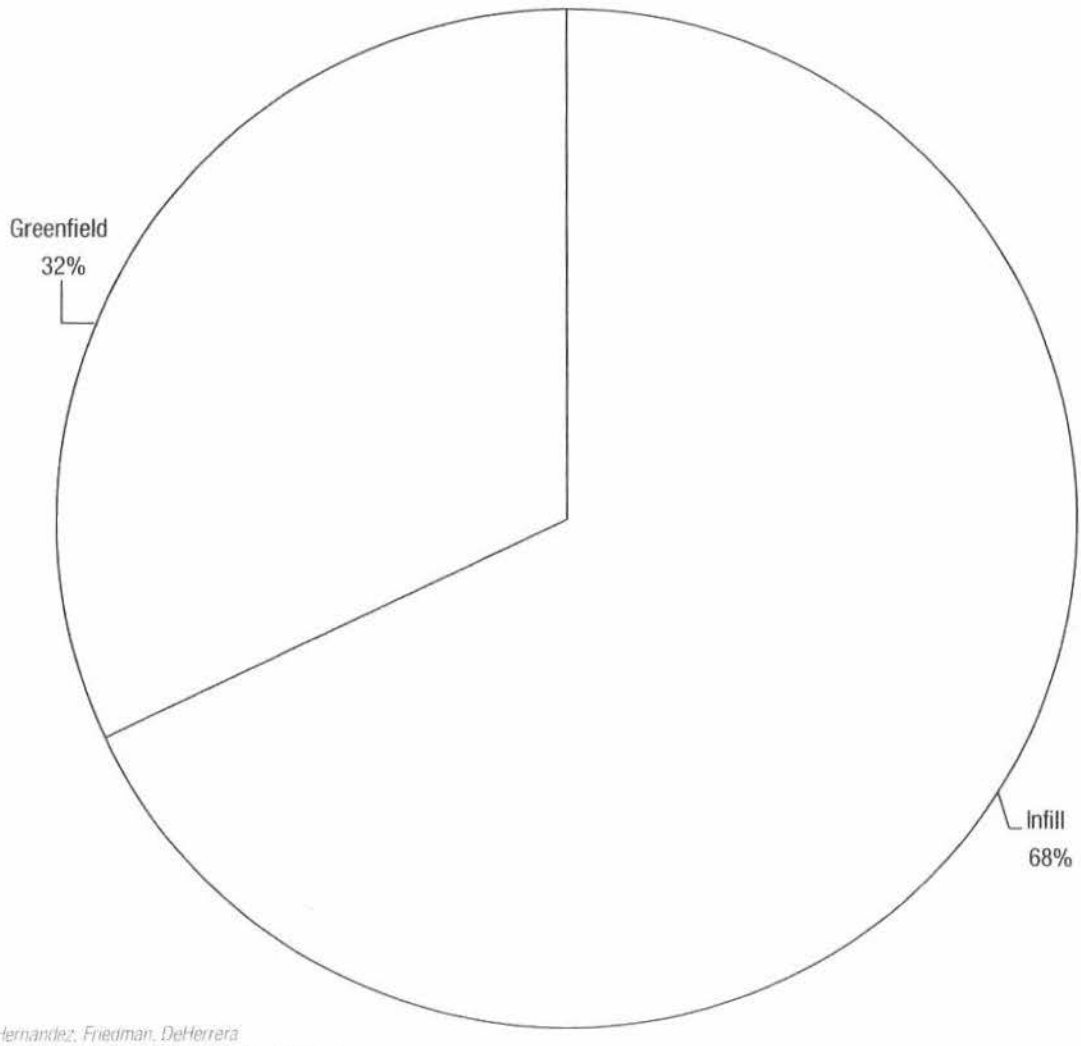


Produced by: Hernandez, Friedman, DeHerrera

As shown in Figure 12, more than two-thirds of lawsuits challenging residential projects targeted projects in "infill" locations. The infill housing projects targeted by CEQA lawsuits also collectively comprise the vast majority of challenged affordable housing, support service housing, and senior housing projects. The largest challenged infill housing projects are master planned communities on former military bases; the housing types challenged most often are higher-density apartment and condominium apartments.[260]

The infill housing projects targeted by CEQA lawsuits also collectively comprise the vast majority of challenged affordable housing, support service housing, and senior housing projects.

Figure 12: More Than Two-Thirds of CEQA Residential Project Lawsuits Targeted Infill Development



Produced by: Hernandez, Friedman, DeHerrera

The most frequently challenged housing type is "multifamily" projects, typically multi-story apartments and condominiums.[261] Some of these projects are also "mixed use" and have, for example, retail stores or office space on lower floors, and residential units on upper floors.[262] Every multifamily project within the survey sample was also an infill project.[263] Climate change policy experts and land use planners love these multifamily, mixed use and attached housing product types because they create the higher population densities needed to support transit service, and create the promise of a "walkable" community where people do not need to get into their car to buy groceries, visit a restaurant or go to work. To further discourage automobile ownership and use, these projects also tend to have fewer and more costly parking places.

Some people who live near areas where higher densities are proposed, however, hate these projects. CEQA lawsuits target these projects in both established high density urbanized areas such as San Francisco and Los Angeles, as well as elsewhere in California where higher-than-existing but still very modest densities are proposed (e.g., a three-story senior housing project in a single-family home area in Sacramento was challenged as "massive" by a NIMBY lawsuit).[264]

Typically these types of higher-density, urban housing projects go through four or five separate, and largely duplicative, rounds of full EIRs in administrative proceedings that can take more than 10 years. The ongoing efforts by the City of Los Angeles to create a higher-density, transit-oriented corridor in Hollywood provides a case study in how CEQA processing delays, duplicative rounds of CEQA studies, and multiple CEQA lawsuits, have empowered a passionate group of neighbors fundamentally opposed to this new urbanized vision for the community – and all at taxpayer expense.

The ongoing efforts by the City of Los Angeles to create a higher-density, transit-oriented corridor in Hollywood provides a case study in how CEQA processing delays, duplicative rounds of CEQA studies and multiple CEQA lawsuits, have empowered a passionate group of neighbors fundamentally opposed to this new urbanized vision for the community – at taxpayer expense.

4. Transit-Oriented Development: Hollywood and Beyond

- ***Welcome to Hollywood.*** Los Angeles is the second-largest city in the nation (after New York). Within the city, the Hollywood and East Hollywood neighborhoods are ranked as "high" density, with over 20,000 and 30,000 people (respectively) per square mile.[265] The adjacent, 1.8-acre independent city of West Hollywood has a slightly lower density, with more than 34,000 additional residents – but nevertheless made it to the 16th-densest city in the United States based on 2010 census data.[266] In short, this area of Los Angeles is already among the most densely populated areas of the United States – more dense than 20th-ranked San Francisco.

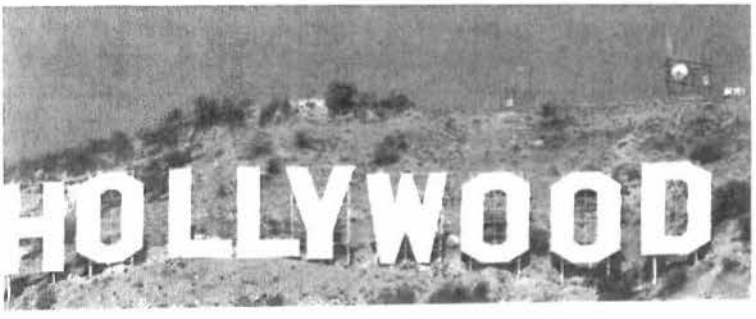
- ***EIR Rounds One and Two.*** Los Angeles is well on its way to completing a regional transit system that includes the "Red Line" subway service through Hollywood.[267] Planning and construction of the Red Line, which was informed by EIRs and several lawsuits, took over two decades. Approved EIRs included projections about population increases and higher-density development along the new transit corridor.[268] The primary EIR for the Red Line was completed in 1983, and then subject to a voluminous new supplemental EIR process completed in 1989.

- ***EIR Rounds Three and Four – with Five on its Way.*** With the Red Line approval process nearing a hoped-for end, the city completed a Community Plan to guide future development – and increased density around the new subway – in 1988.[269] Nevertheless, the city then spent another 21 years, ending in 2012, updating its land use plan for the Hollywood community to substantially increase density in this existing urban area.[270] The plan was approved by a unanimous vote of the City Council. Neighborhood opponents called it "Skyscraper Hell" and vowed to sue.[271] They did – three CEQA lawsuits were filed against the plan. (As noted above, land use plans are the most frequent regulatory action targeted by CEQA lawsuits.)

After almost two years in litigation, the trial court – the first of three layers of state judicial review allowed in CEQA lawsuits – ruled that the City's EIR was deficient. Resolving two of the lawsuits, the judge first observed that the:

> "Hollywood Community Plan Update (and its corollary environmental impact report [EIR]), which is a principal subject of this litigation, is a comprehensive, visionary and voluminous planning document which thoughtfully analyzes the potential for the geographic area commonly referred to as Hollywood."

But he also concluded that the EIR was "fundamentally flawed" because it used an expert agency population estimate that was higher than the 2010 census data, which first became available only after the Draft EIR was published (rendering all population-based EIR studies deficient); he also decided that additional alternative land use plans should have been considered.[272] Resolving the second lawsuit, which was brought by an organization called "Fix the City," the trial court also concluded that the city had failed to provide for adequate infrastructure analysis, mitigation and implementation.[273] The trial court judge eventually vacated the city's approval of the Hollywood Community Plan, thereby calling into question all projects approved under the now-vacated plan, and putting all pending projects in limbo.[274] The judge's decision will result in EIR Round Five: pending completion of a revised EIR, the city will continue to implement the 1988 Community Plan and EIR.[275]



- ***EIR Round Six.*** Senate Bill 375 requires California's metropolitan regions to develop land use and transportation plans to meet ambitious California greenhouse gas reduction targets in 2020 and 2035.[276] The Southern California Association of Governments (SCAG) approved the regional plan and accompanying EIR for the state's largest (by geography and population) region in 2012.[277] Substantially increasing density in Hollywood along the transit line is included in the SCAG plan, which was developed with years of coordination with cities and other stakeholders.

- ***Project EIRs – Rounds Seven and Eight, Nine, Ten and Beyond.*** Meanwhile, several projects – higher-density, transit-oriented projects – had been approved, and even constructed, in the area covered by the newly vacated Community Plan and EIR, by the valid Red Line EIR, and by the never-challenged SCAG EIR. These projects were also targeted by CEQA lawsuits filed by the same neighborhood opposition group. The city has suffered a steady string of CEQA losses for challenged projects; two multifamily housing projects ensnared by CEQA include:

  - **Historic Spaghetti.** A completed apartment project that replaced a former "Old Spaghetti Factory" restaurant with surface parking survived its first round of CEQA litigation. Although the vacant restaurant building had been substantially renovated over the years, and was not on either a federal or state register of historic structures, CEQA's ambiguous requirements allowed the restaurant to warrant special treatment as a historic structure – and required the apartment developer to preserve the façade of the restaurant as the facing of the new apartment building. The "façade preservation" mitigation was later determined to be structurally infeasible, so the city instead required the developer to reconstruct a visually identical replacement façade rather than preserve the original wall.

    In the second round of CEQA lawsuits against this project (by which time the original developer had lost its investment), the neighbors won their argument that approval of the replacement façade should have had a new round of CEQA review and the judge ordered the city's approval of this now-completed residential project vacated, a judicial outcome that – left unchallenged – would force existing residential tenants to vacate, and prohibit other completed units from being rented, pending completion of a new historic structure study and CEQA process.[278] For development of this site, this was ***EIR Round Seven*** – soon to be followed based on the CEQA lawsuit outcome by ***EIR Round Eight*** – for increasing development densities based on policies first adopted in 1983.

- **Wrong Millennium.** A mixed use residential apartment project that included hotel, commercial and retail uses was successfully challenged by the same neighborhood group and a hotel competitor[279] – and harshly criticized by the state's transportation agency for having unacceptable impacts on a notoriously congested freeway. The developer waited for the lawsuit outcome before starting construction, and after two years of litigation – preceded by several years of community outreach, planning and environmental studies – a trial court concluded that the EIR's traffic analysis was technically flawed, and project approvals should be vacated.[280] This was ***EIR Round Nine*** – again to be followed by ***EIR Round Ten*** – for increasing development density in the same Hollywood area.

The first Red Line EIR was approved in 1983; 30 years later, the higher-density vision for this transit corridor remains mired in several overlapping CEQA lawsuits. This Hollywood parade of costly EIRs and overlapping CEQA lawsuits illustrates a four-decade debate, which remains ongoing, about the relative policy merits of high-density development, increased congestion, transit utilization policy and increased demands on already-strained urban infrastructure.

- ***"Smart Growth - Beyond Hollywood" – Increasing Densities and Transit Use in Urban Areas.*** Hollywood's urban densification debate, dubbed "Smart Growth" by density advocates, is being repeated in dozens of other California communities. State climate mandates and urban infill advocates believe California's coastal communities must dramatically increase densities, but many residents – with enough resources – strongly disagree. Under CEQA, this very fundamental policy disagreement moves into a multi-year litigation venue where burdened trial court judges are forced to wade through technical and legal arguments about the sufficiency of thousands of pages of studies. Additionally, the most common CEQA judicial remedy – an order to vacate years-old project approvals and restart the environmental study process – does not actually resolve the policy debate but merely restarts the agency/applicant/consultant/attorney churn for still more CEQA studies, to be bickered over in still more judicial sequels of the same densification policy dispute.

As many commentators have observed, there is no end in sight to policy disagreements about the density and character of existing California communities, and the use of CEQA lawsuits by those who lose these policy disputes. As summarized by the website Curbed Los Angeles, and the non-partisan California Legislative Analyst's Office, earlier this year:[281]

> California is a beautiful and desirable place to live, but it's also one of the hardest places to afford to live. Los Angeles is particularly brutal: it's got the biggest disconnect between incomes and rents of anywhere in the nation, and it's the place to be if you're looking to have your dreams of homeownership crushed. Is there any hope? A new report out from the Legislative Analyst's Office shows that the groundwork for LA's housing shortage was laid a long time ago, and it's going to be hard work undoing it. Just how short on housing is LA? In order to keep housing prices in check, California overall would have had to build more (70,000 to 110,000 additional units each year), build denser, and build especially in the coastal areas (including Los Angeles) and central cities (as opposed to building mostly inland and in areas way outside of cities as has been done in the past). California also should have been doing this for decades already. Because it didn't, "the state probably would have to build as many as 100,000 additional units annually—almost exclusively in its coastal communities—to seriously mitigate its problems with housing affordability." And that's in addition to the 100,000 to 140,000 units that the Golden State is already planning to build. If the state had done all that, California's housing prices still would have continued to grow and would still be higher than the rest of the country's now, but the disparity between them would have been less gaping.

Excerpted Figures from California Legislative Analyst's Report, "California's High Housing Costs: Causes and Consequences (2015)"

Figure 3

California Home Prices Have Grown Much Faster Than U.S. Prices

Inflation-Adjusted Median Home Prices in 2015 Dollars

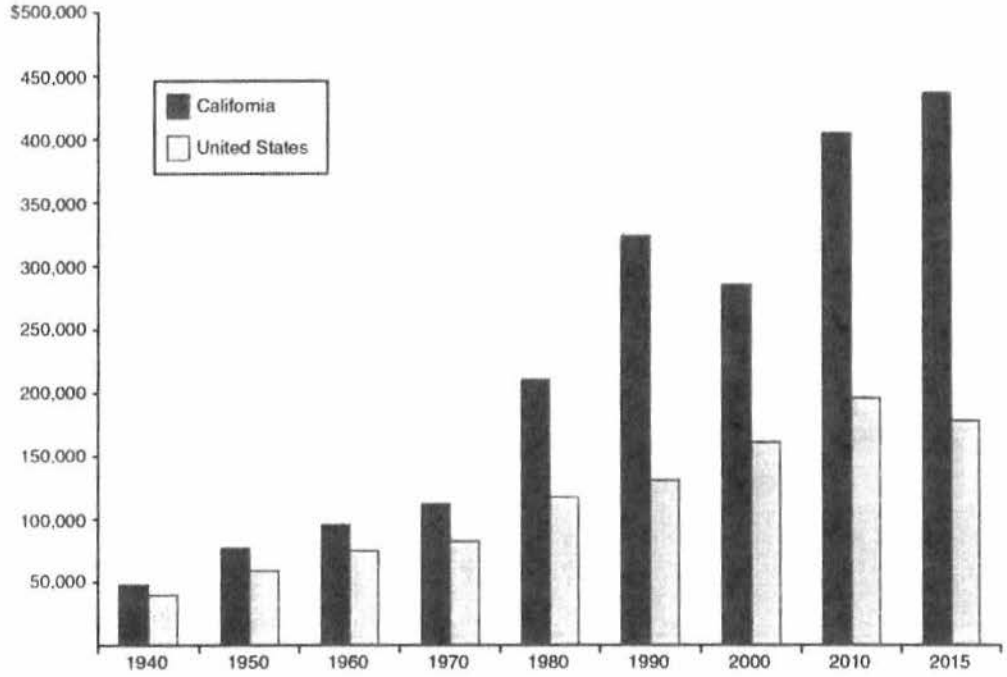
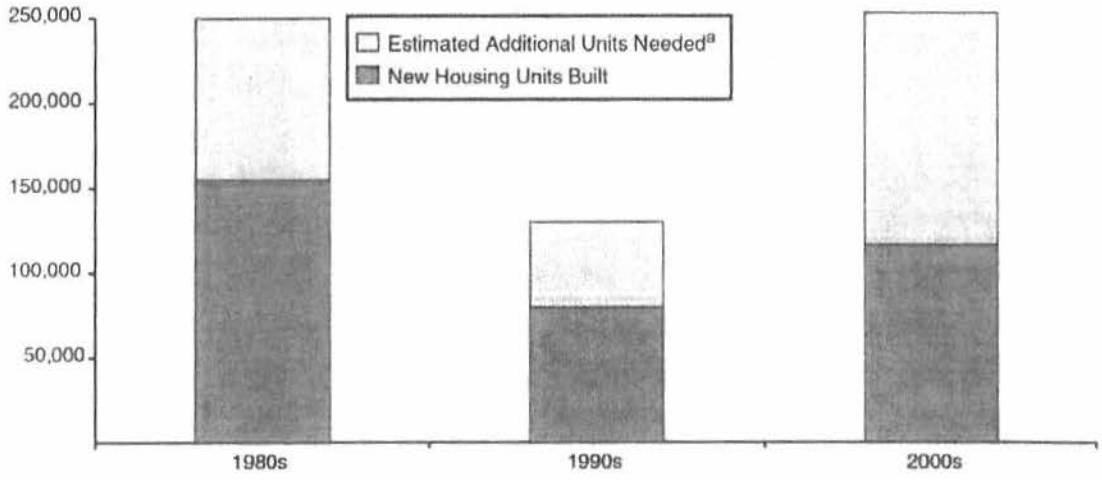


Figure 7

Building More Housing Would Have Slowed Rising Housing Costs

Average Annual Number of New Housing Units Built by Decade, 1980-2010



[a] Estimated new housing construction needed to prevent home prices from growing faster than the rest of the country.

It is also worth noting that the higher-density development favored by California's climate policies require far more costly housing units than traditional single-family homes. While urban density advocates argue that home prices outside the urban core are unfairly priced based on their need for public infrastructure such as roads and sewer systems, costly urban infrastructure upgrades are also often required for major urban projects.[282] And as recently confirmed in a regional conference on the Bay Area Housing Crisis,[283] the data in Table B, below, shows the dramatically different construction pricing structures for lower density and higher-density housing project types in the Bay Area, as well as the smaller living spaces provided by higher-density housing.

Table B: Bay Area Housing Construction Cost Comparison
(May 8, 2015 presentation to MTC Planning Committee/ABAG Administrative Committee by J. Fearn, D. Pinkston, N. Arenson)

Housing Type	Dwelling Units/Acre (Density and Height)	Unit Size	Cost of Material/Labor Compared to Single Family Home
Single Family Home Mid-Sized Lot (SFH)	5 2 Stories	2,750	NORM used for comparison purposes
SFH Small Lot	15 3 Stories	2,400	1.3X higher than mid-size lot SFH)
Townhome (units share common walls)	20 3 Stories	2,000	1.5X higher than SFH (lower consumer price than either SFH)
Townhome/Condo	26 4 Stories	1,900	2.0X higher than SFH (lower consumer price than SFH or townhome)
Midrise Condos	50 5 Stories + (including some Parking)	1,050	3.0-4.0X higher than SFH (feasible only in expensive urban markets)
Highrise	100+ 8-50 Stories + (including some Parking)	1,050	5.5x-7.5X higher than SFH (feasible only in extremely expensive urban markets)

Produced by: Hernandez, Friedman, DeHerrera

The higher-density housing (primarily midrise and highrise buildings) typically challenged in these CEQA infill lawsuits already requires home buyers to pay dramatically higher prices for comparatively smaller units. With the exception of the City of San Francisco, however, the Legislative Analyst's Office (LAO) Report concluded that housing density increased in California's coastal metro areas during 2000-2010 by only 4% relative to density increases of 11% in a comparison group that included Boston, Seattle, Washington, D.C., Miami and even traditionally "sprawling" Las Vegas.[284]

When the costs of CEQA-related study preparation and processing are factored in, housing costs in California's NIMBY-rich litigious coastal communities increase even more. The LAO estimates that even absent litigation, CEQA and land use entitlement processing for housing projects in California's ten largest cities between 2004-2013 took, on average, two and one half years to complete – and sometimes resulted in smaller projects with fewer units.[285]

If higher-density housing is an environmental policy priority, then CEQA litigation undermines this priority. A broad spectrum of stakeholders agree that CEQA reform is needed if higher-density, transit-oriented housing goals needed to achieve California's GHG reduction mandates are to be achieved.

- Two of California's leading environmental advocacy organizations, the Natural Resources Defense Council and the California League of Conservation Voters, co-authored a report on SB 375 which noted that "because CEQA is focused on 'projects,' it faces limitations, especially for achieving effective mitigation of the global warming impacts associated with VMT [vehicles miles traveled].... In fact, in the hands of opponents to a high-density project, CEQA could threaten the implementation of an effective greenhouse gas reduction strategy."[286]

- Planning and real estate development experts from the public and private sectors come together in an Urban Lands Institute report that reached a similar conclusion about the need to reform CEQA to achieve the greenhouse gas reduction goals of SB 375: "Requirements of the California Environmental Quality Act (CEQA) should be reexamined and refined to promote specific land use and transportation projects that help achieve SB 375's desired outcomes. Such refinements can be designed to reduce the burden of excessive documentation while providing desired environmental protection, and fostering development of urban growth patterns and transportation systems that reduce carbon emissions."[287]

As discussed in greater detail in Part 3, notwithstanding widespread recognition of the need for CEQA reform to promote higher-density development, meaningful CEQA reform continues to fall victim to Sacramento special interests. Two more examples of CEQA challenges to higher-density apartment projects, both located adjacent to existing or planned Bay Area Rapid Transit (BART) stations in the Bay Area, help illustrate why:

- ***Transit-Oriented Development Challenged by Unions in Dublin.*** For decades, BART has encouraged communities to adopt plans and policies to encourage higher-density development around BART stations. Communities hosting newer BART stations, such as Dublin, receive additional funding to help plan (and complete EIRs for) station area plans, which are then "built out" as market conditions warrant. One of the few CEQA streamlining provisions that does exist is for residential projects that are consistent with, and implement, a previously-approved form of land use plan called a "Specific Plan." Multifamily housing developer Avalon Bay proposed to build a new apartment complex at the Dublin BART station using this CEQA compliance streamlining statute for an approved Specific Plan, which had its own EIR. A labor union seeking a Project Labor Agreement (PLA) sued under CEQA, asserting that the Specific Plan EIR's failure to expressly address GHG emissions made this transit-oriented, high-density apartment project ineligible for CEQA streamlining. Eventually, the courts ruled against the union (which sued under the banner of the "Concerned Citizens of Dublin" in their CEQA lawsuit).[288]

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- ***Transit-Oriented Development Challenged by Union in Milpitas.*** The city of Milpitas, which straddles the East Bay and Silicon Valley, suffered a similar ordeal when it approved an apartment project near the new Milpitas BART station. The same union that challenged the Dublin apartment project filed another unsuccessful CEQA lawsuit in an attempt to leverage a PLA for this workforce housing project; the lawsuit resulted in substantial delays and increased costs.[289]

The "Blue-Green" political alliance between powerful unions and environmental organizations, along with union use of CEQA litigation threats and lawsuits to leverage PLAs from higher-density, transit-oriented housing, has virtually neutralized meaningful CEQA reform in Sacramento, as discussed further in Part 3 of this report.

A less reported political schism within the ranks of CEQA's litigation status quo defenders is a disagreement among California environmental advocacy groups about higher-density urban housing projects. Environmental advocacy groups that lobby for land use, transit and housing policies and funding programs to support precisely this type of higher-density, infill residential development have many local environmental activist and attorney members who cherish the right to oppose such high-density projects whenever they are proposed in their localized neighborhood's "environment."

- ***No Residential Project Is Too Small To Challenge.*** Another less-reported pattern of CEQA lawsuits is the extent to which CEQA litigation targets single-family home construction and renovation projects in established neighborhoods: during the study period, 15 CEQA lawsuits challenged single-family home projects, and three more targeted duplexes or second units in single-family neighborhoods.[290] One such single-family home CEQA lawsuit, from Berkeley, was filed against a project that received unanimous neighbor and Planning Commission/City Council support but was opposed by a distant city resident.[291] This CEQA challenge remains languishing "on remand" from the California Supreme Court more than six years after project approval.[292] Some of these single-family home projects involve only repair work or minor modifications, but CEQA litigation abuse is a readily available tool for fence-line neighbor skirmishes.

- ***Adaptive Housing Reuse of Existing Structures.*** CEQA challenges were also lodged against projects that convert approved or existing structures such as office buildings or hotels into housing. In one well-publicized case, in the depths of the recession an approved office building in San Jose was proposed for conversion into critically needed, transit-oriented housing. Local unions filed a CEQA appeal, insisting that they would pursue environmental challenges against the project unless the developer used union labor. The developer was already using union labor, but from a different union local than the union local that filed the CEQA lawsuit.[293] (Hijacking California's premier environmental statute as a proxy to fight a territorial battle among unions was a frequent tactic used during the study period, and most notably targeted solar and other renewable energy projects, as discussed above.[294])

- ***Master Planned Community Challenges.*** "Master Planned Communities" are defined for study purposes as larger projects that include thousands of housing units, community-serving retail, office or other employment uses to provide for a balance between housing units and employment opportunities, and at least one new elementary school. Such projects typically are implemented over a period of 10-30 years, and some are sued by multiple stakeholders on multiple occasions over a period of a decade or more. "Infill" examples of master planned communities range from the redevelopment of former military bases and industrial facilities, to the development of infill areas within existing cities or unincorporated county communities.[295] A slight majority of challenged Master Planned Community projects are located in unincorporated county "greenfield" areas rather than "infill" locations, but it is noteworthy that almost all are located immediately adjacent to existing communities and major infrastructure – and were generally included in regional land use plans that met California's aggressive 2020 and 2035 GHG reduction targets under SB 375. Master Planned Communities represent investment commitments in excess of $1 billion each, and provide thousands of construction and other jobs for decades. These projects are more likely to be challenged by established environmental advocacy groups opposed to virtually all new "greenfield" development.

- ***Subdivision Development Projects*** typically consist of proposals to construct smaller numbers of single-family homes and townhomes, often with neighborhood-scale amenities like retail services and parks. Over 75% of the challenged subdivision projects were in infill locations.[296]

- ***How Much Is CEQA Used to Combat Housing "Sprawl" in California?*** As shown in Figure 12, more than two-thirds of CEQA lawsuits challenging housing targeted infill housing projects. And as the regional greenhouse gas reduction plans completed under SB 375 have demonstrated – and as numerous CEQA lawsuit losses challenging these infill projects show – infill projects also have adverse environmental impacts under CEQA. These impacts include not only traffic congestion and parking but the environmental attributes of traffic and parking (traffic-related air emissions including greenhouse gases, noise and public safety), as well as impacts to aging urban infrastructure and public service facilities that were never designed to accommodate the type of huge density increases that the most radical of the GHG reduction targets – 80% less GHG than 1990 levels notwithstanding population and economic growth – demand.

Just as CEQA is not a "business v. enviro" debate, it is not a "sprawl" debate. California has already conquered sprawl. As reported by California Planning and Development Report publisher Bill Fulton, recent reports from both the U.S. Census Bureau and the EPA confirm that California has long accommodated more of its population growth in urbanized areas than in rural areas.[297] A recent report by the EPA confirms that California has had a long-term pattern of favoring "infill" over exurban growth, and over a 60-year study period has consistently accommodated a higher percentage of population growth in urbanized areas.[298]

In the housing project context, CEQA lawsuits are used by anyone for any purpose: by climate activists to challenge EIRs for not doing enough to study and/or reduce GHGs (e.g., the SANDAG lawsuit), by neighborhood activists for not doing enough to study and/or reduce the many consequences of urban congestion, by labor on any topic to leverage PLAs, and by NIMBY or even anonymous parties to stop any change (even repairing the drainage on their neighbor's existing house[299]). CEQA stops, stalls and shrinks housing projects – and is one of the key reasons that California's houses cost 2.5 times more than in the rest of the country and that California rents are double those than elsewhere in the United States. Extraordinarily high housing costs, losses and threatened losses for middle-class jobs accessible to the hundreds of thousands of adult Californians lacking even a high school degree, gas and electricity prices that are also persistently higher than the rest of the country, and California's environmental policies – led by CEQA – have created a perfect pricing storm that lands on the back of the young, the poor, minorities and the under-educated.

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5. Other Private Sector Projects

Only 10% of CEQA lawsuits target industrial, forestry, mining, or agricultural projects – in popular understanding, the kinds of projects for which "pollution" or "destruction of sensitive natural environments" warrants the greatest level of concern.

As with much of CEQA lore, a closer look at the actual projects at issue tells a far more environmentally benign story:

- The largest CEQA challenge target in the agricultural and forestry category was wineries, a signature land use supporting a thriving tourist trade and a broad range of employment opportunities for some of California's most productive agricultural lands and picturesque landscapes.[300] The majority of these lawsuits targeted wineries with tasting rooms or other public spaces that would attract more visitors and add traffic to local roads. No non-agricultural operations were targeted. Wineries need to comply with stringent water quality, endangered species, worker protection, and other environmental standards. NIMBY lawsuits against winery-related visitors do not make a compelling case for preserving the CEQA litigation status quo.

- Only one timber-related CEQA lawsuit was filed during the study period, and this project involved using lower-emission rail rather than trucks for the transport of timber.[301] In the 10-year period from 2005-2011, California's timber production volume was only 37% of what it was from 1985-1994, a decrease of more than 60%.[302] Federal and state endangered species and water quality protection permit requirements and lawsuits (including lawsuits filed under CEQA's federal parent law, NEPA, California's Forest Practices Act and related permit requirements, and the politics and policies of public lands management including implementation of sustainable forestry practices) dwarf the role of CEQA litigation in actual timber management mandates. This lawsuit challenges a rail project, and is mired in the same CEQA v. federal law preemption arguments as the California High Speed Rail project.

- There were only 23 CEQA petitions that challenged industrial (manufacturing, assembly, processing) projects statewide – slightly more than the 18 CEQA lawsuits filed against single-family homes and secondary units.[303] The majority – 61% – of these CEQA "industrial" lawsuits challenged warehouse projects. The policy and legal debate over environmental practices in the goods movements sector typically reaches crescendo levels for projects involving the Ports of Los Angeles and Long Beach, where 10 years of CEQA and other lawsuits resulted in various settlements mandating cleaner trucks and other cargo movement practices – and has already resulted in one trip to the U.S. Supreme Court in a case that concluded that CEQA's mitigation mandates do not trump uniform federal laws on interstate trucking and truck emission standards.[304]

  A more recent CEQA port case, filed just after the study period, involves the expansion of the BNSF rail yard, which would shift more cargo onto railcars and off trucks and roadways. The BNSF lawsuit joins CEQA to federal environmental mandates of the Clean Air Act (pursuant to which a regional plan effectively prohibits all new sources of toxic air emissions, including localized emissions that would occur near the rail yard even though regional shipping emissions would decrease with a shift from rail to trucks).[305] The warehouse CEQA lawsuits filed during the study period did not involve these major Port operations, and each involved a single warehouse project – all but one located in the Inland Empire and desert areas of Southern California. CEQA does not provide local land use lead agencies with the authority to regulate trucking (or truck emissions), so these lawsuits tend to fall into either the "greenmail" category or a classic land use dispute by those wanting a different use for the warehouse property.

- There were 28 lawsuits filed challenging mineral resource extraction projects. The majority – 21 – involved "aggregate," which includes materials like sand, gravel and crushed stone, that are used to make concrete and asphalt concrete.[306] Aggregates are the most mined materials in the world, and are a key ingredient in asphalt and cement.[307] EIRs were prepared for all but five of these lawsuits. Seven of these lawsuits involved oil and gas drilling projects: one challenged new state environmental protection regulations relating to hydraulic fracturing and other well stimulation techniques, five challenged continued production (including drilling of new wells) in an existing oil recovery area in Whittier, and one challenged oil exploration testing in Kern County.[308] Neighboring landowners and environmental advocacy groups appear to be the litigants in most of these mining-related CEQA lawsuits.

- All remaining challenged industrial projects were in sectors with economic pricing structures that place a premium on reduced transportation costs and proximity to customers: three asphalt plants and one concrete plant that use, but do not have an onsite mine producing, aggregate materials; two beverage plants; one food processing plant; one gravel plant; and one temporary gypsum stockpile for agricultural use.[309] Several of these projects were sponsored by small business operators; all are also required to obtain land use, air quality, water quality, species protection and other applicable environmental permits – and comply with environmental standards – that did not exist when CEQA was enacted in 1970.

There can be no question that CEQA plays a critical disclosure and analysis role for all of these projects, but do these projects warrant preservation of the CEQA litigation status quo?

PART 3

Curtailing CEQA Litigation Abuse – Restoring CEQA's Role of Assuring Public Transparency and Accountability for Avoiding and Mitigating Adverse Impacts to the Environment and Public Health

CEQA was not etched onto stone tablets or penned with a feather quill centuries ago. Enacted in 1970, CEQA litigation practice has remained essentially unchanged since the California Supreme Court decided that CEQA applies to private as well as public sector projects, and should be "broadly" interpreted to protect the environment.[310] As CEQA critic Governor Jerry Brown has explained, however, over the past four decades the courts have issued hundreds of judicial interpretations of CEQA that have morphed this great environmental law into a "blob" of contradictions and uncertainty – often misshapen, misused, mismanaged and, as shown by this study, used to thwart important environmental policies like climate change.[311]

A. Media Reports of Widespread CEQA Litigation Abuse - and Calls for Meaningful CEQA Reform

The need for CEQA reform has been repeatedly confirmed by all major state editorial boards, by the current and former governors, by local elected officials and – for discrete moments, which quickly pass – by California's legislative leadership. Some excerpts calling for CEQA reform include:

- The ***Los Angeles Times*** concluded that CEQA had received a "black eye" when abused by a union group to leverage jobs for its members (who were already going to be paid prevailing wages), which resulted in abandonment of a major new manufacturing facility in an approved industrial park, and in an area with very high unemployment, for the production of taxpayer-funded Metro cars. As the editorial board noted, "now that [union] IBEW had reached a deal with Kinkisharyo, the company's opponents no longer needed to use the California Environmental Quality Act to beat it into submission."[312] This is not the first time the *Los Angeles Times* editorial board has commented on CEQA abuse:

  > "Many a bad project has been slowed, stopped or greatly improved because of [CEQA] – but many a perfectly acceptable project has withered and died because of the time and cost involved in sometimes frivolous litigation. Those lawsuits can derail a proposal even when the real object isn't environmental protection. Businesses use CEQA to hinder competitors; interests groups litigate for years, even decades, not so much to prevail on a matter of principle as to wear out a proponent."[313]

- The ***San Francisco Chronicle*** has likewise published several editorials on CEQA abuse, especially challenges brought by NIMBYs. *The Chronicle* recently opined that "of all the well-documented abuses of the California Environmental Quality Act, "the most absurd" may well be the lawsuit (languishing after more than 18 months in trial court) filed by abortion protesters against a Planned Parenthood clinic proposed to be located in

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an existing building, asserting that the city failed to adequately take into account the noise and public safety disruptions that the protesters themselves promised to create if the clinic was allowed to open. *The Chronicle* concluded:

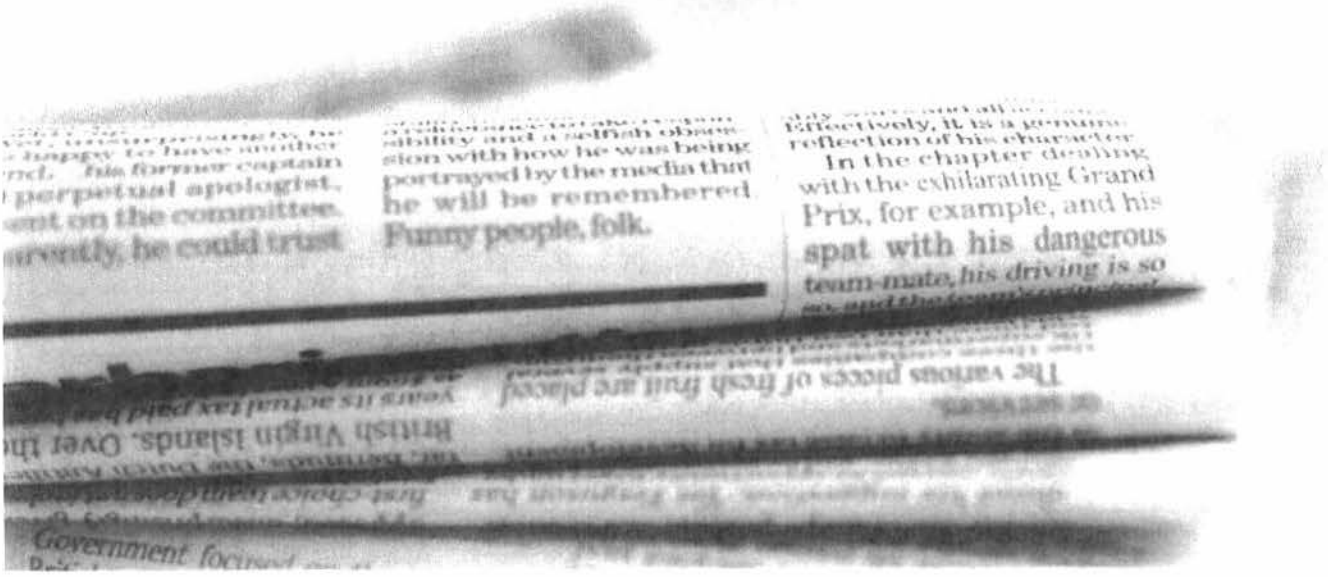
> "This nonsense must stop. The 40-year-old CEQA has been a critical tool for preserving our natural resources, but it has also been exploited by interests whose motives have nothing to do with the environment, such as businesses that stifle would-be competitors or unions looking for leverage.
>
> We 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 interests of special groups who seem to think CEQA should remain carved in stone."[314]

- The ***San Jose Mercury News*** has likewise long recognized the damage caused by CEQA abuse, and called for reform:

> "Economic growth must be a top priority. And one of the best ways to accomplish it is to reform the California Environmental Quality Act..... [CEQA] challenges often prevent development that could create jobs or help businesses survive without harming the environment, and they contribute to California's reputation as unfriendly to business. Four decades after Ronald Reagan signed CEQA into law, it's time for an update."[315]

A broad chorus of editorial boards harshly criticized former Senate President Pro-Tem Darrell Steinberg's sweetheart CEQA relief bill for his hometown basketball team's new arena. The *San Jose Mercury News* called out Senator Steinberg for limiting CEQA reform to his pet project:

> "Senate President Pro-Tem Darrell Steinberg knows the California Environmental Quality Act needs to be reformed. Why else would he make a last-minute push to exempt a proposed NBA arena in Sacramento, a top priority of his, from provisions of the law?
>
> Yet Steinberg won't agree to broader CEQA reforms that would do for the rest of the state what he wants to do for the Sacramento Kings. CEQA reform for me, but not for thee?.... This time, the hypocrisy is hard to take.
>
> [CEQA] is a key reason the state has been able to preserve much of its natural beauty as its economy boomed. But CEQA is regularly abused. Labor unions use it to extract concessions from developers. NIMBYs use it to stop development in their backyards. And businesses use it to stop competitors from expanding. The law needs to be updated to stop these abuses."[316]



The chorus criticizing Senator Steinberg also included the *Sacramento Bee*, which wrote:

> "No doubt, the proposed Sacramento arena could be a crucial catalyst for a more vibrant region and central city. But cities up and down California also have important developments on the drawing boards. Like the proposed arena, many are infill projects that create jobs, reduce sprawl and have few negative environmental impacts. Too often CEQA is exploited to stop good projects. Opponents who care nothing about the environment use the threat of CEQA lawsuits to leverage better labor deals or thwart a competitor."[317]

- ***The San Francisco Chronicle*** agreed, saying that Steinberg was "just plain wrong" and noting that "there are plenty of worthy projects around the state that are threatened by litigation under a law that is being exploited by individuals and special interests with motives that have nothing to do with the environment."[318]

- ***The San Diego Union Tribune*** has a long track record of calling for meaningful CEQA reform, writing in 2007: "CEQA has become... a tool of extortion for a long list of special interest groups that have little – if any – interest in the environment."[319] More recently, the *San Diego Union Tribute* reported on a short-lived CEQA reform proposal that would have integrated this 1970-statute with modern environmental and human health protection standards, curtailed duplicative CEQA challenges for projects that complied with plans that had already gone through CEQA, and ended anonymous CEQA litigation abuse by requiring disclosure for those filing lawsuits:

> "The fact that Governor Jerry Brown, State Senator Darrell Steinberg, and a bi-partisan group of state lawmakers say it's time for substantial reform of the California Environmental Quality Act is good news.... The CEQA proposal that surfaced this week was real reform. It would have streamlined the way projects get approved by eliminating duplicative reviews and limiting "greenmail" – litigation that uses environmental rules to force concessions or de facto payoffs to project opponents."[320]

- The ***Sacramento Bee*** has agreed: "CEQA is ripe for manipulation and needs updating. It is too often abused to slow down projects for reasons that have nothing to do with environmental protection."[321]

- Earlier this year, the ***Sacramento News & Review*** issued "NIMBY Awards" for the worst CEQA abuses (and abusers).[322] In an accompanying editorial, the publisher wrote:

> "I am an environmentalist. I attended the first Earth Day in 1970. I supported cap and trade. I want a carbon tax.... As an environmentalist, I am ashamed that environmental regulation is preventing low-income housing from being built, is significantly increasing the cost of building in California, is allowing groups to blackmail developers into a variety of concessions and is wasting government resources to negotiate an out-of-control process."[323]

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- The ***Orange County Register*** noted that CEQA "[r]eform is long overdue. The environment must be protected, but CEQA has been used as a hammer to unfairly punish even environment-friendly development."[324]

- The ***Fresno Bee*** weighed in with several calls for reforming CEQA, noting that it is "outdated" and specifically criticizing the Legislature for the "bad habit" of "handing out a pass on the troublesome CEQA, which most legislators agree needs reforming, to only a few politically connected people." The editorial board wrote: "Let's reform the act [CEQA] in its entirety, giving the same consideration to everyone falling under CEQA, and not just those who have special access to important legislative leaders, or their pet projects."[325]

- ***The Bakersfield Californian*** observed: "CEQA is a critical and necessary piece of legislation that protects California's varied and fragile environment and ecosystem from abuse, overdevelopment and environmental harm. But when NIMBYs (not in my backyard) use it to stall projects that do not negatively impact the land, CEQA has been abused."[326]

- The ***Santa Cruz Sentinel*** observed: "CEQA... has too often been used by a variety of interests acting out of self-interest more than first wanting to further environmental protections. CEQA lawsuits have contributed to California's reputation as a state unfriendly to business and overly regulated.... The new Democratic supermajority in the Legislature should take up the governor's call to reform the California Environmental Quality Act." [327]

- The ***Petaluma Argus Courier*** noted: "[B]ecause CEQA has not been updated or revised since it went into effect more than four decades ago, the law enables determined development opponents to misuse it to delay or stop projects that would not cause any serious environmental harm."[328]

In an op-ed on January 28, 2013, the *North Bay Business Journal* wrote:

> "Most people would agree that if a school, hospital or road project has been subjected to extensive environmental review and met all federal, state and local environmental laws, including the Clean Water Act, the Endangered Species Act and the Clean Air Act, the project should go forward without being sued for purported environmental reasons. Unfortunately, today, these projects are being delayed and face increased costs – many times to taxpayers – or killed altogether because of abusive litigation that has nothing to do with the environment.
>
> "[L]ike most other tools that are 40 years old, today's CEQA needs to be modernized to ensure that this policy is working in tandem with the myriad of other environmental laws and regulations that have been added since its inception."[329]

B. Elected Leadership Support for CEQA Reform

Existing and former elected leaders have agreed on the need for CEQA reform.

- Early in his first term, ***Governor Jerry Brown*** used his State of the State Address to call for CEQA reform:

> "We ... need to rethink and streamline our regulatory procedures, particularly the California Environmental Quality Act. Our approach needs to be based on more consistent standards that provide greater certainty and cut needless delays."[330]

The Governor has also called CEQA reform "the Lord's work"[331] and made clear that the Legislature's periodic claims that it has "reformed" CEQA are "illusory": "I've always said about CEQA, it's like a vampire. Unless you strike to put a silver stake through it, there's always a law somewhere that's brought into the process, and the exemptions are more illusory."[332]

Governor Brown – who has called CEQA reform "the Lord's work" – has also expressed exasperation about it. "I've always said about CEQA, it's like a vampire. Unless you strike to put a silver stake through it, there's always a law somewhere that's brought into the process, and the exemptions are more illusory."

- In two op-eds, former ***California Governors Gray Davis, Pete Wilson and George Deukmejian*** joined in making a bipartisan plea for CEQA reform:

  "While CEQA's original intent must remain intact, now is the time to end reckless abuse of this important law; abuses that are threatening California's economic vitality, costing jobs, and are wasting valuable taxpayer dollars."[333]

  "CEQA has also become the favorite tool of those who seek to stop economic growth and progress for reasons that have little to do with the environment. 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."[334]

- Local elected leaders have also decried CEQA abuse. To cite to just one of many examples, former ***Ventura City Manager Rick Cole*** notes that "while there is absolutely no question that the adoption and enforcement of CEQA has produced dramatic improvements in environmental quality," there is also "absolutely no question that it has been shamelessly misused and distorted to stop, delay or make hellishly expensive the infill development that is California's only alternative to suburban sprawl" – and that CEQA is "frequently hijacked to protect the narrow economic interests or personal preferences of well-heeled interest groups."[335]

C. Reforms to Preserve CEQA - Not CEQA Litigation Abuse

Three moderate reforms would restore CEQA to its critical role of assuring transparency and environmental accountability in public agency actions:

1. Require Transparency in CEQA Litigation to Prevent Non-Environmental Litigation Abuse

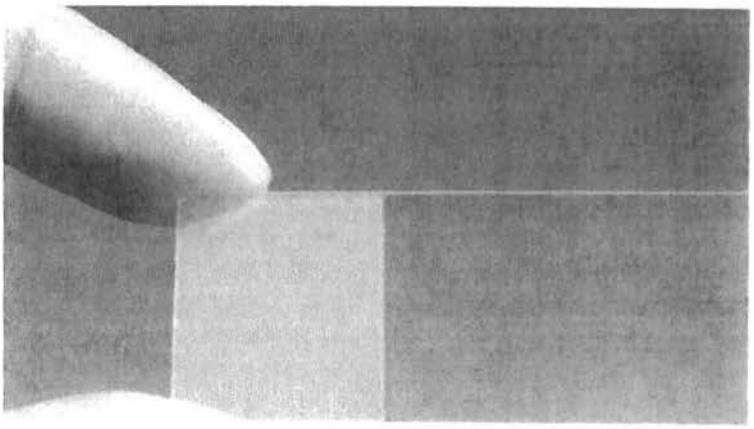
Under current court rules, parties bringing CEQA lawsuits (and on occasion lawyers representing no known party at all) are entitled to conceal their identity and interests, make up a non-existent environmental-sounding group name, and baldly assert that they are suing "to protect the environment." Court rules already require disclosure for parties seeking to file "friend of court" advisory briefs

Transparency to reveal the non-environmental interests of CEQA litigants is a powerful weapon against abuse, and it's a fair and long-overdue CEQA litigation reform.

in CEQA lawsuits,[336] and require disclosure for any party seeking to recover attorneys' fees if they win a CEQA lawsuit.[337] Transparency should extend to all phases of CEQA litigation. However, some CEQA petitioner attorneys have long been criticized in the media for "greenmail" – leveraged financial settlements with little or no environmental benefit included in the settlement agreements – when the petitioner attorney declines to identify a client, when the "client" is located miles away from the challenged project, or when the "client" has no knowledge of any other members of the newly-formed "Committee [Against Change]."[338]

Neither California nor the "environment" benefit from anonymous CEQA litigation abuse, nor are CEQA's non-environmental plaintiffs allowed to sue to enforce federal environmental laws or the CEQA-like laws in effect in many other states. Transparency to reveal the non-environmental interests of CEQA litigants is a powerful weapon against abuse, and it's a fair and long-overdue CEQA litigation reform.

The CEQA Research Council, an informal group of CEQA practitioners from the public and private sectors with an average of more than 30 years of experience with CEQA, requested that the Judicial Council modify court rules to require the same kind of transparency and disclosure at the beginning of CEQA lawsuits (the filing of petitions and answers) that is already required of those seeking to recover attorneys' fees at the end of CEQA lawsuits.[339] After deliberating,



> Reform would not in any manner curtail lawsuits filed by environmental advocacy groups, or by individuals who are actually at risk from a project's adverse environmental impacts.

the Judicial Council suggested that this was a rule change more appropriately decided by the Legislature.[340] However, in another vivid illustration of the power of the entrenched special interests who use (and abuse) CEQA lawsuits, legislative proposals modeled on federal environmental statutes requiring petitioners to disclose their identity and confirm that they are seeking to enforce CEQA for environmental rather than non-environmental purposes have not seen the light of day, and have been withdrawn or sidelined by policy committee leaders. As the influential "Think Long Committee for California" of the Berggruen Institute has noted:

> "Petitioners should be able to bring a CEQA lawsuit only if they have, and can demonstrate in court, a legitimate and concrete environmental concern about a project, as well as the absence of a competitive commercial or economic interest on their part in the project."[341]

It is also important to recognize that this reform would not in any manner curtail lawsuits filed by environmental advocacy groups or by individuals who are actually at risk from a project's adverse environmental impacts. Controversial projects with alleged significant adverse "environmental" impacts – with the potential to cause adverse public health impacts or harm to the natural ecology (e.g., the types of concerns raised by mines and landfills, and large-scale power, water and infrastructure projects) are far more likely to be sued by regional and national environmental advocacy groups and named individuals. The rights of those parties to seek judicial review of agency CEQA compliance practices would remain unchanged.

In contrast, anonymous parties who seek to block improvements to underutilized neighborhood parks, schools, apartment projects and libraries – and business competitors and NIMBYs seeking to protect their economic interests, and lawyers with sham or non-existent clients seeking "greenmail" financial settlements – would lose the right to continue to abuse CEQA litigation for non-environmental purposes.

2. Eliminate Duplicative CEQA Lawsuits: Enforce CEQA Once, Not 20+ Times

CEQA applies to every "discretionary" decision made by a public agency, but many of our laws, regulations and ordinances now require multiple agencies to make separate decisions on the same project, and also require the same agency to make multiple decisions about implementation of the same project over time.

- **Playa Vista** – a single urban redevelopment project in Los Angeles that is in the final phases of converting a polluted aircraft manufacturing facility into a coastal park, medium-density housing, and a "Silicon Beach" mix of employment uses – has been sued under CEQA over 20 times over more than 20 years – including lawsuits filed during the 2010-2012 study period for this report.[342]

- **Newhall Ranch**, long included in Los Angeles County and adjacent city plans as the continuation of adjacent master planned development projects in northern Los Angeles County, and also included in the region's approved (and not litigated) plan to achieve the regional greenhouse gas reduction goals established by SB 375, has been sued almost 20 times in less than 20 years, including two lawsuits during the study period (one of which is now pending at the California Supreme Court).[343]

> Duplicative CEQA lawsuits create a strong deterrent against comprehensive community planning such as General and Community Plans, and can result in a "project-by-project" review and approval pattern that is driven solely by opportunistic private sector development applications.

- Duplicative CEQA lawsuits also create a strong deterrent against comprehensive community planning such as General and Community Plans that assure orderly change with adequate investment and public services, and instead are more likely to result in a "project-by-project" review and approval pattern that is driven solely by development applications. The ongoing, 40-year saga of Hollywood's efforts to adopt and implement a higher-density, transit-oriented development pattern is one of several reasons that the City of Los Angeles has not attempted a comprehensive General Plan update for many decades. Communities that do decide to bite the bullet (and comply with state law mandates) by updating local land use plans find themselves targets of CEQA lawsuits – with the plan and the lawsuit both funded by taxpayers. Forty-nine CEQA lawsuits were filed against city and county land use plans during the study period.[344]

Duplicative CEQA lawsuits delay projects, but they also delay the jobs projects create, increase overall project costs, and contribute to California's extraordinarily high housing costs. Duplicative CEQA lawsuits also impede achievement of important environmental priorities that require long-term commitments and a stable implementation framework, such as reducing greenhouse gas emissions and qualifying for federal transit funding by increasing ridership with higher-density housing and employment uses along designated transit corridors. Passionate people can oppose higher-density and transit, but projects that comply with approved land use plans for which a lawful CEQA process was already completed should not be subject to repeated CEQA litigation by staunch plan opponents.

Supervisor Scott Wiener from San Francisco successfully navigated the city's infamously complex politics to establish a clear deadline for filing CEQA lawsuit challenges once, not multiple times, for the same project.[345] That even San Francisco is ahead of the Legislature in reducing CEQA litigation abuse by curtailing duplicative lawsuits is further evidence of the power of special interests in Sacramento.

3. Insufficiently Detailed Technical Studies Should Be Remedied with Corrected Studies — and More Mitigation and Public Review, If Warranted - Not Rescinded Project Approvals

Lawyers are trained in critical thinking, and there are few lawyers – and fewer judges – who can avoid concluding that a CEQA study could not have been improved in some manner for some topic from an armchair quarterback seat 2-6 years after the study was completed. CEQA currently requires the study of nearly 100 separate topics, each of which also has six separate subparts. In any academic setting, answering 541 questions correctly on a 600-question test would result in an "A" – and answering more than half right would still earn a passing grade. While the courts and Legislature have recognized that CEQA does not demand perfection, in CEQA litigation practice almost 50% of lawsuits result in a finding that an agency missed the mark on only one or two technical study topics – and then usually for just one or two sub-parts of that topic. The most common judicial remedy in CEQA lawsuits, however, is not to fix the part of the study that fell short – e.g., by augmenting a traffic study with more recent traffic counts and, if warranted, more traffic mitigation – but to vacate the agency's approval of the entire project pending unspecified further CEQA compliance steps.

The appropriate remedy for the vast majority of CEQA lawsuits is to fix the technical study gap, require more public disclosure and comment, require more mitigation if appropriate under the corrected study, and hold decision-makers accountable for their final actions.

Notwithstanding the precedent recently set by the California Supreme Court in the *Smart Rail* decision discussed above, trial and appellate court judges persist in vacating entire project approvals even for apparently trivial errors such as the need to update a traffic count for a single intersection for a San Francisco infill project.[346] CEQA lawsuits should not derail projects getting 90% of 600 questions correct.

The Legislature should extend to all projects – not just donor- and voter-rich projects like the Sacramento Kings arena – CEQA litigation remedy reform that precludes vacating a project approval unless proceeding with the project would cause the type of "irreparable harm" that is normally required for injunctive judicial relief (e.g., project-related pollution could cause a substantial public health risk, or planned construction could damage an irreplaceable tribal resource or cause significant harm to the natural ecology). The appropriate remedy for the vast majority of CEQA lawsuits is to fix the technical study gap, require more public disclosure and comment, require more mitigation if appropriate under the corrected study, and hold decision-makers accountable for their final actions.

Since most CEQA lawsuits either seek to permanently derail a project (the NIMBY objective), or gain maximum leverage against the project sponsor for non-environmental purposes (the objective of greenmail lawyers, labor unions and business competitors using CEQA lawsuit tactics), the current judicial remedy of vacating project approvals after six or more years of public and judicial review is a nuclear threat that stops environmentally beneficial and widely-supported projects (and stops some proposed projects from completing or even beginning the CEQA agency approval process).

Aligning CEQA litigation injunctive remedies with ordinary standards for injunctive relief – as was done for the Kings Arena project by special legislation – preserves CEQA's disclosure framework, still demands careful environmental evaluation and mitigation, and guarantees a second round of public and political review of required fixes to any flawed studies. However, this reform will weed out abusive CEQA litigants by reducing their leverage from stopping or delaying an environmentally benign or beneficial project to requiring corrected studies and additional mitigation.

This reform will also substantially curtail CEQA litigation aimed at stopping infill projects (targeted by the vast majority of CEQA lawsuits), rather than simply assuring that the challenged agency complies with CEQA. A traffic study that misses the mark on measuring impacts to a single intersection may justifiably require correction (and additional mitigation, if required by the corrected study). However, vacating an agency approval for a partially or even fully-built (and occupied!) infill project because of an alleged technical deficiency in a traffic, parking, aesthetics, public service, historic resource, and the myriad other studies now required by CEQA, can delay for years or even derail plans and projects designed to achieve important environmental, equity, economic and other public policy objectives. Agencies that missed the mark on a study should be required to fix the study (and do more mitigation if the study shows increased significant impacts), but the approved project should proceed unless doing so causes a true risk to public health, irreplaceable tribal resources or the natural ecology.

This modified judicial remedy reform would also recognize the important role that other agencies (and environmental laws) play in requiring projects to meet the hundreds of other environmental and public safety standards that are now required by laws that did not exist when CEQA was adopted in 1970. California's regulatory standards are among the most stringent standards in the world (e.g., seismic safety, air quality, hazardous materials, stormwater management, energy and water conservation).

Vacating project approvals after six or more years of public and judicial review is a nuclear threat that stops environmentally beneficial and widely-supported projects.

Finally, this modified judicial remedy reform would also curtail CEQA litigation abuse for design and lifestyle disagreements between elected majorities of the Legislature and local agencies, and individuals seeking to prevent change in their communities. While these disagreements may be passionate, they are also fundamentally political – not "environmental." As Governor Brown eloquently urged in his *Pocket Protector* amicus mentioned above, allowing CEQA litigation against urban design choices:

> "[I]llustrates the profoundly negative impacts that the escalating misuse of CEQA is having on smart growth and infill housing" and "strikes at the heart of majoritarian democracy and long standing precedents requiring deference to city officials when they are interpreting their own land use rules."
>
> "The [appellate court] found aesthetically degrading the "excessive massing of housing with insufficient front, rear and side yard setbacks [citation omitted]. Just as cogently, other people may well conclude that the close arrangement . . . fostered a cozy, neighborly intimacy. The fact that narrow streets are unfriendly to speeding cars and that neighbors are thrust into close contact may well be viewed as a superior quality of living rather than a negative impact."
>
> "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 is not justiciable, environmental impacts but competing visions of how to shape urban living."

The California Supreme Court declined to review or reverse the *Pocket Protectors* appellate court decision, which resulted in a two-year delay of partially constructed townhomes pending completion of an EIR that made no changes to the approved project, but did result in the visual blight of tacked-on blue roof tarps to wood-framed, two-story attached townhomes the neighbors had sought to stop entirely. This judicial outcome served no environmental purpose, just as no environmental purpose is served by NIMBY design spats (or lawyers hunting greenmail payouts) over setbacks, parking ratios and private views.

This proposed reform would return CEQA to its original purpose, which is assuring adequate study, disclosure and feasible avoidance or mitigation of significant adverse project impacts after many years of judicial uncertainty.

D. How Previous Legislative CEQA "Reforms" Fell Short: A Short History of Unicorns, Whack-A-Mole, Buddy Bills, Sleight-of-Hand, and Political Panic

As numerous media reports and editorials demonstrate, CEQA litigation abuse for non-environmental (and even anti-environmental) purposes is not "new news." However, this comprehensive study of CEQA lawsuit petitions is the first proof that the majority of CEQA lawsuits are the result of NIMBY-based opposition to localized infill projects that change the status quo to help advance California's climate change policies and address urgent need for housing, jobs, infrastructure and services in California communities. CEQA's litigation abuse status quo defenders have been politically agile, however, in periodically enacting illusory CEQA "reforms" that have no effect – and even expand – opportunities for litigation abuse of CEQA for non-environmental reasons.

- **CEQA's Herd of Unicorns.** Unicorns are well known to children and adults as an attractive creature that is much discussed, but never seen. CEQA "reforms" cynically intended to mute criticism of CEQA litigation abuse similarly target an attractive but mythical "project" that simply does not exist. By far the most noteworthy examples of CEQA reform "unicorns" are statutory provisions branded as "exempting" or "streamlining" infill development projects.[347] The problem is that these statutory "reforms" include qualifying criteria that have been extremely effective in assuring that no project is ever eligible for CEQA streamlining, and even if such projects do miraculously appear, the "reforms" do nothing to curb CEQA litigation abuse by NIMBYs or other stakeholders. Some examples:

  - Senate Bill 375,[348] the landmark statute mandating that California revise its regional transportation and land use plans to meet GHG reduction benchmarks for 2020 and 2035, included what its sponsors trumpeted as a "CEQA exemption" for particular types of infill housing that meet dozens of standards and are located in designated neighborhoods of designated communities. In the seven years since SB 375 has been in effect, and as confidently predicted by land use experts when SB 375 was being debated, no project has qualified for this unicorn exemption. SB 375 also included a lesser level of "CEQA streamlining" – a partial pass on the need to consider impacts like "growth inducement" in EIRs – on a CEQA topic that has not been seriously contested in lawsuits in several decades, while failing to provide any "streamlining" provisions on the litany of CEQA deficiencies alleged in most CEQA lawsuits aimed at infill projects, like noise, congestion, air quality, public services, aesthetics, traffic and parking.

CEQA's litigation abuse status quo defenders have been politically agile in periodically enacting illusory CEQA "reforms" that have no effect – and even expand – abuse of CEQA for non-environmental reasons.

- An earlier "infill" exemption included in CEQA, Senate Bill 1925,[349] fared even worse: in the 13 years since this law was enacted, we were unable to locate a single project statewide that qualified for this infill exemption.

- Senate Bill 226 was yet another attempt to "streamline" CEQA for designated types of infill projects.[350] Again, the criteria for eligible projects are drawn narrowly (e.g., projects that have a significant amount of surface level parking are ineligible), and the level of CEQA "streamlining" again does not target the infill lawsuit litany. Although the statute is silent on this point, the state Office of Planning & Research (OPR) issued regulatory guidance ("CEQA Guidelines") that asserted that the "streamlined" form of CEQA studies that could be used under SB 226 for eligible projects would be subject to a more favorable standard of judicial review: courts should uphold an agency's approval if it is supported by "substantial evidence" like an EIR, rather than vacate the agency's approval if opponents have made a "fair argument" that even one impact "may" be significant under the current CEQA streamlining allowed for any type of project qualifying for a "Negative Declaration."[351] Even if this untested, partial SB 226 streamlining worked perfectly, the litigation failure rate risk for infill projects remains over 40% – far too high to qualify for standard construction loans or other forms of financing critical to infill projects.

Apart from infill-related unicorn exemptions, the Legislature sometimes adopts non-reforms that can be described as – but do not actually work as – efforts to curb CEQA litigation abuse.

- For example, in 2010 the Legislature enacted a statute to prohibit "frivolous" CEQA lawsuits. The impossible statutory criteria for what actually constituted a "frivolous" lawsuit (to be "frivolous," a lawsuit must be "totally and completely without merit") made this another "unicorn" reform – discussed but never seen in practice, notwithstanding the prevalence of well-known "bounty hunter" CEQA[352] lawsuits (lawyers who decline to identify, and may not even have, a client) and projects targeted by over 20 lawsuits filed by the same or related parties.

- A more recent example involves Assembly Bill 900,[353] which created a "fast track" litigation pathway for qualifying types of "leadership projects" which required a capital investment of more than $100 million, and commitments to implement a list of various special interest priorities. Modeled after a "Buddy Bill" to expedite construction of a football stadium in Los Angeles (see below), AB 900's litigation fast track was two-fold. The first level of the judiciary (the trial courts) were skipped entirely, and the second level of the judiciary (the appellate courts) were required by the statute to resolve the lawsuit in 270 days (nine months). Notwithstanding significant legal arguments that the California Constitution forbade "skipping" the trial court, and that the "separation of powers" in the California Constitution precluded the Legislature from imposing a hard deadline on appellate courts, the Legislature enacted AB 900 with the promise of fast-tracking "big" projects during the Great Recession. Not surprisingly, constitutional challenges to AB 900 were successful – and the portion of AB 900 that allowed "skipping" the trial court were held unlawful. The court did not address the nine-month "deadline" that remains in AB 900 – but as bills to expand the list of qualifying projects are considered, the Legislature has been repeatedly reminded by various stakeholders (including representatives of the judiciary) of the complete impracticability and unenforceability of this nine-month deadline for getting through a trial process that generally takes about two years, an appellate court process that generally takes another two years, and a California Supreme Court process that can take 1-3 years. Pretending that a nine-month unenforceable CEQA litigation fast track will bypass the 2-6-plus-year judicial process is another "unicorn" reform – much discussed, but never seen.

Sometimes unicorns never even make it into enacted legislation. Trusted lobbyists can simply tell the California Legislature about what CEQA does – and does not – do, and these assertions then gain a remarkable level of traction, even when there is no basis in law or fact for these statements. In 2015, the award for the most widespread CEQA political falsehood is the entirely mythical assertion that CEQA exempts affordable housing projects. The entirely unicorn affrodable housing "exemptions" have no real world effect, of course, as confirmed by the many examples of affordable housing CEQA lawsuit challenges noted in this study – as well as the LAO's courageous report confirming the problem caused by CEQA to housing affordability.[354]

- **Whack-A-Mole.** Whack-A-Mole is a classic arcade game where "moles" pop up randomly on a nine-hole grid, and players get points for whacking as many moles as possible with an oversized foam hammer. As stories of particularly egregious examples of CEQA litigation abuse reach critical mass outside – and even within – Sacramento, another successful political strategy deployed by CEQA's litigation abuse status quo defenders is to treat each new outrageous example of CEQA abuse as a "mole" to be whacked by an ineffective toy statutory exemption hammer.

> After losing its first Bike Plan CEQA lawsuit, San Francisco could not even paint a bike lane safety stripe for the years it took city staff to prepare a full EIR.

- CEQA lawsuits blocking city plans to make increasingly-congested urban streets safer for bikes, pedestrians and cars reached an outrageous low point when the bike plans approved by San Francisco and other cities were sued by merchants and NIMBYs opposed to the loss of parking spaces to bike lanes. After losing its first Bike Plan CEQA lawsuit, San Francisco could not even paint a bike lane safety stripe for the several years it took city staff to prepare a full EIR for its bike plan.[355] The Legislature responded to this embarrassment with an incomplete (and thus largely ineffective) CEQA exemption for bike plans.[356]

- As public outcry (including criticisms from environmental allies) grew over the use of multiple CEQA lawsuits by unions competing for territory against time-constrained, federally subsidized solar energy projects at the height of the recession, the Legislature enacted a CEQA "reform" bill to encourage solar panel installations on top of existing rooftops.[357] Rooftop solar installations are either statutorily or categorically exempt from CEQA under existing law (depending on the type of permit required by a local agency), and there were no CEQA lawsuits targeting rooftop solar during the study period (which overlapped precisely with the period when warring territorial claims resulted in CEQA lawsuits and CEQA lawsuit threats against utility-scale solar projects). Nevertheless, CEQA's status quo defenders triumphantly pronounced this inconsequential new statute as "CEQA reform."

- **Buddy Bills: CEQA For The Political Elite.** Another time-honored legislative CEQA tradition is to give a CEQA pass to the Legislature's political favorites. While more current examples include three professional sport team facilities (two football stadiums in Los Angeles, both of which remain unbuilt,[358] and one Basketball Arena in Sacramento now under construction),[359] CEQA's 45-year history is tarnished by several of these "Buddy Bills" – such as CEQA exemptions for new state prisons backed by the powerful prison guard union,[360] CEQA exemptions allowing for other professional sports team projects (e.g., early property condemnation by the San Francisco Giants as they prepared to build their new downtown ballpark),[361] and a CEQA exemption covering all activities required for Los Angeles to host the Olympic Games in 1984.[362]

Another time-honored legislative CEQA tradition is to give a CEQA pass to the Legislature's political favorites.

- **Sleight-of-Hand and Misdirection: "Reforms" that Actually Expand CEQA Litigation Abuse.** The most audacious of CEQA's legislative "reforms" are those that actually invite more abusive CEQA lawsuits.

  - So far in 2015, the most audacious bill – hands-down – was authored by Senator Hannah-Beth Jackson. Senator Jackson is from Senate District 19, which is dominated by the wealthy no-growth coastal community of Santa Barbara. Her SB 122[363] originally expanded CEQA by adding a new public comment process to the already-lengthy EIR process, but has since been scaled back to "just" add new litigation compliance pitfalls for ordinary CEQA projects. Existing law allows preparation of the administrative record – the contents of which are the subject of the CEQA lawsuit – to be prepared by the project opponents and certified as complete by the agency, or prepared by the agency and paid for by the project opponents.[364] Since the ever-more-elaborate CEQA studies prepared to try to increase the odds of winning a CEQA lawsuit can run into the thousands – and sometimes tens of thousands – of pages, parties initiating CEQA lawsuits have balked at the cost of either preparing or paying for the preparation of the administrative record. SB 122 allows what is already a common practice – a private party applicant can choose to pay for the cost of preparing the administrative record to help expedite completion of legal briefs and oral argument. However, this legislation also creates two brand new litigation pitfalls by requiring lead agencies to electronically post incomplete and even erroneous draft CEQA documentation, and by imposing new compliance deadlines for electronic posting of comments, applicant-prepared and agency-prepared documents in only 5-7 days, which is months in advance of (and in addition to) current requirements for completing the Final EIR and Negative Declaration process.

  - Senate Bill 743[365] was a Buddy Bill to protect the Sacramento Kings Arena project from the risk of being blocked or delayed by a CEQA lawsuit. Pushed through in the closing days of the Legislative session of 2013, last-minute amendments to SB 743 included two important infill CEQA streamlining provisions. First, infill projects in qualifying locations do not need to consider "aesthetics" or "parking" as CEQA impacts. Second, SB 743 invited OPR to propose an alternative to the "Level of Service" congestion-based metric used to evaluate the significance of project traffic delays, given that traffic congestion, along with traffic-related air quality and public safety impacts, are the most frequently challenged CEQA infill project topic (as well as being the source of the greatest popular frustration with higher-density development proposals). SB 743 could have simply eliminated LOS from CEQA for infill projects, as it did for the parking and aesthetics CEQA impact categories, and substantially curtailed litigation targets for infill projects. It did the opposite, however, by specifically maintaining in CEQA air quality and safety impacts that are a direct function of LOS congestion levels, and by inviting OPR to develop a replacement metric that would then create an untested new CEQA litigation pitfall. In response to this legislation, OPR proposed to expand CEQA by adding yet another new "Vehicle Miles Travelled" impact – and further proposed to require that initially only infill projects comply with this new VMT mandate. OPR's prior decision to add a new regulatory impact to CEQA – for greenhouse gas emissions – has sparked more than a decade of new CEQA litigation claims, two of which remain pending in the California Supreme Court. For infill projects to run a decade-long gauntlet of lawsuits over a new CEQA "VMT" impact, while still being required to evaluate "LOS" congestion for air quality, public safety, noise, plan consistency and other purposes, is an example of a reform that expands CEQA litigation abuse opportunities against the very type of projects that California's climate goals have prioritized.[366]

The most audacious of CEQA's legislative "reforms" are those that actually invite more abusive CEQA lawsuits.

The Legislature's expansion of CEQA has richly rewarded the defenders of the CEQA litigation abuse status quo. The rest of California does not fare as well.

- Politician Panic. Sometimes CEQA litigation abuse is just too hard to defend, even for CEQA's legion of accomplished status quo defenders. What's most remarkable about these bills – enacted in a panic to avoid closer public scrutiny of outrageous fiscal or policy CEQA abuse – is that CEQA litigation *could* be aimed at such environmentally benign projects.

  Assembly Bill 2564 (Ma) created a CEQA exemption for the "maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline" that is less than one mile long and located within a public right-of way. This bill was enacted after a natural gas pipeline ruptured in San Bruno, killing several people and wounding more. The state's pipeline regulatory agency responded in part by ordering utilities to immediately inspect, and repair or replace, deficient pipelines throughout the state. A CEQA process for studying and approving this new statewide mandate would have taken many years, and could have been delayed even longer by CEQA lawsuits. Politician panic set in at the prospect of multi-year delays for the repair of deficient pipelines, and a "1-mile" CEQA exemption was enacted. It is politically impolite to ask how many pipeline segments were repaired or replaced in "1-mile" bites.[367]

  Other examples of Politician Panic exemptions include repairs "initiated within one year of damage" to highways damaged by earthquakes, landslides, and other natural disasters ("What do you mean I can't repair the road?!?");[368] agency decisions to disapprove a project ("What do you mean we have to spend millions to study a project we know we don't want to do!?!");[369] and the "establishment or modification of rates, tolls, fares or other changes needed to maintain or provide adequate" transit service ("We don't have enough money to keep the buses running, and we have to divert millions on environmental studies before raising the fares?!?").[370]

  The Politician Panic bills, like other categories of CEQA legislative exemptions, have helped conceal the absurdity of CEQA's reach – and opportunities for CEQA litigation abuse – into routine management of safety, maintenance and services.

E. Help CEQA Work: Why Ending CEQA Litigation Abuse Helps Californians and the Environment

Defenders of the CEQA litigation status quo launched a "CEQA Works" website as part of a campaign against CEQA reform.[371] The website explains that the mission of the coalition is to defend CEQA's current structure of Transparency, Mitigation, Comprehensive Protection, Public Participation, and Community Enforcement. The three moderate CEQA litigation abuse reforms discussed above are consistent with, and advance, each of these goals:

- **Transparency is expanded.** Not only does transparency continue to apply to all aspects of the CEQA compliance process, which already requires the careful evaluation and disclosure of project environmental impacts, but under the proposed reforms transparency is extended into the CEQA litigation process to assure that this great environmental law is actually being used to protect the environment and public safety, and not simply as a "greenmail" tactic by cloaked parties seeking to advance non-environmental goals.

The Legislature's expansion of CEQA has richly rewarded the defenders of the CEQA litigation abuse status quo. The rest of California has not fared as well.

- **Mitigation obligations under CEQA remain unchanged by the proposed reforms.**

- **Comprehensive protections of all impacts, including cumulative impacts, remain unchanged by the proposed reforms.**

- **Public participation CEQA compliance procedures are likewise unchanged by the proposed reforms.** Extending the transparency mandate to the litigation process increases public disclosure, and provides the public with meaningful information about who is using CEQA – and why – for approved projects.

- **Community enforcement in the courts is preserved for parties willing to be identified and seeking to protect the environment.** According to CEQA Works, "CEQA must continue to provide the public with the right to sue to enforce its protections, a key tool to protect communities, particularly those in disadvantaged areas." The three recommended reforms will make it much harder to sue projects for non-environmental reasons, and will make it impossible to hide the identity of those seeking to enforce this great California law. Since CEQA lawsuits disproportionately attack infill projects – the kind of projects that will help the disadvantaged by providing employment and public benefits such as transit and water infrastructure, affordable housing and parks, and public services such as schools and urban libraries – ending CEQA litigation abuse for non-environmental purposes will expedite completion of these projects and return California to an era of progress rather than process.

One need look no further than the dismal, multi-decade delays caused by CEQA litigation abuse against transit and multifamily housing projects in Los Angeles to recognize that CEQA currently best serves the defenders of the status quo – often those who are wealthier, whiter, older, and more aligned with the special interests wedded to CEQA litigation abuse for non-environmental purposes – and often to the detriment of the very "disadvantaged" that the CEQA Works coalition agrees should be protected.

The problem of CEQA litigation abuse is clear. The Governor has attempted to navigate his own course through CEQA, arguing that the state's largest transit infrastructure project – High Speed Rail – is exempt from CEQA based on federal preemption of rail operations. Ultimately, ending CEQA litigation abuse is a political question before the Legislature. Despite the strident efforts of special interest defenders of the litigation status quo – and despite the Legislature's non-reform "unicorns" and related tactics to avoid meaningful CEQA reform – the stories of CEQA litigation abuse are now too widespread, and too numerous, to continue to ignore.

CEQA litigation practice is no longer aligned with California's environmental equity or economic objectives, and CEQA reform is long past overdue. Approval of new bond measures, the extension of higher income taxes, and the expenditure of cap and trade funds, should all be deferred until CEQA is modernized to prevent litigation abuse – which will ensure that taxpayer funds are used on progress and projects, and not on process and posturing.

CONCLUSION

CEQA litigation abuse is real, it is harming people (especially the poor, the working class, and the young), and it is obstructing rather than advancing critical environmental, equity, and economic priorities. We have a choice. We can continue to enrich the armies of consultants and lawyers who make their living from CEQA, and continue to allow projects that comply with California's stringent environmental standards, and have undergone intense public scrutiny and comprehensive environmental studies, to be derailed, delayed, or made far more costly by disgruntled NIMBYs and those using CEQA for non-environmental reasons.

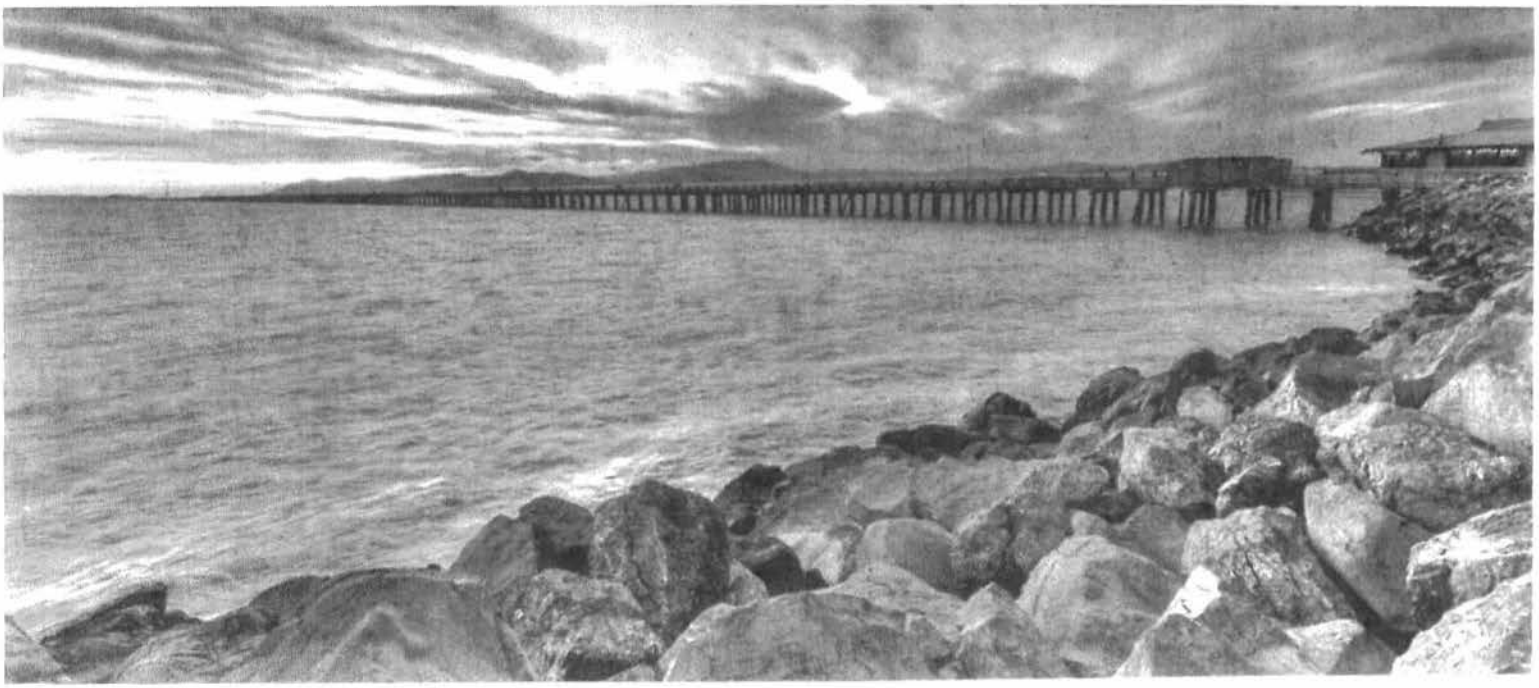
Or, alternatively, we can end the CEQA "arms race" and limit CEQA litigation to its original environmental purpose, where its sister statutes such as NEPA and state versions of CEQA continue to thrive. Under this alternative, environmental advocacy groups can still sue to enforce CEQA and still seek the extraordinary judicial remedy of rescinding a project approval for a deficient CEQA analysis that could allow the project to harm public health, irreplaceable tribal resources or ecological resources. Under this alternative reality, CEQA's analytical and mitigation requirements, and CEQA's public transparency and accountability mandates, would be preserved.

CEQA litigation abuse by anonymous or secret petitioners seeking non-environmental outcomes such as competitive advantage, control of project jobs, and extortionate cash settlements - and to deal with localized neighborhood spats - will end.

CEQA litigation abuse is real, it is harming people (especially the poor, the working class, and the young), and it is obstructing rather than advancing critical environmental priorities.

Using CEQA nomenclature, under this preferred alternative, California will remain an environmental leader, and our Legislature and Governor (and the majority of California voters) can continue to lead on important environmental issues such as climate change and drought.

Today, CEQA litigation practice is no longer aligned with California's environmental objectives, and CEQA reform is long past overdue. Approval of new bond measures, the extension of higher income taxes, and the expenditure of cap and trade funds, should all be deferred until CEQA is modernized to prevent litigation abuse, to make sure taxpayer funds are used on progress and projects, not on process and posturing.



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Publications

Holland & Knight's West Coast Land Use and Environmental Group periodically publishes analyses of California legal and policy data, including information documenting the use, and abuse, of CEQA. Other recent reports on CEQA include the following:

- **CEQA Judicial Outcomes: Fifteen Years of Reported California Appellate and Supreme Court Decisions**, *Holland & Knight alert*, May 2015, *available at* http://www.hklaw.com/files/Uploads/Documents/Articles/0504FINALCEQA.pdf

- **California Environmental Quality Act, Greenhouse Gas Regulation and Climate Change**, *Chapman University Center for Demographics and Policy*, 2015, *available at* http://www.chapman.edu/wilkinson/_files/GHGfn.pdf

- **California's Social Priorities,** *Chapman University Center for Demographics and Policy*, 2015, *available at* http://www.chapman.edu/wilkinson/_files/CASocPrioFnSm2.pdf

- **The National Environmental Policy Act in the Ninth Circuit: Once the Leader, Now the Follower?** *Environmental Practice*, December 2014, *available at* http://journals.cambridge.org/action/displayAbstract?fromPage=online&aid=9548069

- **Analysis of Recent Challenges to Environmental Impact Reports**, *Holland & Knight alert*, December 2012, *available at* http://www.hklaw.com/publications/Analysis-of-Recent-Challenges-to-Environmental-Impact-Reports-12-01-2012/

- **Is CEQA "Fixed" – Do Infill CEQA Reforms Help or Handicap Your Project?** *Holland & Knight alert,* September 13, 2012, *available at* http://www.hklaw.com/files/Publication/04664546-629b-4477-a59e-c6ee4537a7c7/Presentation/PublicationAttachment/e1e11da8-a7ae-41dc-a105-db1b0210a5f1/IsCEQAFixed.pdf

- **Judicial Review of CEQA Categorical Exemptions from 1997-Present**, *Holland & Knight alert*, August 2012, *available at* http://www.hklaw.com/files/Publication/6c8c1fd0-7a6b-4c2f-822f-19c3ff4b95ec/Presentation/PublicationAttachment/4f319f3a-f238-4e9a-87c3-1a355deb0eaa/JudicialReviewofCEQACategoricalExemptions.pdf

Contact Us

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Holland & Knight's West Coast Land Use and Environment Practice Group periodically analyzes California policy data and court rulings regarding the ways in which CEQA, the California Environmental Quality Act of 1970, is both used and abused. Part of one of the largest law firms in the United States, the group's lawyers have extensive experience and knowledge in all aspects of land use and environmental law, from acquisitions and project development to environmental audits and compliance assessments.

Holland & Knight is a global law firm with more than 1,100 lawyers and other professionals in 22 U.S. offices, as well as Bogotá and Mexico City. Our lawyers provide representation in litigation, business, real estate and governmental law. Interdisciplinary practice groups and industry-based teams provide clients with access to attorneys throughout the firm, regardless of location.

APPENDIX A

CASE NAME	REGION	DATE	LOCATION OF PROJECT	PROJECT TYPE	PROJECT SUBTYPE	AGENCY OR PRIVATE PROJECT	INFILL OR GREENFIELD PROJECT	CHALLENGED CEQA COMPLIANCE TRACK(S)
Golden Gate Land Holdings, LLC v. East Bay Regional Park District	San Francisco	5/11	Multijurisdictional	Park	Passive Recreation	Agency	Infill - Park	Categorical Exemption
Glenn Bell; Bob Fifield; John Freeman; Cynthia Positano v. City of Fremont, et al.	San Francisco	5/11	Fremont	Park	Other Active Recreation	Agency	Infill - Park	Negative Declaration
John Freeman v. City of Fremont, et al.	San Francisco	10/10	Fremont	Park	Other Active Recreation	Agency	Infill - Park	Negative Declaration
Save Strawberry Canyon v. Regents of the University of California	San Francisco	2/11	Berkeley	Schools	College	Agency	Infill	Environmental Impact Report
Sustainability, Parks Recycling and Wildlife Defense Fund v. East Bay Regional Parks District	San Francisco	12/12	Albany	Park	Passive Recreation	Agency	Infill - Park	Environmental Impact Report
Friends of Moraga Canyon v. City of Piedmont, et al.	San Francisco	1/12	Piedmont	Park	Other Active Recreation	Private	Infill - Park	Environmental Impact Report-Addendum
Alameda Creek Alliance v. California Department of Transportation	San Francisco	6/11	Alameda County	Public Services & Infrastructure	Highway	Agency	Infill - Infrastructure	Negative Declaration
The Council of Neighborhood Associations, et al. v. City of Berkeley	San Francisco	5/12	Berkeley	Regulatory	City - Land Use	Agency	N/A	Environmental Impact Report
Washoe Meadows Community v. California State Parks and Recreation Commission, et al.	San Francisco	2/12	South Lake Tahoe	Park	Golf	Agency	Greenfield - Park	Environmental Impact Report
Living Rivers Council v. State Water Resources Control Board	San Francisco	2/11	Napa County	Regulatory	Regional - Regulation	Agency	N/A	Certified Regulatory Program
Albany Strollers & Rollers, et al. v. City of Albany, et al.	San Francisco	8/12	Albany	Residential	Multifamily/Mixed Use	Private	Infill	Environmental Impact Report
Parker Shattuck Neighbors, et al. v. Berkeley City Council, et al.	San Francisco	2/12	Berkeley	Residential	Multifamily/Mixed Use	Private	Infill	Negative Declaration-Mitigated
Sustainable West Berkeley Alliance, et al. v. City of Berkeley, et al.	San Francisco	5/11	Berkeley	Regulatory	City - Land Use	Agency	N/A	Environmental Impact Report
Friends of Knowland Park, et al. v. City of Oakland, et al.	San Francisco	7/11	Oakland	Park	Other Active Recreation	Private	Infill - Park	Negative Declaration-Addendum
Center for Biological Diversity, et al. v. California Fish and Game Commission	San Francisco	1/12	State	Regulatory	State - Regulation	Agency	N/A	Statutory Exemption
Pesticide Action Network North America, et al. v. California Department of Pesticide Regulation, et al.	San Francisco	12/10	State	Regulatory	State - Regulation	Private	N/A	Certified Regulatory Program
East Bay Regional Park District, et al. v. City of Alameda, et al.	San Francisco	11/12	Alameda	Regulatory	City - Land Use	Agency	N/A	Environmental Impact Report-Addendum
Karuk Tribe, et al. v. California Department of Fish and Game, et al.	San Francisco	4/12	State	Regulatory	State - Regulation	Agency	N/A	Environmental Impact Report
The New 49'ers, Inc., et al. v. State of California, et al.	Norcal	4/12	State	Regulatory	State - Regulation	Agency	N/A	Environmental Impact Report

This Appendix lists all CEQA lawsuits provided to the authors by the California Attorney General's Office in response to a Public Record Acts Request. For some projects, multiple lawsuits were filed, and this Appendix shows the second and subsequent lawsuits in grey shading. The authors also became aware that not all CEQA lawsuits filed during the study period (2010-2013) were provided by the Attorney General's Office. Since there was no ready means of finding all "missing" lawsuits, the Appendix – and the study's statistical compilations – are limited to those cases provided by the Attorney General's Office.

Public Lands for the People, Inc., et al. v. California Department of Fish and Game	SCAG	4/12	State	Regulatory	State - Regulation	Agency	N/A	Environmental Impact Report
Hills Conservation Network, Inc v. East Bay Regional Parks District, et al.	San Francisco	5/10	Alameda County	Park	Passive Recreation	Agency	Infill - Park	Environmental Impact Report
Citizens Committee to Complete the Refuge v. City of Newark, et al.	San Francisco	9/10	Newark	Residential	Master Planned Community	Private	Infill	Environmental Impact Report
Save Strawberry Canyon v. Regents of the University of California	San Francisco	8/10	Berkeley	Schools	College	Agency	Infill	Environmental Impact Report
Living Rivers Council v. State Water Resources Control Board	San Francisco	10/10	Multijurisdictional	Regulatory	Regional - Regulation	Agency	N/A	Certified Regulatory Program
Preserve San Leandro Mobility, et al. v. City of San Leandro, et al.	San Francisco	5/10	San Leandro	Public Services & Infrastructure	Hospital	Private	Infill	Environmental Impact Report
Concerned Library Users v. City of Berkeley, et al.	San Francisco	9/10	Berkeley	Public Services & Infrastructure	Library	Agency	Infill	Negative Declaration
Berkeley Hillside Preservation, et al. v. City of Berkeley, et al.	San Francisco	5/10	Berkeley	Residential	Single-Family Home/ Second Unit	Private	Infill	Categorical Exemption
Stand Up for Berkeley, et al. v. Regents of the University of California	San Francisco	2/10	Berkeley	Schools	College	Agency	Infill	Environmental Impact Report-Addendum
California Building Industry Association v. Bay Area Air Quality Management District	San Francisco	11/10	Multijurisdictional	Regulatory	Regional - Regulation	Agency	N/A	No CEQA Determination
Center for Biological Diversity, et al. v. California Department of Conservation, Division of Oil, Gas & Geothermal Resources	San Francisco	10/12	State	Mining	O&G	Agency	N/A	Negative Declaration/ Categorical Exemption
Carlos Urrutia Felix, et al. v. City of Walnut Creek, et al.	San Francisco	2/12	Walnut Creek	Residential	Multifamily/ Mixed Use	Private	Infill	Categorical Exemption
George Bravos, et al. v. City of Walnut Creek, et al.	San Francisco	11/11	Walnut Creek	Residential	Multifamily/ Mixed Use	Private	Infill	Statutory Exemption/ Categorical Exemption
Lomas Cantadas Groundwater Protection Committee v. City of Orinda, et al.	San Francisco	5/10	Orinda	Residential	Single-Family Home/ Second Unit	Private	Infill	Negative Declaration-Mitigated
Contra Costa Water District v. County of Contra Costa, et al.	San Francisco	7/11	Contra Costa County	Residential	Large Subdivision/ Mixed Use	Private	Greenfield	Negative Declaration-Mitigated
Californians for Alternatives to Toxics v. North Coast Railroad Authority, et al.	San Francisco	7/11	Multijurisdictional	Public Services & Infrastructure	Railroad/ Non-Transit	Private	Infill - Infrastructure	Environmental Impact Report
Friends of the Eel River v. North Coast Railroad Authority, et al.	San Francisco	7/11	Multijurisdictional	Public Services & Infrastructure	Railroad/ Non-Transit	Private	Infill - Infrastructure	Environmental Impact Report
Designers, Engineers, Constructors for Better, Safer Schools, et al. v. Mill Valley School District, et al.	San Francisco	7/11	Mill Valley	Schools	K-12	Agency	Infill	Negative Declaration-Mitigated

Citizens for a Green San Mateo v. San Mateo County Community College District, et al.	San Francisco	7/11	San Mateo	Schools	College	Agency	Infill	Negative Declaration-Mitigated
Friends of Cordilleras Creek, et al. v. City of Redwood City, et al.	San Francisco	10/12	Redwood City	Residential	Small Subdivision	Private	Infill	Environmental Impact Report
City of San Jose v. Santa Clara County Airport Land Use Commission	San Francisco	12/10	Santa Clara County	Regulatory	County - Land Use	Agency	N/A	Negative Declaration
Citizens Against Airport Pollution v. City of San Jose, et al.	San Francisco	7/10	San Jose	Public Services & Infrastructure	Airport	Agency	Infill	Environmental Impact Report-Addendum
County of Santa Clara v. City of Milpitas, et al.	San Francisco	6/10	Milpitas	Regulatory	City - Land Use	Agency	N/A	Environmental Impact Report
Prudential Insurance Company of America v. City of Santa Clara	San Francisco	6/12	Santa Clara	Entertainment	Amusement Park	Private	Infill	Categorical Exemption
Walton CWCA Wrigley Creek 31, LLC v. Santa Clara Valley Transportation Authority, et al.	San Francisco	4/11	Santa Clara County	Public Services & Infrastructure	Transit	Agency	Infill - Infrastructure	Environmental Impact Report
Eastridge Shopping Center, LLC v. Santa Clara Valley Transportation Authority	San Francisco	2/12	San Jose	Public Services & Infrastructure	Transit	Agency	Infill - Infrastructure	Environmental Impact Report
Hacienda Realty, LLC, et al. v. City of Monte Sereno, et al.	San Francisco	6/12	Monte Sereno	Regulatory	City - Land Use	Agency	N/A	Negative Declaration
Philip Koen, et al. v. City of San Jose, et al.	San Francisco	9/12	San Jose	Residential	Multifamily/Mixed Use	Private	Infill	Negative Declaration-Mitigated
Joy Ogawa, et al. v. City of Palo Alto, et al.	San Francisco	4/11	Palo Alto	Public Services & Infrastructure	Sidewalk/ Streetscape	Agency	Infill - Infrastructure	Negative Declaration
Ross Creek Neighbors v. Town of Los Gatos, et al.	San Francisco	12/10	Los Gatos	Residential	Small Subdivision	Private	Infill	Environmental Impact Report
Lynnbrook-Monta Vista United v. Fremont Union High School District, et al.	San Francisco	5/12	San Jose	Schools	K-12	Agency	Infill	Environmental Impact Report
Lynnbrook-Monta Vista United v. Fremont Union High School District, et al.	San Francisco	1/11	San Jose	Schools	K-12	Agency	Infill	Environmental Impact Report
Lynnbrook-Monta Vista United v. Fremont Union High School District, et al.	San Francisco	5/12	San Jose	Schools	K-12	Agency	Infill	Environmental Impact Report
Stand for San Jose, et al. v. City of San Jose, et al.	San Francisco	12/11	San Jose	Entertainment	Professional Sports	Private	Infill	Environmental Impact Report
Cuesta Annex and Salco Acres Preservation Group v. Santa Clara Valley Water District, et al.	San Francisco	12/12	Mountain View	Public Services & Infrastructure	Stormwater/Flood Management	Agency	Infill - Infrastructure	Environmental Impact Report
People's Coalition for Government Accountability v. County of Santa Clara, et al.	San Francisco	11/12	Santa Clara County	Public Services & Infrastructure	Church	Private	Infill	Negative Declaration-Mitigated
Keep Our Mountains Quiet v. County of Santa Clara, et al.	San Francisco	3/12	Santa Clara County	Agricultural & Forestry	Winery	Private	Mining/ Agriculture/ Forestry	Negative Declaration-Mitigated
Milpitas Coalition for a Better Community v. City of Milpitas	San Francisco	7/11	Milpitas	Retail	Walmart/Big Box Store	Private	Infill	No CEQA Determination

Los Gatos Citizens for Responsible Development, et al. v. Town of Los Gatos, et al.	San Francisco	9/11	Los Gatos	Residential	Multifamily/Mixed Use	Private	Infill	Negative Declaration-Mitigated
Midpenninsula Regional Open Space District v. County of Santa Clara, et al.	San Francisco	11/12	Santa Clara County	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
California Clean Energy Committee v. City of San Jose	San Francisco	11/11	San Jose	Regulatory	City - Land Use	Private	N/A	Environmental Impact Report
Town of Hillsborough v. California Public Utilities Commission, et al.	San Francisco	12/12	Multijurisdictional	Public Services & Infrastructure	Telecommunications	Private	Infill - Infrastructure	Categorical Exemption
Marc Bruno, Representative of Save North Beach v. City and County of San Francisco, et al.	San Francisco	7/12	San Francisco	Public Services & Infrastructure	Transit	Agency	Infill - Infrastructure	Environmental Impact Report
Maida B. Taylor, MD, et al. v. City and County of San Francisco, et al.	San Francisco	8/11	San Francisco	Residential	Small Subdivision	Private	Infill	Categorical Exemption
Nob Hill Association v. City and County of San Francisco, et al.	San Francisco	5/12	San Francisco	Entertainment	Dance Hall/Music	Private	Infill	Statutory Exemption
San Francisco Beautiful v. City and County of San Francisco, et al.	San Francisco	5/12	San Francisco	Regulatory	City - Regulation	Private	N/A	Categorical Exemption
San Francisco Baykeeper, Inc v. California State Lands Commission	San Francisco	11/12	Multijurisdictional	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
San Francisco Beautiful, et al. v. City and County of San Francisco, et al.	San Francisco	8/11	San Francisco	Public Services & Infrastructure	Telecommunications	Private	Infill - Infrastructure	Categorical Exemption
Waterfront Watch v. San Francisco Port Commission, et al.	San Francisco	2/12	San Francisco	Entertainment	Yacht Race Event	Private	N/A	Environmental Impact Report
Save the Plastic Bag Coalition v. City and County of San Francisco, et al.	San Francisco	2/12	San Francisco	Regulatory	Local Plastic Bag Regulation	Agency	N/A	Categorical Exemption
Defend Our Waterfront v. California State Lands Commission, et al.	San Francisco	9/12	San Francisco	Residential	Multifamily/Mixed Use	Private	Infill	Statutory Exemption
Neighbors to Preserve the Waterfront, et al. v. City and County of San Francisco, et al.	San Francisco	7/12	San Francisco	Residential	Multifamily/Mixed Use	Private	Infill	Environmental Impact Report
Neighbors to Preserve the Waterfront, et al. v. City and County of San Francisco, et al.	San Francisco	10/10	San Francisco	Residential	Multifamily/Mixed Use	Private	Infill	No CEQA Determination
Neighbors to Preserve the Waterfront, et al. v. City and County of San Francisco, et al.	San Francisco	8/10	San Francisco	Residential	Multifamily/Mixed Use	Private	Infill	No CEQA Determination
Cow Hollow Neighbors for Livable Communities, et al. v. City and County of San Francisco	San Francisco	11/11	San Francisco	Retail	Store/Center Occupancy	Private	Infill	Categorical Exemption
SF Coalition for Children's Outdoor Play, Education and the Environment et al. v. City and County of San Francisco, et al.	San Francisco	10/12	San Francisco	Park	Other Active Recreation	Agency	Infill - Park	Environmental Impact Report

Divisadero Hayes, LLC v. City and County of San Francisco, et al.	San Francisco	7/10	San Francisco	Residential	Multifamily/Mixed Use	Private	Infill	Negative Declaration-Mitigated
Olivier Charlon v. City and County of San Francisco	San Francisco	2/10	San Francisco	Public Services & Infrastructure	Telecommunications	Private	Infill - Infrastructure	Categorical Exemption
David Pilpel v. City and County of San Francisco	San Francisco	1/10	San Francisco	Public Services & Infrastructure	Transit	Agency	Infill - Infrastructure	Statutory Exemption/ Categorical Exemption
Wendy Robinson, et al. v. City and County of San Francisco	San Francisco	2/10	San Francisco	Public Services & Infrastructure	Telecommunications	Private	Infill - Infrastructure	Categorical Exemption
San Francisco Tomorrow, et al. v. City and County of San Francisco, et al.	San Francisco	7/11	San Francisco	Residential	Multifamily/Mixed Use	Private	Infill	Environmental Impact Report
People Organized to Win Employment Rights, et al. v. San Francisco Planning Department, et al.	San Francisco	9/10	San Francisco	Residential	Master Planned Community	Private	Infill	Environmental Impact Report
Sierra Club, et al. v. City and County of San Francisco, et al.	San Francisco	9/10	San Francisco	Residential	Master Planned Community	Private	Infill	Environmental Impact Report
San Franciscans for Livable Neighborhoods v. City and County of San Francisco	San Francisco	8/11	San Francisco	Regulatory	City - Land Use	Agency	N/A	Environmental Impact Report
San Franciscans for Livable Neighborhoods v. City and County of San Francisco	San Francisco	8/11	San Francisco	Regulatory	City - Land Use	Agency	N/A	Environmental Impact Report
Neighbors for Fair Planning v. City and County of San Francisco, et al.	San Francisco	8/11	San Francisco	Residential	Multifamily/Mixed Use	Private	Infill	Environmental Impact Report
Citizens for a Sustainable Treasure Island v. City and County of San Francisco by and through its Supervisors, et al.	San Francisco	7/11	San Francisco	Residential	Master Planned Community	Private	Infill	Environmental Impact Report
Yuba Group Against Garbage v. City and County of San Francisco by and through the Board of Supervisors	San Francisco	8/11	Multijurisdictional	Public Services & Infrastructure	Municipal Waste Management	Private	Infill - Infrastructure	No CEQA Determination
Sustainability, Parks, Recycling, And Wildlife Legal Defense Fund v. City and County of San Francisco	San Francisco	8/11	Multijurisdictional	Public Services & Infrastructure	Municipal Waste Management	Private	Infill - Infrastructure	No CEQA Determination
Friends of Appleton-Wolfard Libraries, et al. v. City and County of San Francisco, et al.	San Francisco	7/11	San Francisco	Public Services & Infrastructure	Library	Agency	Infill	Environmental Impact Report
Friends of the Landmark Filbert Street Cottages, et al. v. City and County of San Francisco, et al.	San Francisco	4/11	San Francisco	Residential	Small Subdivision	Private	Infill	Categorical Exemption
Pacific Polk Properties, LLC, et al. v. City and County of San Francisco, et al.	San Francisco	7/10	San Francisco	Residential	Multifamily/Mixed Use	Private	Infill	Environmental Impact Report
Mary Wika v. City of Benicia	San Francisco	6/10	Benicia	Retail	Shopping Center	Private	Infill	Categorical Exemption
Upper Green Valley Homeowners v. County of Solano, et al.	San Francisco	8/10	Solano County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report

Rockville Homeowners' Association v. County of Solano, et al.	San Francisco	8/10	Solano County	Residential	Large Subdivision/ Mixed Use	Private	Greenfield	Negative Declaration-Mitigated
Save Historic Stonedene v. City of Fairfield, et al.	San Francisco	11/10	Fairfield	Residential	Small Subdivision	Private	Infill	Negative Declaration-Mitigated
California Healthy Communities Network, et al. v. City of Vallejo	San Francisco	2/12	Vallejo	Retail	Store/Center Occupancy	Private	Infill	Environmental Impact Report
Yocha Dehe Wintun Nation v. Solano Transportation Authority, et al.	San Francisco	6/10	Solano County	Water	Storage/ Conveyance/ Extraction	Agency	N/A	Environmental Impact Report
City of Petaluma, et al. v. County of Sonoma, et al.	San Francisco	2/11	Sonoma County	Industrial	Asphalt Plant	Private	Greenfield	Environmental Impact Report
BCC Holdings, LLC v. City of Petaluma	San Francisco	1/10	Petaluma	Residential	Large Subdivision/ Mixed Use	Private	Infill	Negative Declaration-Mitigated
North Sonoma County Healthcare District, et al. v. County of Sonoma, et al.	San Francisco	11/10	Santa Rosa	Public Services & Infrastructure	Hospital	Private	Infill	Environmental Impact Report
Roy Gordon v. Sonoma County Board of Supervisors, Its Officials, Agents, Employees, or Entities Working on Its Behalf	San Francisco	3/12	Sonoma County	Residential	Single-Family Home/ Second Unit	Private	Greenfield	Categorical Exemption
James L. Duncan v. City of Santa Rosa, et al.	San Francisco	10/12	Santa Rosa	Regulatory	City - Regulation	Agency	N/A	Environmental Impact Report
John Kramer, et al. v. City of Sebastopol, et al.	San Francisco	8/11	Sebastopol	Retail	Walmart/Big Box Store	Private	Infill	Negative Declaration-Mitigated
Starcross Monastic Community v. California Department of Forestry and Fire Protection	San Francisco	6/12	Sonoma County	Agricultural & Forestry	Winery	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Russian River Watershed Protection Committee v. Sonoma County Water Agency, et al.	San Francisco	9/11	Sonoma County	Park	Passive Recreation	Agency	Greenfield - Park	Environmental Impact Report
Russian Riverkeeper, et al. v. County of Sonoma, et al.	San Francisco	1/11	Sonoma County	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Citizens for Safe Neighborhoods v. City of Santa Rosa, et al.	San Francisco	7/12	Santa Rosa	Industrial	Asphalt Plant	Private	Infill	Categorical Exemption
Stop the Casino 101 Coalition v. City of Rohnert Park	San Francisco	10/12	Rohnert Park	Public Services & Infrastructure	Streets	Private	Infill - Infrastructure	Statutory Exemption
Friends of Americano Creek v. County of Sonoma, et al.	San Francisco	4/11	Petaluma	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Joseph W. Tresch and Kathleen M. Tresch, Trustees of the Joseph W. and Kathleen M. Tresch Revocable Trust, et al. v. County of Sonoma Agricultural Preservation and Open Space District Board of Supervisors, et al.	San Francisco	1/11	Petaluma	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report

Citizens Advocating for Roblar Rural Quality v. County of Sonoma, et al.	San Francisco	1/11	Petaluma	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
New-Old Ways Wholistically Emerging v. Sonoma County Board of Supervisors	San Francisco	12/12	Sonoma County	Agricultural & Forestry	Winery	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
California Healthy Communities Network v. City of Antioch	San Francisco	10/10	Antioch	Retail	Walmart/Big Box Store	Private	Infill	Negative Declaration-Mitigated/ Addendum
Bodega Bay Concerned Citizens v. County of Sonoma	San Francisco	10/11	County of Sonoma	Water	Storage/ Conveyance/ Extraction	Private	N/A	Negative Declaration-Mitigated
Rincon Valley Environmental & Safety Committee v. City of Santa Rosa	San Francisco	11/11	Santa Rosa	Retail	Shopping Center	Private	Infill	Negative Declaration-Mitigated
Ag Land Trust v. Marina Coast Water District	Central Coast	4/10	Monterey County	Water	Storage/ Conveyance/ Extraction	Agency	N/A	Environmental Impact Report-Addendum
Ag Land Trust v. Monterey County Water Resources Agency, et al.	Central Coast	2/11	Monterey County	Water	Storage/ Conveyance/ Extraction	Agency	N/A	Environmental Impact Report-Addendum
Carmel Rio Road, LLC v. County of Monterey	Central Coast	6/12	Carmel	Residential	Multifamily/Mixed Use	Private	Infill	No CEQA Determination
Carmel Valley Association, Inc. v. Board of Supervisors of the County of Monterey, et al.	Central Coast	11/10	Monterey County	Regulatory	County - Land Use	Agency	N/A	Environmental Impact Report
Landwatch Monterey County v. County of Monterey	Central Coast	12/10	Monterey County	Regulatory	County - Land Use	Agency	N/A	Environmental Impact Report
Salinas Valley Water Coalition, et al. v. County of Monterey	Central Coast	11/10	Monterey County	Regulatory	County - Land Use	Agency	N/A	Environmental Impact Report
The Open Monterey Project v. Monterey County Board of Supervisors, et al.	Central Coast	11/10	Monterey County	Regulatory	County - Land Use	Agency	N/A	Environmental Impact Report
Landwatch Monterey County v. County of Monterey	Central Coast	8/11	Monterey County	Commercial	Office/Business Park	Agency	Infill	Environmental Impact Report
Turn Down the Lights v. City of Monterey	Central Coast	3/12	Monterey	Public Services & Infrastructure	Sidewalk/ Streetscape	Agency	Infill - Infrastructure	Categorical Exemption
Highway 68 Coalition v. Monterey Peninsula Airport District Board of Directors	Central Coast	6/11	Monterey County	Public Services & Infrastructure	Airport	Agency	Infill	Environmental Impact Report
Highway 68 Coalition v. County of Monterey, et al.	Central Coast	3/12	Monterey County	Retail	Shopping Center	Private	Greenfield	Environmental Impact Report
Highway 68 Coalition v. County of Monterey	Central Coast	6/10	Monterey County	Public Services & Infrastructure	Highway	Agency	Infill - Infrastructure	Negative Declaration-Mitigated
The Open Monterey Project v. Monterey County Water Resources Agency	Central Coast	6/10	Monterey County	Public Services & Infrastructure	Stormwater/Flood Management	Agency	Greenfield - Infrastructure	Negative Declaration-Mitigated
Save Our Peninsula Committee v. County of Monterey, et al.	Central Coast	5/11	Monterey County	Residential	Multifamily/Mixed Use	Private	Infill	Negative Declaration-Mitigated/ Addendum
Save Our Peninsula Committee v. County of Monterey, et al.	Central Coast	2/11	Monterey County	Regulatory	CEQA Enforcement	Agency	N/A	No CEQA Determination
Keep Fort Ord Wild v. County of Monterey, et al.	Central Coast	11/11	Monterey County	Public Services & Infrastructure	Highway	Agency	Infill - Infrastructure	No CEQA Determination

The Protect Our Communities Foundation, et al. v. Imperial County Board of Supervisors	SCAG	12/11	Imperial County	Energy	Renewable - Solar	Private	Greenfield - Energy	Negative Declaration-Mitigated
The Protect Our Communities Foundation, et al. v. Imperial County Board of Supervisors	SCAG	5/12	Imperial County	Energy	Renewable - Solar	Private	Greenfield - Energy	Environmental Impact Report
Prop "A" Protective Association, LLC v. City of Whittier, et al.	SCAG	12/12	Whittier	Mining	O&G	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Mountains Recreation and Conservation Authority v. City of Whittier	SCAG	10/12	Whittier	Mining	O&G	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Los Angeles County Regional Park and Open Space District, et al. v. City of Whittier	SCAG	10/12	Whittier	Mining	O&G	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Open Space Legal Defense Fund, et al. v. City of Whittier, et al.	SCAG	12/11	Whittier	Mining	O&G	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Open Space Legal Defense Fund, et al. v. City of Whittier, et al.	SCAG	7/11	Whittier	Mining	O&G	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Concerned Citizens of Castellammare, et al. v. City of Los Angeles, et al.	SCAG	10/12	Los Angeles	Residential	Single-Family Home/ Second Unit	Private	Infill	Negative Declaration-Mitigated
Gateway Crescent, LLC v. State of California Department of Transportation	SCAG	7/12	Los Angeles County	Public Services & Infrastructure	Highway	Agency	Infill - Infrastructure	Environmental Impact Report
Jerry Ptashkin v. City Council of the City of West Hollywood	SCAG	8/12	West Hollywood	Public Services & Infrastructure	Church	Private	Infill	Categorical Exemption
Paul Roberts, Trustee of the Malibu Sands Realty Trust v. City of Malibu	SCAG	9/12	Malibu	Residential	Single-Family Home/ Second Unit	Private	Infill	Categorical Exemption
Christine Greenberg v. City of Rolling Hills, et al.	SCAG	11/12	Rolling Hills	Regulatory	City - Regulation	Private	N/A	Negative Declaration-Mitigated
Asian Pacific American Labor Alliance, et al. v. City of Los Angeles, et al.	SCAG	8/12	Los Angeles	Retail	Walmart/Big Box Store	Private	Infill	Statutory Exemption
Citizens for Castaic v. William S. Hart Union High School District	SCAG	11/12	Los Angeles County	Schools	K-12	Private	Greenfield	Environmental Impact Report
West Covina Improvement Association v. City of West Covina, et al.	SCAG	7/12	West Covina	Commercial	Office/Business Park	Private	Infill	Negative Declaration-Mitigated
West Covina Improvement Association v. City of West Covina, et al.	SCAG	2/12	West Covina	Commercial	Office/Business Park	Private	Infill	Negative Declaration-Mitigated
View Park Preservation Society, et al. v. Los Angeles County Department of Regional Planning	SCAG	12/12	Los Angeles County	Water	Storage/ Conveyance/ Extraction	Private	N/A	Negative Declaration-Mitigated
City of Beverly Hills v. Los Angeles County Metropolitan Transportation Authority	SCAG	12/12	Los Angeles County	Public Services & Infrastructure	Transit	Agency	Infill - Infrastructure	Environmental Impact Report

Beverly Hills Unified School District v. Lost Angeles County Metropolitan Transportation Authority	SCAG	5/12	Los Angeles County	Public Services & Infrastructure	Transit	Agency	Infill - Infrastructure	Environmental Impact Report
Today's IV, Inc. dba Westin Bonaventure Hotel and Suites v. Los Angeles County Metropolitan Transportation Authority	SCAG	5/12	Los Angeles County	Public Services & Infrastructure	Transit	Agency	Infill - Infrastructure	Environmental Impact Report
515/555 Flower Associates, LLC v. Los Angeles County Metropolitan Transportation Authority	SCAG	5/12	Los Angeles County	Public Services & Infrastructure	Transit	Agency	Infill - Infrastructure	Environmental Impact Report
Japanese Village, LLC v. Los Angeles County Metropolitan Transportation Authority	SCAG	5/12	Los Angeles County	Public Services & Infrastructure	Transit	Agency	Infill - Infrastructure	Environmental Impact Report
Shanna Ingalsbee, et al. v. City of Burbank, et al.	SCAG	6/12	Burbank	Retail	Walmart/Big Box Store	Private	Infill	Environmental Impact Report
Fix the City, Inc v. City of Los Angeles, et al.	SCAG	7/12	Los Angeles	Regulatory	City - Land Use	Agency	N/A	Environmental Impact Report
La Mirada Avenue Neighborhood Association of Hollywood v. City of Los Angeles, et al.	SCAG	7/12	Los Angeles	Regulatory	City - Land Use	Agency	N/A	Environmental Impact Report
Angelinos for Culture and a Healthy Environment v. City of Los Angeles	SCAG	6/12	Los Angeles	Commercial	Hotel	Private	Infill	Negative Declaration-Mitigated
Don't Privatize Playa Vista Parks v. City of Los Angeles	SCAG	7/10	Los Angeles	Residential	Master Planned Community	Private	Infill	Statutory Exemption
Woodland Hills Homeowners' Association, et al. v. City of Los Angeles, et al.	SCAG	3/12	Los Angeles	Retail	Walmart/Big Box Store	Private	Infill	Environmental Impact Report
La Mirada Avenue Neighborhood Association of Hollywood v. City of Los Angeles, et al.	SCAG	10/12	Los Angeles	Residential	Multifamily/Mixed Use	Private	Infill	Environmental Impact Report
Fusion Air Quality v. Los Angeles Metropolitan Transportation Authority, et al.	SCAG	4/12	Hawthorne	Public Services & Infrastructure	Transit	Agency	Infill - Infrastructure	Environmental Impact Report
Chatsworth Area Residents Association, et al. v. City of Los Angeles, et al.	SCAG	6/12	Los Angeles	Schools	K-12	Private	Infill	Negative Declaration-Mitigated
Westside of Los Angeles Neighborhood and Community Coalition, et al. v. City of Los Angeles, et al.	SCAG	6/12	Los Angeles	Residential	Multifamily/Mixed Use	Private	Infill	Negative Declaration-Mitigated
Center for Biological Diversity, et al. v. California Department of Fish and Game	SCAG	1/11	Los Angeles County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
California Native Plant Society, et al. v. City of Los Angeles, et al.	SCAG	6/12	Los Angeles County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
Gale Banks Engineering v. City of Azusa	SCAG	1/12	Azusa	Public Services & Infrastructure	Municipal Waste Management	Private	Infill - Infrastructure	Environmental Impact Report

City of Irwindale v. City of Azusa	SCAG	9/11	Azusa	Public Services & Infrastructure	Municipal Waste Management	Private	Infill - Infrastructure	Environmental Impact Report
Excalibur Property Holdings, LLC, et al. v. City of Monrovia, et al.	SCAG	9/11	Monrovia	Regulatory	City - Regulation	Agency	N/A	Statutory Exemption
Charmont Partners, LTD, et al. v. City of Santa Monica	SCAG	1/12	Santa Monica	Public Services & Infrastructure	Sidewalk/ Streetscape	Agency	Infill	Categorical Exemption
Yvonne Cooper v. City of Los Angeles South Valley Area Planning Commission, et al.	SCAG	11/11	Los Angeles	Public Services & Infrastructure	Telecommunications	Private	Infill - Infrastructure	Negative Declaration-Mitigated
Riner Scivally v. City Council for the City of South Pasadena	SCAG	9/11	South Pasadena	Commercial	Office/ Business Park	Private	Infill	Negative Declaration
Crenshaw Subway Coalition v. Los Angeles County Metropolitan Transportation Authority	SCAG	10/11	Los Angeles County	Public Services & Infrastructure	Transit	Agency	Infill - Infrastructure	Environmental Impact Report
Homeowners of Angelo Drive to Save the Great Ficus Trees v. Ken Pfalzgraf, et al.	SCAG	11/11	Beverly Hills	Public Services & Infrastructure	Sidewalk/ Streetscape	Agency	Infill	Categorical Exemption
Friends and Alumni of Leuzinger High School v. Centinela Valley Union High School District, et al.	SCAG	9/11	Lawndale	Schools	K-12	Agency	Infill	Categorical Exemption
Community With A Conscience v. City of Los Angeles	SCAG	12/11	Los Angeles	Residential	Multifamily/Mixed Use	Private	Infill	Environmental Impact Report
Residents Against Chandler Ranch v. City of Rolling Hills Estates, et al.	SCAG	8/11	Rolling Hills	Residential	Large Subdivision/ Mixed Use	Private	Infill	Environmental Impact Report
Residents For A Better Slauson v. City of Los Angeles	SCAG	9/11	Los Angeles	Public Services & Infrastructure	Telecommunications	Private	Infill - Infrastructure	Negative Declaration-Mitigated
City of Burbank v. City of Los Angeles, et al.	SCAG	12/10	Multijurisdictional	Public Services & Infrastructure	Sewage Management	Agency	Infill - Infrastructure	Environmental Impact Report
Los Angeles County Regional Park and Open Space District, et al. v. City of Whittier	SCAG	2/11	Los Angeles County	Public Services & Infrastructure	Transit	Agency	Infill - Infrastructure	Environmental Impact Report
Margarita Allen v. Community Redevelopment Agency of the City of Los Angeles	SCAG	1/11	Los Angeles	Residential	Multifamily/Mixed Use	Private	Infill	Environmental Impact Report
CREED-21 v. City of Glendora	SCAG	3/11	Glendora	Retail	Walmart/Big Box Store	Private	Infill	Environmental Impact Report
Santa Clarita Organization for Planning and the Environment, et al. v. City of Santa Clarita, et al.	SCAG	6/11	Los Angeles County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
Highland Park Heritage Trust, et al. v. City of Los Angeles, et al.	SCAG	7/11	Los Angeles	Public Services & Infrastructure	Museum	Private	Infill	Categorical Exemption
Save the Plastic Bag Coalition v. City of Long Beach, et al.	SCAG	6/11	Long Beach	Regulatory	Local Plastic Bag Regulation	Agency	N/A	Environmental Impact Report
La Mirada Avenue Neighborhood Association of Hollywood v. City of Los Angeles, et al.	SCAG	6/11	Hollywood	Residential	Multifamily/Mixed Use	Private	Infill	Environmental Impact Report

Pasadena Coalition for Responsible Development v. City of Pasadena, et al.	SCAG	1/11	Pasadena	Commercial	Office/Business Park	Private	Infill	Environmental Impact Report
Residents First v. City of Los Angeles	SCAG	1/11	Los Angeles	Retail	Walmart/Big Box Store	Private	Infill	Negative Declaration-Mitigated
El Monte Citizens for Responsible Government v. City of El Monte, et al.	SCAG	3/11	El Monte	Retail	Shopping Center	Private	Infill	Negative Declaration-Mitigated
Concerned Homeowners of Crescent Heights, et al. v. City of Los Angeles	SCAG	2/11	Los Angeles	Residential	Single-Family Home/ Second Unit	Private	Infill	Negative Declaration-Mitigated
Neighbors Organized to Protect the Environment in Beverly Hills, et al. v. City of Beverly Hills, et al.	SCAG	5/11	Beverly Hills	Retail	Store/Center Occupancy	Private	Infill	Categorical Exemption
Coastal Defender v. City of Manhattan Beach, et al.	SCAG	5/11	Manhattan Beach	Retail	Store/Center Occupancy	Private	Infill	Categorical Exemption
City of South Gate v. City of Cudahy, et al.	SCAG	12/10	Cudahy	Entertainment	Dance Hall/Music	Private	Infill	Negative Declaration-Mitigated
City of Culver City, et al. v. Los Angeles Community College District, et al.	SCAG	9/10	Culver City	Schools	College	Agency	Infill	Environmental Impact Report
County of Los Angeles v. City of Los Angeles	SCAG	9/10	Los Angeles County	Public Services & Infrastructure	Sewage Management	Agency	Infill - Infrastructure	Environmental Impact Report
EastWest Studios, LLC v. City of Los Angeles, et al.	SCAG	9/10	Los Angeles	Schools	College	Private	Infill	Environmental Impact Report
Kramer Metals v. City of Los Angeles, et al.	SCAG	8/10	Los Angeles	Retail	Shopping Center	Private	Infill	Negative Declaration-Mitigated
Conejo Wellness Center, Inc. v. City of Agora Hills, et al.	SCAG	10/10	Agora Hills	Regulatory	Local Marijuana Regulation	Agency	N/A	No CEQA Determination
Robert Blue v. City of Los Angeles, et al.	SCAG	7/10	Los Angeles	Retail	Walmart/Big Box Store	Private	Infill	Negative Declaration-Mitigated
La Mirada Avenue Neighborhood Association of Hollywood v. City of Los Angeles, et al.	SCAG	7/10	Los Angeles	Retail	Walmart/Big Box Store	Private	Infill	Negative Declaration-Mitigated
Citizens Coalition Los Angeles v. City of Los Angeles	SCAG	12/12	Hollywood	Retail	Walmart/Big Box Store	Private	Infill	Negative Declaration-Mitigated
Norman La Caze v. City of Rolling Hills	SCAG	11/10	Rolling Hills	Residential	Small Subdivision	Agency	Infill	Negative Declaration-Mitigated
Wing Y. Chung v. City of Monterey Park	SCAG	12/10	Monterey Park	Regulatory	City - Regulation	Agency	N/A	No CEQA Determination
Ramirez Canyon Preservation Fund v. Santa Monica Mountains Conservancy, et al.	SCAG	9/10	Malibu	Park	Passive Recreation	Agency	Infill - Park	Environmental Impact Report
LA Neighbors United v. City of Los Angeles	SCAG	12/10	Los Angeles	Regulatory	City - Land Use	Agency	N/A	Negative Declaration
Building an Economically Sound Torrance, et al. v. City of Torrance, et al.	SCAG	12/10	Torrance	Retail	Walmart/Big Box Store	Private	Infill	Statutory Exemption

Central Basin Municipal Water District v. Water Replenishment District of Southern California, et al.	SCAG	12/10	Multijurisdictional	Water	Storage/ Conveyance/ Extraction	Private	N/A	Categorical Exemption
City of Maywood v. Los Angeles Unified School District, et al.	SCAG	4/10	Maywood	Schools	K-12	Private	Infill	Environmental Impact Report
MIPCO, LLC, et al. v. Alameda Corridor-East Construction Authority on behalf of San Gabriel Valley Council of Governments	SCAG	3/10	El Monte	Public Services & Infrastructure	Railroad/Non-Transit	Private	Infill - Infrastructure	Environmental Impact Report/ Negative Declaration-Mitigated (Negative Declaration)
Francine Eisenrod v. City of Los Angeles, et al.	SCAG	7/10	Los Angeles	Residential	Multifamily/Mixed Use	Private	Infill	Categorical Exemption
Dr. Lewis A. Einstedt, et al. v. City of Rancho Palos Verdes, et al.	SCAG	1/10	Rancho Palos Verdes	Residential	Large Subdivision/ Mixed Use	Private	Infill	Negative Declaration-Mitigated
Puente Hills Landfill Native Habitat Preservation Authority v. City of La Habra Heights	SCAG	5/10	La Habra Heights	Residential	Single-Family Home/ Second Unit	Private	Infill	Negative Declaration-Mitigated
Neighbors for Smart Rail v. Exposition Metro Line Construction Authority, et al.	SCAG	3/10	Los Angeles-Santa Monica	Public Services & Infrastructure	Transit	Agency	Infill - Infrastructure	Environmental Impact Report
Friends of the Whittier Narrows Natural Area v. San Gabriel River Discovery Center Authority	SCAG	2/10	Los Angeles County	Park	Other Active Recreation	Agency	Infill - Park	Environmental Impact Report
Ballona Ecosystem Education Project v. City of Los Angeles	SCAG	1/10	Los Angeles	Residential	Multifamily/Mixed Use	Private	Infill	Negative Declaration-Mitigated
Van De Kamps Coalition v. Los Angeles Community College District, et al.	SCAG	1/10	Los Angeles	Schools	K-12	Private	Infill	Environmental Impact Report
Comunidad En Accion v. Los Angeles City Council, et al.	SCAG	6/10	Los Angeles	Public Services & Infrastructure	Municipal Waste Management	Private	Infill - Infrastructure	Environmental Impact Report
Community Alliance For Open Space v. City of Los Angeles, et al.	SCAG	7/10	Los Angeles	Schools	Workforce Training	Private	Infill	Negative Declaration-Mitigated
Malibu Colony Neighbors Alliance, et al. v. California Coastal Commission	SCAG	12/10	Malibu	Park	Passive Recreation	Agency	Infill - Park	Environmental Impact Report
Wetlands Defense Funds, et al. v. California Coastal Commission	SCAG	12/10	Malibu	Park	Passive Recreation	Agency	Infill - Park	Environmental Impact Report
Kenneth Mackenzie v. City of El Monte, et al.	SCAG	12/11	El Monte	Commercial	Office/Business Park	Private	Infill	Negative Declaration-Mitigated
City of Duarte v. City of Azusa	SCAG	8/10	Azusa	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Responsible Use of Land at El Toro, et al. v. Saddleback Valley Unified School District	SCAG	12/12	Lake Forest	Schools	K-12	Agency	Infill	Environmental Impact Report
Santa Ana California Lodge, LLC v. City of Santa Ana, et al.	SCAG	3/12	Santa Ana	Public Services & Infrastructure	Sewage Management	Agency	Infill - Infrastructure	Environmental Impact Report

Banning Ranch Conservancy v. City of Newport Beach, et al.	SCAG	5/10	Newport Beach	Residential	Large Subdivision/ Mixed Use	Private	Infill	Environmental Impact Report
Banning Ranch Conservancy v. City of Newport Beach, et al.	SCAG	4/10	Newport Beach	Residential	Large Subdivision/ Mixed Use	Private	Infill	Environmental Impact Report
Banning Ranch Conservancy v. City of Newport Beach, et al.	SCAG	8/12	Newport Beach	Residential	Large Subdivision/ Mixed Use	Private	Infill	Environmental Impact Report
Orange County Fairgrounds Preservation Society v. 32nd District Agricultural Association	SCAG	1/12	Costa Mesa	Entertainment	Fairground	Agency	Infill - Park	Environmental Impact Report
Protect Coastal Huntington Beach, et al. v. City of Huntington Beach, et al.	SCAG	10/12	Huntington Beach	Residential	Multifamily/Mixed Use	Private	Infill	Negative Declaration-Mitigated
Orange County Residents for Open Government v. Orange County Water District, et al.	SCAG	7/12	Anaheim, Fullerton, Placentia	Water	Storage/ Conveyance/ Extraction	Agency	N/A	Environmental Impact Report
Orange County Communities Organized for Responsible Development, et al. v. City of Anaheim	SCAG	2/12	Anaheim	Commercial	Hotel	Private	Infill	No CEQA Determination
The Lamb School Neighborhood Save Our Field Committee, et al. v. Huntington Beach City Council	SCAG	12/12	Huntington Beach	Residential	Large Subdivision/ Mixed Use	Private	Infill	Negative Declaration-Mitigated
Stop the Dunes Hotel v. City of Newport Beach, et al.	SCAG	8/12	Newport Beach	Residential	Multifamily/Mixed Use	Private	Infill	Categorical Exemption
Saddleback Canyons Conservancy, et al. v. County of Orange, et al.	SCAG	10/12	Orange County	Residential	Large Subdivision/ Mixed Use	Private	Greenfield	Environmental Impact Report
Ocean View School District v. City of Huntington Beach, et al.	SCAG	1/12	Huntington Beach	Residential	Multifamily/Mixed Use	Private	Infill	Environmental Impact Report
Friends of the Lacy Historic Neighborhood v. City of Santa Ana, et al.	SCAG	7/10	Santa Ana	Residential	Multifamily/Mixed Use	Private	Infill	Environmental Impact Report
City of Irvine v. County of Orange, et al.	SCAG	1/11	Orange County	Public Services & Infrastructure	Prison	Agency	Infill	Environmental Impact Report/ Categorical Exemption
City of Tustin v. Tustin Unified School District, et al.	SCAG	8/11	Tustin	Schools	K-12	Agency	Infill	Statutory Exemption/ Categorical Exemption
Bay City Partners, LLC v. City of Seal Beach, et al.	SCAG	4/10	Seal Beach	Public Services & Infrastructure	Sidewalk/ Streetscape	Agency	Infill - Infrastructure	Negative Declaration-Mitigated
Pacific Mobile Home Park, LLC v. City of Huntington Beach acting by and through its elected City Council	SCAG	2/11	Huntington Beach	Public Services & Infrastructure	Streets	Agency	Infill - Infrastructure	Negative Declaration-Mitigated
Back Bay Court Property Company v. City of Newport Beach	SCAG	6/10	Newport Beach	Public Services & Infrastructure	Streets	Agency	Infill - Infrastructure	Categorical Exemption

Paul R. Esslinger v. City of Laguna Beach	SCAG	10/10	Laguna Beach	Residential	Mobile Home Conversion (Rent to Own)	Private	Infill	Statutory Exemption
Arthur E.Stahovich v. City of Anaheim, et al.	SCAG	4/11	Anaheim	Residential	Large Subdivision/ Mixed Use	Private	Infill	Negative Declaration
Daniel L. Friess v. City of San Juan Capistrano, et al.	SCAG	11/11	San Juan Capistrano	Retail	Store/Center Occupancy	Private	Infill	No CEQA Determination
Michael Wilson v. City of Laguna Beach	SCAG	6/11	Laguna Beach	Residential	Single-Family Home/ Second Unit	Private	Infill	Categorical Exemption
Janet Wilson, et al. v. County of Orange, et al.	SCAG	4/10	Orange County	Residential	Single-Family Home/ Second Unit	Private	Greenfield	Categorical Exemption
Lee Strother, et al. v. City of San Clemente	SCAG	9/10	San Clemente	Residential	Single-Family Home/ Second Unit	Private	Infill	Categorical Exemption
Huntington Beach Neighbors v. The City of Huntington Beach, et al.	SCAG	2/10	Huntington Beach	Regulatory	City - Land Use	Agency	N/A	Environmental Impact Report
Foothill Communities Coalition v. County of Orange, et al.	SCAG	4/11	Orange County	Residential	Multifamily/Mixed Use	Private	Infill	Environmental Impact Report
Preserve and Protect North Laguna v. County of Orange	SCAG	4/11	Orange County	Public Services & Infrastructure	Streets	Private	Infill - Infrastructure	Negative Declaration-Mitigated
Save Our Specific Plan, et al. v. County of Orange, et al.	SCAG	11/10	Orange County	Agricultural & Forestry	Winery	Private	Mining/ Agriculture/ Forestry	Negative Declaration-Mitigated
Center for Biological Diversity, et al. v. City of Fullerton, et al.	SCAG	8/11	Fullerton	Residential	Large Subdivision/ Mixed Use	Private	Infill	Environmental Impact Report
Albert Thomas Paulek v. Regional Conservation Authority	SCAG	3/12	Riverside County	Regulatory	City - Regulation	Private	N/A	Categorical Exemption
Albert Thomas Paulek v. California Department of Water Resources	SCAG	12/11	Riverside County	Water	Storage/ Conveyance/ Extraction	Agency	N/A	Environmental Impact Report
De Luz 2000 dba Save Our Southwest Hills v. County of Riverside	SCAG	10/12	Riverside County	Regulatory	County - Regulation	Agency	N/A	Statutory Exemption
Friends of Riverside's Hills v. Riverside County Transportation Commission	SCAG	8/11	Riverside County	Public Services & Infrastructure	Transit	Private	Infill - Infrastructure	Environmental Impact Report
CREED-21 v. City of Riverside	SCAG	2/12	Riverside	Retail	Walmart/Big Box Store	Private	Infill	Environmental Impact Report
CREED-21 v. City of Murrieta	SCAG	8/12	Murrieta	Retail	Walmart/Big Box Store	Private	Infill	Negative Declaration-Mitigated
Cherry Valley Pass Acres and Neighbors, et al. v. City of Banning	SCAG	4/12	Banning	Residential	Master Planned Community	Private	Infill	Environmental Impact Report
De Luz 2000 dba Save Our Southwest Hills, et al. v. County of Riverside	SCAG	8/12	Riverside County	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Smart Neighbors for Smart Growth v. Timothy White, Chancellor of University of California at Riverside, et al.	SCAG	4/12	Riverside	Public Services & Infrastructure	Municipal Waste Management	Agency	Infill - Infrastructure	Environmental Impact Report

Alliance for Intelligent Planning v. City of Wildomar	SCAG	9/11	Wildomar	Retail	Store/ Center Occupancy	Private	Infill	Negative Declaration-Mitigated
Temecula Agriculture Conservation Council v. County of Riverside	SCAG	11/12	Riverside County	Public Services & Infrastructure	Church	Private	Greenfield	Negative Declaration-Mitigated
Sierra Club, et al. v. City of Moreno Valley	SCAG	10/12	Moreno Valley	Industrial	Warehouse/ Logistics	Private	Infill	Environmental Impact Report
Sierra Club, et al. v. County of Riverside, et al.	SCAG	3/12	Riverside County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
Sierra Club v. City of Moreno Valley	SCAG	10/11	Moreno Valley	Industrial	Warehouse/ Logistics	Private	Infill	Environmental Impact Report
Endangered Habitats League v. City of Murrieta	SCAG	5/12	Murrieta	Regulatory	City - Land Use	Agency	N/A	Statutory Exemption
Center for Biological Diversity, et al. v. County of Riverside, et al.	SCAG	9/10	Riverside County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
City of Riverside v. County of Riverside, et al.	SCAG	4/10	Riverside County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
Albert Thomas Paulek v. California Department of Fish and Game, et al.	SCAG	3/11	Riverside County	Park	Passive Recreation	Private	Greenfield - Park	Categorical Exemption
Jayne Abston, et al. v. Mt. San Jacinto Community College District	SCAG	5/11	Banning	Schools	College	Agency	Infill	No CEQA Determination
Craig Britton, et al. v. Mt. San Jacinto Community College District	SCAG	1/11	Banning	Schools	College	Agency	Infill	No CEQA Determination
Center for Biological Diversity, et al. v. County of Riverside, et al.	SCAG	5/10	Riverside County	Industrial	Warehouse/ Logistics	Private	Greenfield	Environmental Impact Report
Center for Biological Diversity, et al. v. City of Riverside, et al.	SCAG	4/10	Riverside County	Industrial	Warehouse/ Logistics	Private	Greenfield	Environmental Impact Report
Friends of Riverside's Hills v. City of Riverside	SCAG	4/10	Riverside County	Industrial	Warehouse/ Logistics	Private	Greenfield	Environmental Impact Report
Friends of Riverside's Hills v. March Joint Powers Authority	SCAG	8/10	Riverside County	Commercial	Office/Business Park	Private	Infill	Environmental Impact Report
CREED-21 v. City of Menifee	SCAG	12/10	Menifee	Retail	Walmart/Big Box Store	Private	Infill	Environmental Impact Report
Friends of Riverside's Hills v. County of Riverside, et al.	SCAG	1/11	Riverside County	Residential	Small Subdivision	Private	Greenfield	Negative Declaration-Mitigated
Rural Communities United, Inc v. County of Riverside	SCAG	5/11	Riverside County	Park	Other Active Recreation	Private	Infill - Park	Negative Declaration-Mitigated
Center for Community Action and Environmental Justice, et al. v. City of Perris	SCAG	8/10	Perris	Industrial	Warehouse/ Logistics	Private	Infill	Environmental Impact Report
Protect Wine Country v. County of Riverside	SCAG	5/11	Riverside County	Regulatory	County - Land Use	Agency	N/A	Statutory Exemption
Health First v. March Joint Powers Authority	SCAG	1/10	Riverside	Industrial	Food Processing Plant	Private	Infill	Environmental Impact Report
Moreno Valley Citizens for Lawful Government v. City of Moreno Valley	SCAG	7/10	Moreno Valley	Industrial	Warehouse/ Logistics	Private	Infill	Environmental Impact Report
Residents for Responsible Planning v. Moreno Valley Unified School District	SCAG	8/10	Moreno Valley	Schools	K-12	Agency	Infill	Environmental Impact Report

Menifee Residents for Sensible Planning v. City of Menifee	SCAG	2/11	Menifee	Residential	Master Planned Community	Private	Infill	Environmental Impact Report
Residents for a Livable Moreno Valley v. City of Moreno Valley	SCAG	2/10	Moreno Valley	Industrial	Warehouse/ Logistics	Private	Infill	Negative Declaration-Mitigated
Protect Our Wildomar v. City of Wildomar	SCAG	12/10	Wildomar	Retail	New Retail/ Shopping Center	Private	Infill	Negative Declaration-Mitigated
Sierra Club, et al. v. California Department of Fish and Game	SCAG	2/10	Palm Desert	Residential	Small Subdivision	Private	Greenfield	Environmental Impact Report
Center for Community Action and Environmental Justice v. County of Riverside, et al.	SCAG	7/11	Jurupa Valley	Industrial	Warehouse/ Logistics	Private	Infill	Environmental Impact Report
City of Riverside v. City of Rialto, et al.	SCAG	5/11	Rialto	Industrial	Warehouse/ Logistics	Private	Infill	Environmental Impact Report
Pilot Travel Centers, LLC v. City of Hesperia by and through its City Council	SCAG	1/12	Hesperia	Commercial	Travel Plaza (Hwy Service Complex)	Agency	Infill	Negative Declaration
Ed Rodriguez v. Town of Apple Valley	SCAG	7/11	Apple Valley	Retail	Shopping Center	Agency	Infill	Environmental Impact Report
Nick J. Constantinides v. City of Big Bear Lake, et al.	SCAG	10/11	Big Bear	Public Services & Infrastructure	Sewage Management	Private	Infill - Infrastructure	Categorical Exemption
Citizens and Ratepayers Opposing Water Nonsense v. Santa Margarita Water District, et al.	SCAG	8/12	San Bernardino County	Water	Storage/ Conveyance/ Extraction	Private	N/A	Environmental Impact Report
Rodrigo Briones, et al. v. Santa Margarita Water District, et al.	SCAG	8/12	San Bernardino County	Water	Storage/ Conveyance/ Extraction	Private	N/A	Environmental Impact Report
Delaware Tetra Technologies v. County of San Bernardino, et al.	SCAG	10/12	San Bernardino County	Water	Storage/ Conveyance/ Extraction	Private	N/A	Environmental Impact Report
Center for Biological Diversity, et al. v. County of San Bernardino, et al.	SCAG	11/12	San Bernardino County	Water	Storage/ Conveyance/ Extraction	Private	N/A	Environmental Impact Report
Center for Biological Diversity, et al. v. County of San Bernardino, et al.	SCAG	8/12	San Bernardino County	Water	Storage/ Conveyance/ Extraction	Private	N/A	Environmental Impact Report
CREED-21, et al. v. City of Victorville	SCAG	10/12	Victorville	Public Services & Infrastructure	Child Support Service Building	Private	Infill	Categorical Exemption
CREED-21 v. City of Upland	SCAG	10/12	Upland	Retail	Walmart/Big Box Store	Private	Infill	Categorical Exemption
Redlands Good Neighbor Coalition v. City of Redlands	SCAG	11/12	Redlands	Retail	Walmart/Big Box Store	Private	Infill	Environmental Impact Report
CREED-21 v. City of Victorville	SCAG	6/12	Victorville	Retail	Walmart/Big Box Store	Private	Infill	Environmental Impact Report
Spring Valley Lake Association v. City of Victorville	SCAG	10/12	Victorville	Retail	Walmart/Big Box Store	Private	Infill	Environmental Impact Report
CREED-21, et al. v. City of Victorville	SCAG	10/12	Victorville	Public Services & Infrastructure	Hospital	Private	Infill	Negative Declaration-Mitigated
Ontario Mountain Village Association, et al. v. City of Ontario	SCAG	2/12	Ontario	Regulatory	City - Land Use	Agency	N/A	No CEQA Determination

Helphinkley.org v. County of San Bernardino	SCAG	10/11	San Bernardino County	Public Services & Infrastructure	Municipal Waste Management	Private	Greenfield - Infrastructure	Environmental Impact Report-Addendum
Save Our Uniquely Rural Community Environment v. County of San Bernardino, et al.	SCAG	3/12	San Bernardino County	Public Services & Infrastructure	Church	Private	Infill	Negative Declaration-Mitigated
City of Riverside v. City of Rialto, et al.	SCAG	1/11	Rialto	Regulatory	City - Land Use	Agency	N/A	Environmental Impact Report
City of Riverside v. City of Rialto, et al.	SCAG	5/11	Rialto	Industrial	Warehouse/ Logistics	Private	Infill	Environmental Impact Report
Susan Hulse v. All Persons Interested in the Matter of Local Agency Formation Commission for San Bernardino County 3067 A-F; 3072; 3073; 3074; 3075; 3076 Approved on November 18, 2009, with Reconsideration on February 17, 2010, et al.	SCAG	4/10	San Bernardino County	Regulatory	County - Land Use	Agency	N/A	Statutory Exemption
Concerned Community Members and Parents of Redwood Elementary School Students v. County of San Bernardino	SCAG	12/10	Fontana	Entertainment	Car Racing	Private	Infill	Environmental Impact Report
Center for Biological Diversity, et al. v. City of Twentynine Palms, et al.	SCAG	8/10	Twentynine Palms	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Crusaders For Patients' Rights v. Board of Supervisors of the County of San Bernardino	SCAG	4/11	San Bernardino County	Regulatory	Local Marijuana Regulation	Agency	N/A	Statutory Exemption
Citizens for Responsible Equitable Environmental Development v. City of Chino	SCAG	8/10	Chino	Regulatory	City - Land Use	Agency	N/A	Environmental Impact Report
Mike Plater, et al. v. County of Ventura	SCAG	2/12	Ventura County	Public Services & Infrastructure	Municipal Waste Management	Private	Infill - Infrastructure	No CEQA Determination
Venturans for Responsible Growth v. City of San Buenaventura	SCAG	8/11	Ventura	Retail	Shopping Center	Private	Infill	Categorical Exemption
Residents Against Anacapa Development v. City of Oxnard, et al.	SCAG	10/11	Oxnard	Residential	Multifamily/Mixed Use	Private	Infill	Negative Declaration-Mitigated/ Addendum
Citizens for Balanced Growth v. City of San Buenaventura, et al.	SCAG	12/12	San Buenaventura	Residential	Multifamily/Mixed Use	Private	Infill	Negative Declaration
Coalition for Responsible Development v. City of Santa Paula, et al.	SCAG	1/10	Santa Paula	Industrial	Gravel Plant	Private	Infill	No CEQA Determination
Sierra Club, et al. v. City of Oxnard, et al.	SCAG	7/11	Oxnard	Residential	Master Planned Community	Private	Infill	Environmental Impact Report
Paul Sayegh v. County of El Dorado, et al.	SACOG	2/10	El Dorado County	Residential	Large Subdivision/ Mixed Use	Private	Greenfield	Negative Declaration-Mitigated
Alto, LLC v. County of El Dorado, et al.	SACOG	2/10	El Dorado County	Residential	Large Subdivision/ Mixed Use	Private	Greenfield	Negative Declaration-Mitigated

Charles Sutton, et al. v. County of El Dorado, et al.	SACOG	3/12	El Dorado County	Retail	Store/Center Occupancy	Private	Infill	No CEQA Determination
Friends of Historic Hangtown v. City of Placerville, et al.	SACOG	3/11	Placerville	Public Services & Infrastructure	Sidewalk/ Streetscape	Agency	Infill - Infrastructure	Negative Declaration-Mitigated
Friends of the Herbert Green Middle School Neighborhood v. County of El Dorado, et al.	SACOG	5/12	Placerville	Commercial	Office/Business Park	Private	Infill	Negative Declaration-Mitigated
Ralph Martinez, et al. v. The City of Roseville, et al.	SACOG	11/11	Roseville	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
California Clean Energy Committee v. County of Placer	SACOG	12/11	Placer County	Residential	Resort	Private	Greenfield	Environmental Impact Report
Town of Loomis v. City of Rocklin, et al.	SACOG	12/10	Rocklin	Residential	Large Subdivision/ Mixed Use	Private	Infill	Environmental Impact Report
Alliance for the Protection of the Auburn Community Environment, et al. v. Placer County	SACOG	10/10	Auburn	Retail	Walmart/Big Box Store	Private	Infill	Environmental Impact Report
Timeless Investment, Inc., et al. v. California High Speed Rail Authority	SACOG	6/12	Multijurisdictional	Public Services & Infrastructure	Transit	Agency	Infill - Infrastructure	Environmental Impact Report
City of Chowchilla v. California High Speed Rail Authority	SACOG	5/12	Multijurisdictional	Public Services & Infrastructure	Transit	Agency	Infill - Infrastructure	Environmental Impact Report
County of Madera, et al, v. California High Speed Rail Authority	SACOG	5/12	Multijurisdictional	Public Services & Infrastructure	Transit	Agency	Infill - Infrastructure	Environmental Impact Report
City of Grass Valley, et al. v. Nevada County Airport Land Use Commission, et al.	SACOG	10/11	Nevada County	Regulatory	County - Land Use	Agency	N/A	Negative Declaration
Oakdale Irrigation District, et al. v. State Water Resources Control Board	SACOG	9/11	State	Regulatory	Regional - Regulation	Agency	N/A	No CEQA Determination
Environmental Council of Sacramento v. Capital Southeast Connector Joint Powers Authority, et al.	SACOG	4/12	Multijurisdictional	Public Services & Infrastructure	Highway	Agency	Infill - Infrastructure	Environmental Impact Report
California Clean Energy Committee v. Capital Southeast Connector Joint Powers Authority	SACOG	10/11	Multijurisdictional	Public Services & Infrastructure	Highway	Agency	Infill - Infrastructure	Environmental Impact Report
Save Our Heritage Organisation v. California Department of Transportation	SACOG	1/12	San Diego	Agency	Property Disposition/ Management	Agency	N/A	Environmental Impact Report
Galt Citizens for Sensible Planning, et al. v. City of Galt, et al.	SACOG	8/11	Galt	Retail	Walmart/Big Box Store	Private	Infill	Environmental Impact Report
Picayune Rancheria of Chukchansi Indians v. Edmund G. Brown, et al.	SACOG	11/12	Madera County	Entertainment	Casino	Private	Greenfield	No CEQA Determination
San Joaquin County Resource Conservation District, et al. v. California Regional Water Quality Control Board, Central Valley Region	SACOG	6/12	State	Regulatory	Regional - Regulation	Agency	N/A	Environmental Impact Report

Fort Mojave Indian Tribe v. Department of Toxic Substances Control	SACOG	2/11	San Bernardino County	Water	Storage/ Conveyance/ Extraction	Private	N/A	Environmental Impact Report
PacifiCorp Energy, Inc. v. State Water Resources Control Board, et al.	SACOG	1/11	Multijurisdictional	Regulatory	Regional - Regulation	Agency	N/A	Certified Regulatory Program
Teichert, Inc v. City of Folsom, et al.	SACOG	7/11	Folsom	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
Jay Schneider v. Board of Supervisors of the County of Sacramento, et al.	SACOG	1/11	Sacramento County	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
City of Rancho Cordova v. County of Sacramento, et al.	SACOG	12/10	Sacramento County	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Joseph Hardesty, et al. v. Sacramento County Board of Supervisors, et al.	SACOG	12/10	Sacramento County	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
The Protect Our Communities Foundation, et al. v. State Water Resources Control Board	SACOG	2/11	Multijurisdictional	Public Services & Infrastructure	Electric Transmission Line	Private	Greenfield - Infrastructure	Environmental Impact Report
Community Alliance for Fairgrounds Accountability v. State of California *ex rel.* 14th District Agricultural Association	SACOG	6/11	Watsonville	Entertainment	Fairground	Private	Infill - Park	Categorical Exemption
Friends of Madeira v. City of Elk Grove, et al.	SACOG	6/11	Elk Grove	Retail	Walmart/Big Box Store	Agency	Infill	Statutory Exemption
Rocklin Residents for Responsible Growth v. City of Rocklin	SACOG	7/11	Rocklin	Commercial	Office/Business Park	Private	Infill	Environmental Impact Report
Center for Biological Diversity, et al. v. California Department of Parks and Recreation, et al.	SACOG	1/11	State	Park	Other Active Recreation	Agency	Greenfield - Park	Environmental Impact Report
Friends of Swainson's Hawk v. County of Sacramento	SACOG	4/11	Sacramento County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
Friends of Swainson's Hawk v. County of Sacramento	SACOG	1/11	Sacramento County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
RRI Energy, Inc. et al. v. State Water Resources Control Board	SACOG	10/10	State	Regulatory	State - Regulation	Agency	N/A	Certified Regulatory Program
Capay Valley Coalition, et al. v. California Department of Transportation, et al.	SACOG	1/10	Yolo County	Public Services & Infrastructure	Highway	Agency	Infill - Infrastructure	Environmental Impact Report
North Coast Rivers Alliance, et al. v. A.G. Kawamura, et al.	SACOG	4/10	Multijurisdictional	Regulatory	State - Regulation	Private	N/A	Environmental Impact Report
Our Children's Earth Foundation, et al. v. A.G. Kawamura, et al.	San Francisco	4/10	Multijurisdictional	Regulatory	State - Regulation	Private	N/A	Environmental Impact Report
Better Urban Green Strategies, et al. v. California Department of Food & Agriculture, et al.	SACOG	1/10	Multijurisdictional	Regulatory	State - Regulation	Private	N/A	Categorical Exemption
Heritage Preservation League of Folsom, et al. v. City of Folsom, et al.	SACOG	6/10	Folsom	Commercial	Hotel	Private	Infill	Environmental Impact Report

Galt Citizens for Sensible Planning, et al. v. City of Galt, et al.	SACOG	5/10	Galt	Retail	Walmart/Big Box Store	Private	Infill	Environmental Impact Report
Siskiyou County Water Users Association, Inc v. California Natural Resources Agency, et al.	SACOG	8/10	Multijurisdictional	Water	Dam Removal	Agency	N/A	No CEQA Determination
Rosedale-Rio Bravo Water Storage District, et al. v. California Department of Water Resources, et al.	SACOG	6/10	Multijurisdictional	Water	SWP/CVP Management	Private	N/A	Environmental Impact Report
Central Delta Water Agency, et al. v. California Department of Water Resources	SACOG	6/10	Multijurisdictional	Water	SWP/CVP Management	Private	N/A	Environmental Impact Report
Levee District Number One, Sutter County v. Central Valley Flood Protection Board, et al.	SACOG	3/10	Sutter County	Park	Passive Recreation	Private	Greenfield - Park	Categorical Exemption
Brenda Cedarblade v. County of Yolo, et al.	SACOG	11/10	Yolo County	Industrial	Gypsum Stockpile	Private	Mining/ Agriculture/ Forestry	Statutory Exemption
Ernie Gaddini, et al. v. County of Yolo, by and through its Board of Supervisors, et al.	SACOG	10/11	Yolo County	Energy	Renewable - Solar	Private	Greenfield - Energy	Negative Declaration-Mitigated
Citizens Alliance for Regional Environmental Sustainability v. County of Yolo, et al.	SACOG	3/11	Yolo County	Water	Transfer	Private	N/A	Categorical Exemption
Citizens Alliance for Regional Environmental Sustainability v. County of Yolo, et al.	SACOG	1/11	Yolo County	Water	Transfer	Private	N/A	Categorical Exemption
Coalition for Appropriate Port Development v. City of West Sacramento, et al.	SACOG	8/11	West Sacramento	Public Services & Infrastructure	Municipal Waste Management	Private	Infill - Infrastructure	Environmental Impact Report
Citizens for Urban Renewal v. City of Woodland, By and Through the City Council	SACOG	7/12	Woodland	Commercial	Office/Business Park	Private	Infill	Negative Declaration-Mitigated
Greenbelt Neighbors, et al. v. County of Yolo	SACOG	2/12	Yolo County	Public Services & Infrastructure	Telecommunications	Private	Infill - Infrastructure	Negative Declaration-Mitigated
California Clean Energy Committee v. City of Woodland	SACOG	9/11	Woodland	Retail	Shopping Center	Private	Infill	Environmental Impact Report
City of Fresno v. Fresno County of Local Agency Formation Commission	San Joaquin Valley	11/11	Fresno County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
City of Fresno v. County of Fresno, et al.	San Joaquin Valley	3/11	Fresno County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
San Joaquin River Parkway and Conservation Trust, Inc. v. County of Fresno, et al.	San Joaquin Valley	3/11	Fresno County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
Sierra Club, et al. v. County of Fresno, et al.	San Joaquin Valley	3/11	Fresno County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
City of Selma v. City of Kingsburg	San Joaquin Valley	10/12	Kingsburg	Regulatory	City - Land Use	Agency	N/A	Negative Declaration-Mitigated

The Kashian Group, LTD v. City of Fresno, et al.	San Joaquin Valley	1/11	Fresno	Retail	Shopping Center	Private	Infill	Environmental Impact Report
Suzanne Lanfranco, et al. v. City of Fresno, et al.	San Joaquin Valley	1/11	Fresno	Retail	Shopping Center	Private	Infill	Environmental Impact Report
Michael S. Green v. City of Fresno, et al.	San Joaquin Valley	4/12	Fresno	Regulatory	Local Marijuana Regulation	Agency	N/A	Categorical Exemption
Wade Haines, et al. v. County of Fresno, et al.	San Joaquin Valley	10/11	Fresno County	Park	Other Active Recreation	Private	Greenfield - Park	Negative Declaration-Mitigated
Friends of the Swainson's Hawk v. County of Fresno, et al.	San Joaquin Valley	11/12	Fresno County	Energy	Renewable - Solar	Private	Greenfield - Energy	Negative Declaration-Mitigated
Friends of the Kings River v. County of Fresno, et al.	San Joaquin Valley	11/12	Fresno County	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Citizens for the Restoration of L Street v. City of Fresno, et al.	San Joaquin Valley	12/11	Fresno	Residential	Multifamily/Mixed Use	Private	Infill	Negative Declaration-Mitigated
North Coast Rivers Alliance, et al. v. Westlands Water District, et al.	San Joaquin Valley	1/12	Multijurisdictional	Water	SWP/CVP Management	Agency	N/A	Statutory Exemption
North Coast Rivers Alliance, et al. v. Westlands Water District, et al.	San Joaquin Valley	8/11	Multijurisdictional	Water	SWP/CVP Management	Agency	N/A	Statutory Exemption/ Categorical Exemption
North Coast Rivers Alliance, et al. v. Westlands Water District, et al.	San Joaquin Valley	3/10	Fresno County	Water	SWP/CVP Management	Agency	N/A	Categorical Exemption
Gongco Fresno, Inc., et al. v. City of Clovis	San Joaquin Valley	7/10	Clovis	Retail	Shopping Center	Private	Infill	Statutory Exemption
Sunnyside Property Owners Association v. City of Fresno, et al.	San Joaquin Valley	9/10	Fresno	Public Services & Infrastructure	Telecommunications	Private	Infill - Infrastructure	Categorical Exemption
CSA-51-Water-Group, et al. v. County of Fresno, et al.	San Joaquin Valley	6/10	Fresno County	Water	SWP/CVP Management	Private	N/A	Negative Declaration-Mitigated
Consolidated Irrigation District v. City of Selma, et al.	San Joaquin Valley	4/10	Selma	Retail	Shopping Center	Private	Greenfield	Environmental Impact Report
Consolidated Irrigation District v. City of Parlier, et al.	San Joaquin Valley	9/10	Parlier	Regulatory	City - Land Use	Agency	N/A	Environmental Impact Report
Consolidated Irrigation District v. City of Selma, et al.	San Joaquin Valley	11/10	Selma	Regulatory	City - Land Use	Agency	N/A	Environmental Impact Report
Consolidated Irrigation District v. City of Parlier, et al.	San Joaquin Valley	9/10	Parlier	Commercial	Office/Business Park	Private	Greenfield	Negative Declaration
North Kern Water Storage District, et al. v. Kern Delta Water District	San Joaquin Valley	10/12	Kern County	Water	Storage/ Conveyance/ Extraction	Agency	N/A	Environmental Impact Report
City of Bakersfield v. Kern Delta Water District	San Joaquin Valley	10/12	Kern County	Water	Storage/ Conveyance/ Extraction	Agency	N/A	Environmental Impact Report

North Kern Water Storage District, et al. v. Kern Delta Water District	SCAG	10/12	Kern County	Water	Storage/ Conveyance/ Extraction	Agency	N/A	Environmental Impact Report
Kern Delta Water District v. City of Bakersfield	San Joaquin Valley	10/12	Kern County	Water	Storage/ Conveyance/ Extraction	Agency	N/A	Environmental Impact Report
North Kern Water Storage District, et al. v. City of Bakersfield	San Joaquin Valley	10/12	Kern County	Water	Storage/ Conveyance/ Extraction	Agency	N/A	Environmental Impact Report
Kern Water Bank Authority v. City of Bakersfield, et al.	San Joaquin Valley	10/12	Kern County	Water	Storage/ Conveyance/ Extraction	Agency	N/A	Environmental Impact Report
TCEF, Inc. dba Green Collective, et al. v. County of Kern	San Joaquin Valley	8/12	Kern County	Regulatory	Local Marijuana Regulation	Agency	N/A	No CEQA Determination
Citizens Opposing A Dangerous Environment v. County of Kern, et al.	San Joaquin Valley	10/11	Kern County	Energy	Renewable - Wind	Private	Greenfield - Energy	Environmental Impact Report
Sierra Club, et al. v. County of Kern, et al.	San Joaquin Valley	10/11	Kern County	Energy	Renewable - Wind	Private	Greenfield - Energy	Environmental Impact Report
Tehachapi Area Critical Land Use Issues Group v. Tehachapi Valley Healthcare District	San Joaquin Valley	11/11	Tehachapi	Public Services & Infrastructure	Hospital	Agency	Infill	Negative Declaration-Mitigated
Sierra Club v. California Department of Conservation, Division of Oil, Gas and Geothermal Resources	San Joaquin Valley	7/12	Kern County	Mining	O&G	Private	Mining/ Agriculture/ Forestry	Statutory Exemption
City of Bakersfield v. Buena Vista Water Storage District, et al.	San Joaquin Valley	7/11	Bakersfield	Residential	Master Planned Community	Agency	Infill	Categorical Exemption
Association of Irritated Residents v. County of Kern, et al.	San Joaquin Valley	1/11	Kern County	Energy	Renewable - Biomass	Private	Infill - Energy	Environmental Impact Report
Tehachapi First v. City of Tehachapi	San Joaquin Valley	6/11	Tehachapi	Retail	Walmart/Big Box Store	Private	Infill	Environmental Impact Report
Sierra Club v. City of Taft, et al.	San Joaquin Valley	7/10	Taft	Regulatory	City - Land Use	Agency	N/A	Environmental Impact Report
Sierra Club v. City of Bakersfield, et al.	San Joaquin Valley	8/10	Bakersfield	Residential	Large Subdivision/ Mixed Use	Private	Infill	Environmental Impact Report
Sierra Club v. County of Kern, et al.	San Joaquin Valley	8/11	Kern County	Regulatory	County - Land Use	Agency	N/A	Environmental Impact Report
Sierra Club v. City of Bakersfield, et al.	San Joaquin Valley	9/10	Bakersfield	Commercial	Office/Business Park	Private	Infill	Environmental Impact Report
Tricounty Watchdogs, et al. v. County of Kern, et al.	San Joaquin Valley	6/10	Kern County	Residential	Large Subdivision/ Mixed Use	Private	Greenfield	Environmental Impact Report
Rosedale-Rio Bravo Water Storage District, et al. v. California Department of Water Resources	San Joaquin Valley	6/10	State	Water	SWP/CVP Management	Private	N/A	Environmental Impact Report
Rosedale-Rio Bravo Water Storage District v. Kern County Water Agency	San Joaquin Valley	5/10	Kern County	Water	Storage/ Conveyance/ Extraction	Agency	N/A	No CEQA Determination

Island Cattle Company, et al. v. Angiola Water District	San Joaquin Valley	6/11	Kings County	Water	Storage/ Conveyance/ Extraction	Agency	N/A	No CEQA Determination
City of Chowchilla v. California Department of Corrections and Rehabilitation, et al.	San Joaquin Valley	1/12	Chowchilla	Public Services & Infrastructure	Prison	Agency	N/A	Categorical Exemption
Heavenscent Organic Hortipharm Collective, et al. v. County of Madera	San Joaquin Valley	6/12	Madera County	Regulatory	Local Marijuana Regulation	Agency	N/A	No CEQA Determination
Bates Station Neighbors v. County of Madera, et al.	San Joaquin Valley	7/10	Madera County	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Madera Oversight Coalition, Inc., et al. v. Madera Irrigation District	San Joaquin Valley	12/12	Madera County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
Madera Oversight Coalition, Inc., et al. v. Madera Irrigation District	San Joaquin Valley	8/12	Madera County	Residential	Master Planned Community	Private	Greenfield	Statutory Exemption
California Department of Transportation v. Madera County, et al.	San Joaquin Valley	12/12	Madera County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
City of Fresno v. County of Madera, et al.	San Joaquin Valley	12/12	Madera County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
Madera Oversight Coalition, Inc., et al. v. County of Madera, et al.	San Joaquin Valley	12/12	Madera County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
Gallo Cattle Company v. Merced Irrigation District	San Joaquin Valley	11/12	Merced County	Water	Transfer	Agency	N/A	No CEQA Determination
San Joaquin Raptor Rescue Center, et al. v. Planada Community Services District, et al.	San Joaquin Valley	3/12	Merced County	Public Services & Infrastructure	Sewage Management	Agency	Infill - Infrastructure	Environmental Impact Report
San Joaquin Raptor Rescue Center, et al. v. County of Merced, et al.	San Joaquin Valley	2/10	Merced County	Residential	Large Subdivision/ Mixed Use	Private	Infill	Negative Declaration-Mitigated
Valley Citizens, et al. v. County of Merced	San Joaquin Valley	10/10	Merced County	Industrial	Concrete Plant	Private	Infill	Negative Declaration-Mitigated
Merced Alliance for Responsible Growth, et al. v. City of Merced, et al.	San Joaquin Valley	1/11	Merced	Retail	Walmart/Big Box Store	Private	Infill	Environmental Impact Report
Prem Dhoot, et al. v. County of San Joaquin by and through its Board of Supervisors	San Joaquin Valley	2/12	Lathrop	Commercial	Travel Plaza (Hwy Service Complex)	Private	Infill	Negative Declaration-Mitigated
Prem Dhoot, et al. v. City of Lathrop by and through its City Council	San Joaquin Valley	1/12	Lathrop	Commercial	Travel Plaza (Hwy Service Complex)	Private	Infill	Negative Declaration-Mitigated
Dalwinder Dhoot, et al. v. City of Lathrop by and through its City Council	San Joaquin Valley	12/11	Lathrop	Commercial	Travel Plaza (Hwy Service Complex)	Private	Infill	Negative Declaration-Mitigated
City of Lathrop v. City of Manteca by and through its City Council	San Joaquin Valley	11/10	Manteca	Industrial	Warehouse/ Logistics	Private	Infill	Environmental Impact Report
Harris Properties, LLC v. City of Lathrop, et al.	San Joaquin Valley	6/11	Lathrop	Commercial	Office/ Business Park	Private	Infill	Environmental Impact Report

The Surland Companies, LLC v. San Joaquin County Airport Land Use Commission, et al.	San Joaquin Valley	4/11	San Joaquin County	Regulatory	County - Land Use	Private	N/A	Negative Declaration
Pilot Travel Centers, LLC v. County of San Joaquin by and through its Board of Supervisors	San Joaquin Valley	8/11	San Joaquin County	Commercial	Travel Plaza (Hwy Service Complex)	Private	Greenfield	Negative Declaration-Mitigated
Mary C. Kaehler v. City of Lodi, et al.	San Joaquin Valley	5/11	San Joaquin County	Commercial	Office/Business Park	Private	Greenfield	Negative Declaration-Mitigated
Central Delta Water Agency, et al. v. Semitropic Water Storage District	San Joaquin Valley	10/11	San Joaquin County	Water	Storage/ Conveyance/ Extraction	Private	N/A	Environmental Impact Report
Valley Bio-Energy, LLC v. Modesto Irrigation District, et al.	San Joaquin Valley	11/10	Stanislaus County	Energy	Renewable - Biomass	Private	Infill - Energy	Negative Declaration-Mitigated
Thomas Eakin, et al. v. Oakdale Irrigation District, By and Through the Oakdale Irrigation District Board of Directors	San Joaquin Valley	10/12	Stanislaus County	Water	Storage/ Conveyance/ Extraction	Agency	N/A	No CEQA Determination
Protect Agricultural Land v. Stanislaus County Local Agency Formation Commission	San Joaquin Valley	4/12	Ceres	Regulatory	County - Land Use	Agency	N/A	Environmental Impact Report
Protect Our Agricultural Legacy v. California Department of Transportation	San Joaquin Valley	5/10	Stanislaus County	Public Services & Infrastructure	Highway	Agency	Infill - Infrastructure	Environmental Impact Report
Citizens for Ceres v. City of Ceres, By and through the City Council	San Joaquin Valley	10/11	Ceres	Retail	Shopping Center	Private	Infill	Environmental Impact Report
North Modesto Groundwater Alliance v. City of Modesto, et al.	San Joaquin Valley	12/12	Modesto	Water	Storage/ Conveyance/ Extraction	Agency	N/A	Environmental Impact Report
Ontario Mountain Village Association, et al. v. City of Ontario	San Joaquin Valley	10/12	Ontario	Public Services & Infrastructure	Streets	Private	Infill - Infrastructure	Environmental Impact Report-Addendum
California Clean Energy Committee v. City of Turlock	San Joaquin Valley	10/12	Turlock	Regulatory	City - Land Use	Agency	N/A	Environmental Impact Report
City of Porterville v. County of Tulare, et al.	San Joaquin Valley	10/12	Tulare County	Regulatory	County - Land Use	Agency	N/A	Environmental Impact Report
Sierra Club v. County of Tulare, et al.	San Joaquin Valley	9/12	Tulare County	Regulatory	County - Land Use	Agency	N/A	Environmental Impact Report
County of Tulare v. All Persons Interested in the Adoption of the 2010 Amendment to Redevelopment Plan for the Porterville Redevelopment Project No. 1 as Adopted By Ordinance 1765 on June 15, 2010 by the City of Porterville, et al.	San Joaquin Valley	12/12	Porterville	Regulatory	City - Land Use	Agency	N/A	Environmental Impact Report
Citizens for Responsible Planning v. City of Visalia	San Joaquin Valley	12/10	Visalia	Regulatory	City - Land Use	Agency	N/A	Negative Declaration

Dinuba Citizens for Responsible Planning, et al. v. County of Tulare, et al.	San Joaquin Valley	5/11	Tulare County	Public Services & Infrastructure	Railroad/ Non-Transit	Private	Mining/ Agriculture/ Forestry	No CEQA Determination
California Healthy Communities Network v. City of Porterville	San Joaquin Valley	3/12	Porterville	Retail	Shopping Center	Private	Infill	Environmental Impact Report
Lower Tule River Irrigation District, et al. v. Angiola Water District	San Joaquin Valley	6/11	Multijurisdictional	Water	Storage/ Conveyance/ Extraction	Private	N/A	No CEQA Determination
Friends of the Mother Lode, et al. v. Tuolumne County	San Joaquin Valley	5/11	Tuolumne County	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Negative Declaration-Mitigated
County of Amador v. California Department of Corrections and Rehabilitation, et al.	Sierra Foothills	2/11	Ione	Public Services & Infrastructure	Prison	Agency	N/A	No CEQA Determination
Center for Biological Diversity v. County of Amador, et al.	Sierra Foothills	2/11	Amador County	Energy	Renewable - Biomass (Retrofit)	Private	Infill - Energy	Environmental Impact Report
Thomas S. Strout v. County of Amador, et al.	Sierra Foothills	2/11	Amador County	Energy	Renewable - Biomass (Retrofit)	Private	Infill - Energy	Environmental Impact Report
Ione Valley Land, Air, and Water Defense Alliance, LLC v. County of Amador	Sierra Foothills	11/12	Amador County	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Colusa Riverbend Estates, LP v. City of Colusa, et al.	Sierra Foothills	8/12	Colusa	Regulatory	CEQA Enforcement	Agency	N/A	Negative Declaration-Mitigated
Elaine Rominger, et al. v. County of Colusa, et al.	Sierra Foothills	4/12	Colusa County	Industrial	Warehouse/ Logistics	Private	Greenfield	Negative Declaration-Mitigated
City of Riverbank v. County of Tuolumne	Sierra Foothills	5/11	Tuolumne County	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Negative Declaration-Mitigated
Tuolumne Jobs & Small Business Alliance v. City of Sonora	Sierra Foothills	1/11	Sonora	Retail	Walmart/Big Box Store	Private	Infill	Environmental Impact Report
Residents of Quail Ridge Ranch v. County of Tuolumne	Sierra Foothills	9/11	Tuolumne County	Residential	Large Subdivision/ Mixed Use	Private	Greenfield	Negative Declaration-Mitigated
Butte Environmental Council v. County of Butte, et al.	Norcal	11/10	Butte County	Regulatory	County - Land Use	Agency	N/A	Environmental Impact Report
Friends of Oroville, et al. v. City of Oroville, et al.	Norcal	1/11	Oroville	Retail	Walmart/Big Box Store	Private	Infill	Environmental Impact Report
State Water Contractors, Inc. v. South Feather Water and Power Agency	Norcal	5/12	Butte County	Energy	Renewable - Hydro (Retrofit)	Agency	Infill - Energy	Negative Declaration-Mitigated
Aqualliance, et al. v. Butte Water District	Norcal	5/12	Butte County	Water	Transfer	Private	N/A	Negative Declaration
Tony Barnes v. The City of Crescent City, et al.	Norcal	8/11	Crescent City	Public Services & Infrastructure	Stormwater/Flood Management	Agency	Infill - Infrastructure	No CEQA Determination
Save Our Water Resources v. City of Orland, et al.	Norcal	3/10	Orland	Industrial	Beverage Plant	Private	Infill	Statutory Exemption
Friends of Orland, et al.l v. City of Orland, et al.	Norcal	3/10	Orland	Industrial	Beverage Plant	Private	Infill	Statutory Exemption
McKinleyville Community Services District v. County of Humboldt, et al.	Norcal	9/11	Humboldt County	Regulatory	County - Land Use	Agency	N/A	Environmental Impact Report
Forster-Gill, Inc. v. County of Humboldt	Norcal	11/11	Humboldt County	Regulatory	County - Land Use	Agency	N/A	Environmental Impact Report

Robert Sarvey v. North Coast Unified Air Quality Management District Hearing Board, et al.	Norcal	4/10	Humboldt County	Energy	Natural Gas (Retrofit)	Private	Infill - Energy	Negative Declaration
California Farm Bureau Federation v. Humboldt County Resource Conservation District	Norcal	3/11	Humboldt County	Park	Passive Recreation	Private	Greenfield - Park	Environmental Impact Report
Old Muddy II, LLC v. County of Lake, et al.	Norcal	10/12	Lake County	Agricultural & Forestry	Winery	Private	Mining/ Agriculture/ Forestry	Negative Declaration-Mitigated
Friends of Cobb Mountain v. County of Lake, et al.	Norcal	5/11	Lake County	Energy	Renewable - Hydro	Private	Greenfield - Energy	Environmental Impact Report
Friends of Rattlesnake Island v. County of Lake, et al.	Norcal	11/11	Lake County	Residential	Single-Family Home/ Second Unit	Private	Greenfield	Negative Declaration-Mitigated
Mountain Meadows Conservancy, et al. v. County of Lassen, et al.	Norcal	1/10	Lassen County	Residential	Resort	Private	Greenfield	Environmental Impact Report
Masonite Corporation v. County of Mendocino, et al.	Norcal	8/10	Mendocino County	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Russian Riverkeeper v. Mendocino County Board of Supervisors, et al.	Norcal	8/10	Mendocino County	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Keep The Code, Inc. v. County of Mendocino, et al.	Norcal	9/12	Mendocino County	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Environmental Impact Report
Signal Port Creek Property Owners Association v. Ken Pimlott, In His Capacity as Director of the California Department of Forestry and Fire Protection, et al.	Norcal	9/12	Mendocino County	Agricultural & Forestry	Timber Management	Private	Mining/ Agriculture/ Forestry	Certified Regulatory Program
Poonkinney Road Coalition v. County of Mendocino, et al.	Norcal	1/10	Mendocino County	Mining	Aggregate	Private	Mining/ Agriculture/ Forestry	Negative Declaration-Mitigated
Coast Action Group v. County of Mendocino, et al.	Norcal	10/11	Mendocino County	Regulatory	County - Regulation	Agency	N/A	Categorical Exemption
Trevor D. Robbins, et al. v. Nevada Irrigation District, et al.	Norcal	2/10	Nevada County	Water	Storage/ Conveyance/ Extraction	Agency	N/A	Environmental Impact Report
Peter Lockyer, et al. v. County of Nevada	Norcal	1/12	Nevada County	Public Services & Infrastructure	Telecommunications	Private	Infill - Infrastructure	Negative Declaration-Mitigated
South County Citizens for Smart Growth v. County of Nevada	Norcal	5/10	Nevada County	Retail	Shopping Center	Private	Infill	Environmental Impact Report
Truckee Donner Public Utility District v. Local Agency Formation Commission of Nevada County, et al.	Norcal	9/11	Truckee	Regulatory	City - Regulation	Agency	N/A	Environmental Impact Report
California Department of Transportation v. Shasta County, et al.	Norcal	9/11	Shasta County	Retail	Shopping Center	Private	Greenfield	Environmental Impact Report
High Sierra Rural Alliance v. County of Sierra, et al.	Norcal	7/10	Sierra County	Regulatory	County - Land Use	Agency	N/A	Statutory Exemption
High Sierra Rural Alliance v. County of Sierra, et al.	Norcal	1/11	Sierra County	Regulatory	County - Land Use	Agency	N/A	Statutory Exemption

Dale La Forest v. County of Siskiyou, et al.	Norcal	7/10	Siskiyou County	Residential	Multifamily/Mixed Use	Private	Greenfield	Negative Declaration-Mitigated
Dale La Forest v. County of Siskiyou, et al.	Norcal	12/11	Siskiyou County	Industrial	Asphalt Plant	Private	Infill	Negative Declaration-Mitigated
Mt. Shasta Tomorrow v. County of Siskiyou, et al.	Norcal	6/11	Siskiyou County	Regulatory	County - Land Use	Agency	N/A	Categorical Exemption
Red Bluff Citizens For Sensible Planning, et al. v. City of Red Bluff, et al.	Norcal	2/10	Tehama County	Retail	Walmart/Big Box Store	Private	Infill	Environmental Impact Report
Owens Valley Committee, et al. v. City of Los Angeles, et al.	Mojave Desert	4/12	Inyo County	Park	Passive Recreation	Agency	Greenfield - Park	Negative Declaration
Center for Biological Diversity, et al. v. Inyo County, et al.	Mojave Desert	6/12	Inyo County	Regulatory	City - Regulation	Agency	N/A	Negative Declaration-Mitigated
City of Los Angeles Acting By and Through the Los Angeles Department of Water and Power v. Mammoth Community Water District, et al.	Mojave Desert	12/11	Los Angeles	Regulatory	City - Regulation	Agency	N/A	Environmental Impact Report
The Otay Ranch, LP, et al. v. County of San Diego	San Diego	10/12	Chula Vista	Entertainment	Shooting Range	Private	Greenfield - Park	Negative Declaration-Mitigated
Inland Industries Group, L.P. v. San Diego Unified Port District, et al.	San Diego	3/12	Chula Vista	Public Services & Infrastructure	Electric Transmission Line	Private	Infill - Infrastructure	Categorical Exemption
Unite Here Local 30 v. City of San Diego, et al.	San Diego	12/12	San Diego	Commercial	Hotel	Private	Infill	Environmental Impact Report
CREED-21 v. City of San Diego	San Diego	5/12	San Diego	Public Services & Infrastructure	Stormwater/Flood Management	Agency	Infill - Infrastructure	Categorical Exemption
CREED-21 v. City of San Marcos	San Diego	3/12	San Marcos	Regulatory	City - Land Use	Agency	N/A	Environmental Impact Report
Save Our Heritage Organisation v. City of San Diego, et al.	San Diego	8/12	San Diego	Park	Other Active Recreation	Private	Infill - Park	Environmental Impact Report
Save Our Heritage Organisation v. City of San Diego, et al.	San Diego	8/11	San Diego	Park	Other Active Recreation	Private	Infill - Park	No CEQA Determination
Save Our Heritage Organisation v. County of San Diego, et al.	San Diego	7/12	San Diego County	Residential	Multifamily/Mixed Use	Agency	Infill	Environmental Impact Report
Torrey Hills Community Coalition v. City of San Diego, et al.	San Diego	7/12	San Diego	Regulatory	CEQA Enforcement	Private	N/A	Environmental Impact Report
Friends of Aviara v. City of Carlsbad	San Diego	2/12	Carlsbad	Residential	Multifamily/Mixed Use	Private	Infill	Environmental Impact Report
Chollas Restoration, Enhancement and Conservancy Community Development Corporation, et al. v. City of San Diego	San Diego	8/12	San Diego	Park	Other Active Recreation	Agency	Infill - Park	Negative Declaration-Mitigated
Preserve Wild Santee, et al. v. City of San Diego, et al.	San Diego	10/12	San Diego	Public Services & Infrastructure	Municipal Waste Management	Private	Infill - Infrastructure	Environmental Impact Report
Coalition for Safe and Healthy Economic Progress v. City of San Diego	San Diego	4/12	San Diego	Retail	Walmart/Big Box Store	Private	Infill	Negative Declaration-Addendum

Whispering Palms Community Council v. County of San Diego, et al.	San Diego	2/10	San Diego County	Residential	Multifamily/Mixed Use	Private	Infill	Negative Declaration-Mitigated
Whispering Palms Community Council v. County of San Diego, et al.	San Diego	6/12	San Diego County	Residential	Multifamily/Mixed Use	Private	Infill	Environmental Impact Report
La Jolla Shores Tomorrow v. City of San Diego	San Diego	3/12	San Diego	Residential	Single-Family Home/ Second Unit	Private	Infill	Negative Declaration
Alliance for a Cleaner Tomorrow v. San Diego Unified Port District	San Diego	11/12	San Diego	Commercial	Convention Center	Private	Infill	Environmental Impact Report
Coalition for Responsible Convention Center Planning, et al. v. City of San Diego, et al.	San Diego	7/12	San Diego	Commercial	Convention Center	Private	Infill	Environmental Impact Report
Coalition for Responsible Coastal Development, et al. v. San Diego Unified Port District, et al.	San Diego	2/12	San Diego	Commercial	Hotel	Private	Infill	Environmental Impact Report
Sierra Club v. City of San Diego	San Diego	5/12	San Diego	Agency	Property Disposition/ Management	Agency	N/A	No CEQA Determination
Sierra Club v. County of San Diego	San Diego	7/12	San Diego County	Regulatory	Regional - Regulation	Agency	N/A	No CEQA Determination
Helping Hand Tools v. San Diego Air Pollution Control District, et al.	San Diego	3/12	Escondido	Energy	Natural Gas (Retrofit)	Private	Infill - Energy	Categorical Exemption
Rancho Guejito Corporation v. County of San Diego, et al.	San Diego	9/11	San Diego County	Regulatory	County - Land Use	Agency	N/A	Environmental Impact Report
John Baratta v. City of Poway	San Diego	6/11	Poway	Retail	Store/ Center Occupancy	Private	Infill	Categorical Exemption
Megan K. Dorsey v. City of San Diego, et al.	San Diego	2/12	San Diego	Residential	Small Subdivision	Agency	Infill	Negative Declaration
Unite Here Local 30, et al. v. San Diego Unified Port District, et al.	San Diego	7/11	San Diego County	Commercial	Hotel	Private	Infill	Environmental Impact Report
Taxpayers for Accountable School Bond Spending v. San Diego Unified School District	San Diego	7/11	Glendale	Schools	K-12	Agency	Infill	Negative Declaration-Mitigated
CREED-21 v. City of San Diego	San Diego	5/11	San Diego	Public Services & Infrastructure	Stormwater/Flood Management	Agency	Infill - Infrastructure	Categorical Exemption
Preserve Calavera v. City of Oceanside	San Diego	6/11	Oceanside	Public Services & Infrastructure	Streets	Agency	Infill - Infrastructure	Environmental Impact Report
San Diegans for Open Government v. City of San Diego	San Diego	11/11	San Diego	Public Services & Infrastructure	Stormwater/Flood Management	Agency	Infill - Infrastructure	Negative Declaration-Mitigated
San Diegans for Open Government, et al. v. City of San Diego	San Diego	11/11	San Diego	Public Services & Infrastructure	Stormwater/Flood Management	Agency	Infill - Infrastructure	Environmental Impact Report
CREED-21, et al. v. City of San Diego	San Diego	1/12	San Diego	Industrial	Warehouse/ Logistics	Private	Infill	Environmental Impact Report
Citizens Against Flower Hill's Excessive Expansion v. City of San Diego	San Diego	5/11	San Diego	Commercial	Office/Business Park	Private	Infill	Environmental Impact Report
Save La Jolla, et al. v. City of San Diego, et al.	San Diego	4/11	La Jolla	Residential	Single-Family Home/ Second Unit	Private	Infill	Statutory Exemption

Sierra Club v. 22nd District Agricultural Association	San Diego	5/11	Del Mar	Entertainment	Fairground	Agency	Infill - Park	Environmental Impact Report
City of Solana Beach, et al. v. 22nd District Agricultural Association	San Diego	5/11	Del Mar	Entertainment	Fairground	Agency	Infill - Park	Environmental Impact Report
San Diego Navy Broadway Complex v. San Diego Unified Port District	San Diego	10/11	San Diego	Public Services & Infrastructure	Museum	Private	Infill	Environmental Impact Report
Cleveland National Forest Foundation, et al. v. San Diego Association of Governments, et al.	San Diego	1/12	San Diego County	Regulatory	Regional - Land Use	Agency	N/A	Environmental Impact Report
CREED-21, et al. v. San Diego Association of Governments	San Diego	11/11	San Diego County	Regulatory	Regional - Land Use	Agency	N/A	Environmental Impact Report
San Luis Rey Band of Mission Indians v. County of San Diego	San Diego	2/12	San Diego County	Residential	Master Planned Community	Private	Greenfield	Environmental Impact Report
Pala Band of Mission Indians, et al. v. County of San Diego Department of Environmental Health, et al.	San Diego	6/11	San Diego County	Public Services & Infrastructure	Municipal Waste Management	Private	Greenfield - Infrastructure	Environmental Impact Report
City of San Diego v. Sweetwater Authority	San Diego	12/10	San Diego County	Water	Storage/ Conveyance/ Extraction	Agency	N/A	Environmental Impact Report
City of San Diego v. Sweetwater Authority	San Diego	3/10	San Diego County	Water	Storage/ Conveyance/ Extraction	Agency	N/A	Environmental Impact Report
Mary McGuire, Trustee of the McGuire Family Trust v. County of San Diego Department of Planning and Land Use, et al.	San Diego	4/10	San Diego County	Commercial	Spa/Conference Center	Private	Greenfield	Environmental Impact Report
Siempre Viva Business Park West, LLC, et al. v. City of San Diego	San Diego	8/10	San Diego County	Public Services & Infrastructure	Streets	Agency	Infill - Infrastructure	Categorical Exemption
David Odmark v. City of San Diego, et al.	San Diego	8/10	San Diego	Residential	Single-Family Home/ Second Unit	Private	Infill	No CEQA Determination
Mark Gosselin, Trustee of the Mark Gosselin Trust v. City of Coronado, et al.	San Diego	1/11	Coronado	Residential	Single-Family Home/ Second Unit	Private	Infill	No CEQA Determination
Peter L. De Hoff v. City of Poway	San Diego	11/10	Poway	Park	Other Active Recreation	Agency	Infill - Park	Negative Declaration
Lidsay Townley, et al. v. County of San Diego, et al.	San Diego	11/10	San Diego County	Residential	Large Subdivision/ Mixed Use	Private	Greenfield	Environmental Impact Report
San Diegans for Open Government v. City of San Diego	San Diego	10/10	San Diego	Public Services & Infrastructure	Stormwater/Flood Management	Agency	Infill - Infrastructure	Categorical Exemption
CREED-21 v. City of San Diego	San Diego	2/11	San Diego	Public Services & Infrastructure	Stormwater/Flood Management	Private	Infill - Infrastructure	Categorical Exemption
San Diego Citizenry Group v. County of San Diego	San Diego	9/10	San Diego County	Regulatory	County - Land Use	Agency	N/A	Environmental Impact Report
Save Our Heritage Organisation v. City of San Diego, et al.	San Diego	9/10	San Diego	Retail	Store/Center Occupancy	Private	Infill	No CEQA Determination
Friends of Aviara v. City of Carlsbad	San Diego	1/10	Carlsbad	Regulatory	City - Land Use	Agency	N/A	Negative Declaration-Mitigated

Coastal Environmental Rights Foundation, Inc. v. City of San Diego	San Diego	6/10	San Diego	Entertainment	Fireworks Show	Private	Infill	No CEQA Determination
Environmental Law Compliance Group, et al. v. City of San Diego, et al.	San Diego	8/10	San Diego	Retail	Store/Center Occupancy	Private	Infill	Negative Declaration-Mitigated
Calavera Neighborhood Association, et al. v. Carlsbad Unified School District, et al.	San Diego	2/10	Carlsbad	Schools	K-12	Agency	Infill	Environmental Impact Report
Viejas Band of Kumeyaay Indians v. Padre Dam Municipal Water District	San Diego	6/10	San Diego County	Water	Storage/ Conveyance/ Extraction	Agency	N/A	Negative Declaration-Mitigated
Surfrider Foundation v. City of Carlsbad, et al.	San Diego	11/10	Carlsbad	Public Services & Infrastructure	Stormwater/Flood Management	Private	Infill - Infrastructure	No CEQA Determination
United Anglers of Southern California, et al. v. California Fish and Game Commission	San Diego	2/11	State	Regulatory	State - Regulation	Agency	N/A	Environmental Impact Report

ENDNOTES

[1] CEQA requires that the California Attorney General's office be provided with a copy of each CEQA lawsuit "petition," which describes the challenged project and the alleged CEQA compliance deficiencies. Copies of all such petitions filed between January 1, 2010 and December 31, 2012 were obtained by Holland & Knight from the California Attorney General's office, pursuant to a California Public Records Act request. This study includes all 613 CEQA lawsuits (just over 200 lawsuits per year) filed throughout California during the three-year study period.

[2] *See e.g.*, Thomas Law Group Litigation Study (2013).

[3] Jennifer Hernandez et al., Holland & Knight, CEQA Judicial Outcomes: Fifteen Years of Reported California and Supreme Court Decisions (2015), *available at* http://www.hklaw.com/Publications/CEQA-Judicial-Outcomes-Fifteen-Years-of-Reported-California-Appellate-and-Supreme-Court-Decisions-05-04-2015/ (accessed May 26, 2015).

[4] Although this study includes all petitions forwarded to the authors by the office of the California Attorney General (CAG) office in response to a California Public Records Act (CRPA) request for copies of all petitions received by CAG during the study period (2010 to 2012), published media reports include (and the authors have subsequently verified) that not all petitions actually filed were provided in response to this CPRA request. For example, a lawsuit filed by union interests against a transit-oriented development project in Milpitas, and several lawsuits against the high-speed rail project such as the lawsuit filed by the City of Atherton and other Peninsula communities, were not produced pursuant to this CPRA request. These omissions may be attributed either to the fact that these petitioners failed to comply with CEQA's statutory mandate of providing copies of all CEQA petitions to the CAG, or to the inadvertent omission of these Petitions by the CAG staff responding to our CPRA request.

[5] The authors would like to extend special gratitude to the leadership and members of the CEQA Working Group, a public/private sector coalition formed to modernize CEQA to eliminate CEQA litigation abuse. This includes co-chairs Carl Guardino of the Silicon Valley Leadership Group and Gary Toebben of the Los Angeles Chamber of Commerce, and many members who offered examples of CEQA litigation abuse, including: Lucy Dunn of the Orange County Business Council; Bill Allen and David Flaks from the Los Angeles County Economic Development Corporation; Paul Granillo of the Inland Empire Economic Partnership; Jim Wunderman and Matt Regan of the Bay Area Council (and Shiloh Ballard, now of the Silicon Valley Bicycle Coalition); the California Infill Builders Federation (a public/private sector coalition working to advance infill development led by former State Senate President Pro Tem Don Perata and aided by award-winning journalist Roland De Wolk); California Forward (a bipartisan organization working to end partisan gridlock and support governance reforms to improve public outcomes for public health, environmental protection and sustainable communities led by Executive Director Jim Mayer and Board chair Lenny Mendonca); the Southern California Leadership Council (a bipartisan collaboration of leaders from the public and private sectors, including Greg McWilliams and Rich Lambrose); Carol Schatz from the Central City Association; Tracy Rafter from the LA Business Federation; CORO fellow Sean Kiernan; and many other regional leaders and staff. Thanks also to the many experts who contributed case studies and other information used in this article, including the Sacramento public policy firm Baker, Castillo & Fairbanks; southern California economist John Husing; Sacramento policy advocate Cassie Gilson; members of the CEQA Research Council (a group of CEQA attorneys and practitioners representing public and private sector clients whose members have an average of 30 years of experience with CEQA compliance and litigation practice); and scores of experienced (and patient) representatives from local, regional and state agencies, the Legislature and the Brown administration, and from labor, environmental, affordable housing, environmental justice, education, park, minority, land trust, lending, investing and media organizations. A special thanks to Claudia Cappio, formerly with the Brown Administration (2011-14), and presently with the City of Oakland. Finally, thanks to the many members of the Holland & Knight West Coast Environmental and Land Use Practice Group who contributed to this study with research on these CEQA lawsuits, including partners Betsy Lake, Tamsen Plume, Amanda Monchamp, Nicholas Targ, David Preiss, Brad Brownlow, Tara Kaushik and Chelsea Maclean; associates Paula Kirlin, Dan Golub, Spencer Potter and Joey Meldrum; and law clerks Rob Taboada and Sofia Aguilar. While the authors are grateful to these and other parties who are focused on the need to modernize CEQA to end CEQA litigation abuse, the opinions and recommendations in this study are the authors' and should not be attributed to any other person or organization. This report cites to media reports and other specified sources for factual information about examples of CEQA lawsuits and the litigation practices by individuals and groups; they were not independently investigated by the authors.

[6] *See* Figure 1.

[7] *See* Appendix A for reference to all "Single-Family Home/Second Unit" projects challenged during the study period.

[8] *See* discussion of all "Regulatory" projects in Section 3.A.4, infra; *see also* Appendix A for reference to all "Regulatory" projects challenged during the study period.

[9] *See* discussion of all "Schools," "Public Services & Infrastructure," and "Park" projects in Sections 3.A.1, 3.A.2, and 3.A.3, respectively, *infra; see also* Appendix A for reference to all "Schools," "Public Services & Infrastructure," and "Park" projects challenged during the study period.

[10] *City of Chowchilla v. California Department of Corrections and Rehabilitation, et al.* (2012), *see* Appendix A.

[11] *Sierra Club v. City of San Diego* (2012), *see* Appendix A.

[12] *See* discussion of all "Energy" projects in Section 3.A.6, *infra; see* also Appendix A for reference to all "Energy" projects challenged during the study period.

[13] "Projects" that included no physical construction activities (e.g., approval of agency regulations) and construction projects that had no locational optionality as infill community uses (e.g., commercial agricultural and mines) occurred in multiple jurisdictions (e.g., water supply projects where source of water, location of water improvements, and/or use of water, were distributed across multiple locations and jurisdictions). In addition, public agency management of agency-owned properties were not classified as either "greenfield" or "infill" projects.

[14] Jennifer Hernandez et al., Holland & Knight, CEQA Judicial Outcomes: Fifteen Years of Reported California and Supreme Court Decisions (2015), *available at* http://www.hklaw.com/Publications/CEQA-Judicial-Outcomes-Fifteen-Years-of-Reported-California-Appellate-and-Supreme-Court-Decisions-05-04-2015/ (accessed May 26, 2015).

[15] *See* League of California Cities list of all California cities, *available at* http://www.cacities.org/Resources/Learn-About-Cities (accessed May 26, 2015).

[16] *See* Appendix A for reference to all "Regulatory" projects challenged during the study period.

[17] *See* Appendix A for reference to all "Water" projects challenged during the study period.

[18] *See* Appendix A for reference to all "Mining" and "Agricultural & Forestry" projects challenged during the study period.

[19] *See* Figure 2A

[20] *See* Figure 2B.

[21] *See* e.g., *Ramirez Canyon Preservation Fund v. Santa Monica Mountains Conservancy, et al.* (2010), Appendix A.

[22] *See e.g., Friends of Appleton-Wolfard Libraries, et al. v. City and County of San Francisco, et al.* (2011), Appendix A.

[23] NRDC/CLCV, "Communities Tackle Global Warming" (2009), *available at* http://www.nrdc.org/globalwarming/sb375/files/sb375.pdf (accessed May 26, 2015). "Because CEQA is focused on projects and on mitigating the impacts of those projects, it is not suited to the type of large-scale, comprehensive analysis required to effectively reduce VMT. In fact, in the hands of opponents to a high-density project, CEQA could threaten the implementation of an effective greenhouse gas reduction strategy."

[24] While CEQA demands that tens of millions of dollars of project traffic studies be completed annually, and traffic-related impacts are by far the most litigated CEQA impact issues (especially for infill projects), the fact is that our best effort to carefully predict traffic volumes and patterns from new development is relatively poor. In "Phantom Trips, Overestimating the Traffic Impacts of New Development," academic Adam Millard-Ball reviews the accuracy of the leading national methodology for estimating traffic, the Institute for Traffic Engineers (ITE)'s *Trip Generation*. The author concludes that *Trip Generation* methodology "overestimates trips by 55% – likely because its data represent a biased sample of development in the United States. Moreover, the data in *Trip Generation* are ill-suited to many analyses of traffic impacts, development impact fees, and greenhouse gas emissions, because they do not account for substitution effects. Most trips "generated" by new developments are not new, but involve households reshuffling trips from other destinations. These twin problems – theoretical and practical – are likely to lead to the construction of excessive roadway infrastructure and the overestimation of the congestion, fiscal and environmental impacts of new development." David Levinson, Transportationist, "Phantom Trips," (December 17, 2014), *available at* http://transportationist.org/2014/12/17/8101 (accessed May 26, 2015).

[25] *San Francisco Chronicle*, "Antiabortion group exploiting environmental law to halt clinic" (April 13, 2015), *available at* http://www.sfchronicle.com/opinion/editorials/article/Antiabortion-group-exploiting-environmental-law-6192876.php (accessed May 26, 2015). This report includes factual information presented by this and other referenced media reports, but the authors did not independently investigate the accuracy of these media reports.

[26] *People's Coalition for Government Accountability v. County of Santa Clara, et al.* (2012), *see* Appendix A; *Save Our Uniquely Rural Community Environment v. County of San Bernardino, et al.* (2012), *see* Appendix A; *see also* Pew Research Center, "Controversies Over Mosques and Islamic Centers Across the U.S." (September 27, 2012), *available at* http://www.pewforum.org/2012/09/27/controversies-over-mosques-and-islamic-centers-across-the-u-s-2/ (accessed May 26, 2015).

[27] *See e.g.*, http://ceqaworkinggroup.com/edward2 (accessed May 26, 2015).

[28] *See e.g., Neighbors for Fair Planning v. City and County of San Francisco, et al.* (2011), Appendix A.; *see also*, http://ceqaworkinggroup.com/btwsc (accessed May 26, 2015).

[29] *See e.g., Albany Strollers & Rollers, et al. v. City of Albany, et al.* (2012), Appendix A.

[30] CEQA Working Group, "NIMBY Group Use CEQA Lawsuit to Stop Affordable Housing Project for Seniors," *available at* http://ceqaworkinggroup.com/sseniorhomes (accessed May 26, 2015); CEQA Working Group, "Neighbors Use CEQA In Attempt to Block Expansion of Community Center for Underserved Youth," *available at* http://ceqaworkinggroup.com/btwsc (accessed May 26, 2015); CEQA Working Group, "Marina Homeowners use CEQA to Deter Housing Project for Homeless Teens," *available at*

http://ceqaworkinggroup.com/edward2 (accessed May 26, 2015); Voice of San Diego, "CEQA Can Be a Convenient Weapon" (December 17, 2014), *available at*: http://www.voiceofsandiego.org/topics/economy/ceqa-can-be-a-convenient-weapon/ (accessed May 26, 2015); BetterSolutions4Anaheim, "Legal Objections Raised To Proposed 200-Bed Homeless Shelter" (May 10, 2015), *available at* http://www.bettersolutions4anaheim.com/?p=77 (accessed June 9, 2015); Marin Independent Journal, "Corte Madera Residents Displeased by 'Monster' Apartment Project [180-unit apartment project on 4.7 acres] described as 'towering' and designed to help meet town's affordable housing obligations" http://www.marinij.com/general-news/20131012/corte-madera-residents-displeased-with-monster-apartment-complex (accessed May 26, 2015).

[31] *See* Figure 1.

[32] *Citizens for Castaic v. William S. Hart Union High School District* (2012), see Appendix A.

[33] *See* Figure 2.

[34] Mac Taylor, California Legislative Analyst's Office, "California's High Housing Costs: Causes and Consequences" (2015), *available at* http://www.lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.pdf (accessed May 26, 2015).

[35] See Friedman, et al., Chapman University Center for Demographics and Policy, "California's Social Priorities" (2015), *available at* http://www.chapman.edu/wilkinson/_files/CASocPrioFnSm2.pdf (accessed May 26, 2015).

[36] CNNMoney's geographic cost-of-living calculator, *available at* http://money.cnn.com/calculator/pf/cost-of-living/ (accessed May 26, 2015).

[37] *See e.g., Pilot Travel Centers, LLC v. City of Hesperia by and through its City Council* (2012), Appendix A.

[38] *See e.g., Coalition for Responsible Convention Center Planning, et al. v. City of San Diego, et al.* (2012), Appendix A.

[39] *See* Figure 1.

[40] Personal Email Communication (January 9, 2015), Judicial Council Staff (copy available on request).

[41] Jennifer Hernandez et al., Holland & Knight, CEQA Judicial Outcomes: Fifteen Years of Reported California and Supreme Court Decisions (2015), *available at* http://www.hklaw.com/Publications/CEQA-Judicial-Outcomes-Fifteen-Years-of-Reported-California-Appellate-and-Supreme-Court-Decisions-05-04-2015/ (accessed May 26, 2015).

[42] Id. at 3.

[43] Zaring, David, Reasonable Agencies, 96 VA. L. REV. 135, 170-71 (2010); National Taxpayer Advocate – 2011 Annual Report to Congress Volume 1, p. 590, Table 3.0.2, *available at* http://www.taxpayeradvocate.irs.gov/Media-Resources/FY-2011-Annual-Report-To-Congress-Full-Report (accessed May 26, 2015).

[44] Barragan, Curbed Los Angeles, "Everyone Living in Hollywood's Sunset and Gordon Tower Has to Move Out" (March 20, 2015), *available at* http://la.curbed.com/archives/2015/03/sunset_gordon_eviction.php#more (accessed May 26, 2015).

[45] *Center for Biological Diversity v. Department of Fish and Wildlife*, Supreme Court No. S217763 (Review granted July 9, 2014); *Cleveland National Forest Foundation v. San Diego Association of Governments*, Supreme Court No. S223603 (Review granted March 11, 2015).

[46] *City of Hayward v. Board of Trustees of California State University*, Supreme Court No. S203939 (Review granted October 17, 2012)

[47] *City of San Diego v. Board of Trustees of California State University*, Supreme Court No. S199557 (Review granted April 18, 2012); *Cleveland National Forest Foundation v. San Diego Association of Governments*, Supreme Court No. S223603 (Review granted March 11, 2015).

[48] *California Building Industry Ass'n v. Bay Area Air Quality Management District*, Supreme Court No. S213478 (Review granted November 26, 2013).

[49] For example, opponents filed 17 lawsuits against the project between 1993 and 2004. *See* Village at Playa Vista Final EIR, State Clearinghouse No. 2002111065, (April, 2004), *available at* http://planning.lacity.org/eir/PlayaVista/PlayaVistaFEIR/issues/VI_C.pdf (accessed May 26, 2015); *see also*, http://www.laweekly.com/news/playa-vista-quicksand-2150531 (accessed May 26, 2015).

[50] *Don't Privatize Playa Vista Parks v. City of Los Angeles* (2010), *see* Appendix A; *Ballona Ecosystem Education Project v. City of Los Angeles*, *see* Appendix A.

[51] California Code of Civil Procedure, Sec. 425.16.

[52] CEQA Working Group, "Competition uses CEQA to try to stop competing projects and monopolize student housing," *available at* http://ceqaworkinggroup.com/uscgateway (accessed May 26, 2015).

[53] Saint Consulting, "White Paper: Protecting Market Share," *available at* http://tscg.biz/protectingmarketshare (accessed May 26, 2015).

[54] *Delaware Tetra Technologies v. County of San Bernadino* (2012).

[55] *Save the Plastic Bag Coalition v. County of Marin, et al.* (2011), *see* Appendix A; *Save the Plastic Bag Coalition v. City and County of San Francisco, et al.* (2012), *see* Appendix A; *Save the Plastic Bag Coalition v. San Luis Obispo County Integrated Waste Management Authority* (2012), *see* Appendix A; *Save the Plastic Bag Coalition v. City of Santa Cruz, et al.* (2012), *see* Appendix A; *Save the Plastic Bag Coalition v. City of Long Beach, et al.* (2011), *see* Appendix A.

[56] *RRI Energy, Inc, et al. v. State Water Resources Control Board* (2010), *see* Appendix A.

[57] *Conejo Wellness Center, Inc. v. City of Agora Hills, et al.* (2010), *see* Appendix A; *Crusaders For Patients' Rights v. Board of Supervisors of the County of San Bernardino* (2011), *see* Appendix A; *Michael S. Green v. City of Fresno, et al.* (2012), *see* Appendix A; *TCEF, Inc dba Green Collective, et al. v. County of Kern* (2012), *see* Appendix A; *Heavenscent Organic Hortipharm Collective, et al. v. County of Madera* (2012), *see* Appendix A.

[58] *The Protect Our Communities Foundation, et al. v. Imperial County Board of Supervisors* (2012), and *Roman Velasquez, et al. v. County of Imperial, et al.* (2012), *The Protect Our Communities Foundation, et al. v. Imperial Board of Supervisors* (2012) and *Concerned Calipatria Citizens, et al. v. County of Imperial, et al.* (2012), *see* Appendix A.

[59] Unions filing CEQA lawsuits typically seek a "Project Labor Agreement" (PLA) that specifies which and how many jobs are required to go to the union and to its affiliated entities. PLAs also typically include wage and benefit terms, and may include worker training and qualification terms such as requirements for union-based apprentices. Since public and private construction projects receiving public funding subsidies such as the solar projects are generally required to pay prevailing wages, PLA negotiations relate more to union control and/or participation in the project workforce than payment of prevailing wages.

[60] For example, the manufacturer of Metro railcars leased land from the Los Angeles World Airport (LAWA), and as a lessee was required to comply with the County's Living Wage Ordinance, Affirmative Action Program, Contractor Responsibility Program, and Child Support Obligations ordinance. *See* resolution approving lease, *available at* http://clkrep.lacity.org/onlinedocs/2014/14-0707_misc_5-28-14.pdf (accessed May 26, 2015).

[61] *Coalition for Responsible Convention Center Planning, et al. v. City of San Diego, et al.* (2012), *see* Appendix A; *Alliance for a Cleaner Tomorrow v. San Diego Unified Port District* (2012), *see* Appendix A.

[62] *See* Appendix A for reference to all "Walmart/Big Box Store" projects challenged during the study period.

[63] One pattern that emerged in these lawsuits involved submitting to the "lead" CEQA agency a detailed project opposition letter sent by an attorney representing a union, to make clear for political and negotiation purposes a union's CEQA lawsuit threat. The actual CEQA lawsuit, once filed, used arguments raised in the union attorney letter but named a new "group" rather than the union as the party filing the CEQA lawsuit.

[64] *Daily Breeze*, "Mall wars: Redondo Beach sues Torrance over Galleria's possible loss of Nordstrom" (December 3, 2012), *available at* http://www.dailybreeze.com/20121204/mall-wars-redondo-beach-sues-torrance-over-gallerias-possible-loss-of-nordstrom (accessed May 26, 2015).

[65] *See Los Angeles Times*, "Going off the rails on Metro's rail cars" (October 22, 2014), *available at* http://www.latimes.com/opinion/editorials/la-ed-kinkisharyo-labor-dispute-metro-rail-20141023-story.html (accessed May 26, 2015).

[66] A recent study confirmed that California gained fewer than 5,000 of the more than 600,000 manufacturing jobs created in the United States between 2010-2014. Friedman and Hernandez, Chapman University Center for Demographics and Policy, "California's Social Priorities" (2015), *available at* http://www.chapman.edu/wilkinson/_files/CASocPrioFnSm2.pdf (accessed May 26, 2015); John Husing, Chief Economist, Inland Empire Economic Development California's war on the poor, California Poverty Conference Presentation (2014).

[67] *San Fernando Valley Business Journal*, "A.V. Plant Off Track?" (September 22, 2014); *Los Angeles Times*, "Going off the rails on Metro's rail cars" (October 22, 2014), *available at* http://www.latimes.com/opinion/editorials/la-ed-kinkisharyo-labor-dispute-metro-rail-20141023-story.html (accessed May 26, 2015); *Los Angeles Times*, "Kinkisharyo and IBEW win; CEQA loses?" (November 25, 2014), *available at* http://www.latimes.com/opinion/opinion-la/la-ol-kinkisharo-union-deal-ceqa-20141125-story.html (accessed May 26, 2015).

[68] Bloomberg, "Hollywood Deals Stop as David Fights Goliath: Real Estate" (January 14, 2015), *available at* http://www.bloomberg.com/news/articles/2015-01-14/hollywood-deals-stop-as-david-fights-goliath-real-estate (accessed May 26, 2015), quoting Mike Saint, a Nashville, Tennessee-based land use consultant and co-author of the 2009 book, "NIMBY Wars: the Politics of Land Use." About NIMBY CEQA petitioners, Saint continues: "You can't convince [these wealthy petitioners] to support a shopping center across the street from their house just because it's going to create jobs and tax revenue."

[69] *See e.g.*, Brasuell, Curbed Los Angeles, "Leaked Settlement Shows How NIMBYs "Greenmail" Developers" (January 3, 2013), *available at* http://la.curbed.com/archives/2013/01/leaked_settlement_shows_how_nimbys_greenmail_developers_1.php (accessed May 26, 2015); *Easy Reader News*, "Attorney suing Manhattan Village mall refuses to identify clients" (January 27, 2015), *available at* http://easyreadernews.com/90979/attorney-suing-manhattan-village-mall-refuses-identify-clients/ (accessed May 26, 2015); *San Diego Union Tribune*, "Lawyer's credibility unraveling" (September 25, 2007), *available at* http://www.utsandiego.com/news/2007/sep/25/lawyers-credibility-unraveling (accessed May 26, 2015); "Nonprofits Linked to San Diego Attorney Cory Briggs Flout State, Federal Laws (May 28, 2015), *available at* http://www.kpbs.org/news/2015/may/28/nonprofits-linked-san-diego-attorney-cory-briggs/ (accessed May 29, 2015)

[70] *See e.g.*, "Development Agreement" including community benefit agreements entered into in 2012 by the University of Southern California and the City of Los Angeles to benefit several community groups, described in a joint press release *available at* https://pressroom.usc.edu/joint-public-statement-regarding-the-public-benefits-provided-by-the-usc-specific-plan-and-development-agreement/ (accessed May 26, 2015) and between San Francisco and Zendesk, *available at* http://www.sfgsa.org/index.aspx?page=5480 (*accessed May 26, 2015*).

[71] *See e.g.*, "California's Old Political Machine Losing Steam," (May 23, 2015), *available at* http://www.sfchronicle.com/opinion/diaz/article/California-s-old-political-machine-losing-steam-6282052.php (accessed May 26, 2015).

[72] California Forward receives core funding from The William and Flora Hewitt Foundation, The James Irvine Foundation, The David and Lucille Packard Foundation, The California Endowment, and the Evelyn and Walter Haas, Jr. Fund. The California Stewardship Network receives core funding from the Morgan Family Foundation.

[73] California Economic Summit, 2013 Summit Report: Advancing the Triple Bottom Line for All California, December 2013, *available at* http://www.caeconomy.org/resources/entry/2013-summit-report (accessed May 26, 2015). California Forward receives core funding from The William and Flora Hewitt Foundation, The James Irvine Foundation, The David and Lucille Packard Foundation, The California Endowment, and the Evelyn and Walter Haas, Jr. Fund. The California Stewardship Network receives core funding from the Morgan Family Foundation.

[74] California Economic Summit, Action Plan: July 2012, *available at* http://www.bayareaeconomy.org/media/files/pdf/CA_Summit_Action_Plan_JULY2012.pdf (accessed May 26, 2015), page 9.

[75] *See e.g.*, California Attorney General, "Quantifying the Rate of Litigation Under the California Environmental Quality Act: A Case Study" (August 8, 2012), *available at* http://voiceofsandiego.org/wp-content/uploads/2014/12/AGCEQA.pdf (accessed May 26, 2015) (examining the 17 CEQA lawsuits filed in San Francisco during an 18-month period in which 5,203 city compliance determinations were made; however, even city minor building permits for interior renovations trigger CEQA because these are considered "discretionary" rather than "ministerial" under San Francisco's unique charter); *see also*, Natural Resources Defense Council & California League of Conservation Voters, "CEQA – the Litigation Myth" (January 2013), *available at* http://switchboard.nrdc.org/blogs/dpettit/CEQA%20Litigation%20Analysis%20FINAL.pdf (accessed May 26, 2015), which found that 1.5% of Los Angeles CEQA determinations were challenged in court. However, neither of these studies attempted to differentiate between "big" and "small" or environmentally beneficial project challenges (e.g., CEQA lawsuits against plastic bag ordinances and transit projects) or environmentally benign project challenges (e.g., renovations of existing structures).

[76] *See* Appendix A for reference to all projects challenged during the study period that received a "Categorical Exemption" or "Statutory Exemption."

[77] *See e.g., Berkeley Hillside Preservation, et al. v. City of Berkeley, et al.* (2010), Appendix A.

[78] *See e.g., Golden Gate Land Holdings, LLC v. East Bay Regional Park District* (2011), Appendix A.

[79] *See e.g., Ecologic Partners, Inc., et al. v. California Department of Parks and Recreation* (2011), Appendix A.

[80] *Save La Jolla, et al. v. City of San Diego, et al.* (2011), *see* Appendix A.

[81] *See e.g., Daniel L Friess, et al. v. City of San Juan Capistrano, et al.* (2010) and *Cow Hollow Neighbors for Liveable Communities, et al. v. City and County of San Francisco* (2011), and the Planned Parent clinic in South San Francisco, discussed below.

[82] KQED Forum radio interview (2012), *available at* http://www.kqed.org/a/forum/R201208230900 (accessed May 26, 2015).

[83] *See* http://www.sanjoseinside.com/2015/05/27/community-activist-lobbies-for-urban-agrihood-in-santa-clara/

[84] San Jose Inside, "CEQA Needs Urgent Reform" (August 23, 2012), *available at* http://www.sanjoseinside.com/2012/08/23/8_23_12_ceqa_development_environment_silicon_valley/ (accessed May 26, 2015); CEQA Working Group – CEQA Case Study (copy available from authors on request).

[85] *See* Figure 1.

[86] *San Diego Union Tribune*, "San Diego Lawyer costing taxpayers millions" (April 12, 2015), *available at* http://www.utsandiego.com/news/2015/apr/12/san-diego-lawyer-cory-briggs-taxpayers-millions/ (accessed May 26, 2015).

[87] CEQA Working Group, "Threat of CEQA Lawsuit Causes 'Carmageddon'," *available at* http://ceqaworkinggroup.com/wp-content/uploads/2013/01/CEQA-Misuse-Carmageddon1.pdf (accessed May 26, 2015).

[88] Michael Leachman and Chris Mai, Center on Budget and Policy Priorities, "Most States Funding Schools Less Than Before the Recession" (May 20, 2014), *available at* http://www.cbpp.org/research/most-states-funding-schools-less-than-before-the-recession (accessed May 26, 2015).

[89] *See* Appendix A for reference to all "Schools" projects challenged during the study period.

[90] CEQA Working Group, "Neighborhood Group Uses CEQA to Keep Out Middle School Students," *available at* http://ceqaworkinggroup.com/wp-content/uploads/2013/01/CEQA-Misuse-Portola-School1.pdf (accessed May 26, 2015).

[91] *Designers, Engineers, Constructors for Better, Safer Schools, et al. v. Mill Valley School District, et al.* (2011), *see* Appendix A; *Citizens for Educated Government v. Mill Valley School District, et al.* (2011), *see* Appendix A; *See also* Mill Valley Patch, "Edna Maguire Neighbors Sue School District" (July 19, 2011), *available at* http://patch.com/california/millvalley/edna-maguire-neighbors-sue-school-district (accessed May 26, 2015).

[92] *See e.g., SF Coalition for Children's Outdoor Play, Education and the Environment et al. v. City and County of San Francisco, et al.* (2012), Appendix A; *see also Responsible Use of Land at El Toro, et al. v. Saddleback Valley Unified School District* (2012), Appendix A.

[93] CEQA's unique (and some would say notorious) "fair argument" standard is well established by statute and case law. For projects that would generally qualify for a "Categorical Exemption" because the project meets regulatory criteria for a type of project that typically has no significant adverse impacts, there is a split in appellate court cases as to when and how the "fair argument" standard applies. A potentially decisive case on this topic – involving construction of a single-family home on an existing lot, which received unanimous approval from the Berkeley Planning Commission and City Council as well as support from the project's immediate neighbors, is one of 10 cases pending (as of the time of issuance of this study) before the California Supreme Court, which is currently considering whether to reconsider the split decision issued earlier in 2015. The challenged home has been delayed by more than six years of CEQA litigation. *Berkeley Hillside Pres. v. City of Berkeley* (2015) 60 Cal. 4th 1086; California Supreme Court Case Information Webpage, *available at* http://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=0&doc_id=2009144&doc_no=S201116 (accessed May 26, 2015). *See also, Petition for Rehearing (pending), at* http://www.berkeleyside.com/wp-content/uploads/2015/03/S201116_PFR_BerkeleyHillside-3-17-15.pdf (accessed May 26, 2015).

[94] *See* Appendix A for reference to all "K-12" projects challenged during the study period.

[95] Port of Los Angeles Fact Sheet, *available at* http://www.portoflosangeles.org/about/facts.asp (accessed May 26, 2015).

[96] According to the Port of Los Angeles and Port of Long Beach Fact Sheet, Los Angeles has a 17.4% share of U.S. container trade, and "1 in 5" containers pass through the Long Beach port. *See* Port of Los Angeles Fact Sheet, *available at* http://www.portoflosangeles.org/about/facts.asp (accessed May 26, 2015); Port of Long Beach Fact Sheet, *available at* http://www.polb.com/about/facts.asp (accessed May 26, 2015).

[97] August 2014 regional and state employment totals for August 2014 (state seasonally adjusted; regional unadjusted). *See* State of California Employment Development Department, Labor Market Data Library, *available at* http://www.labormarketinfo.edd.ca.gov/data/labor-market-data-library.html (accessed May 26, 2015); Port of Los Angeles Fact Sheet, *available at* http://www.portoflosangeles.org/about/facts.asp (accessed May 26, 2015); Port of Long Beach Fact Sheet, *available at* http://www.polb.com/about/facts.asp (accessed May 26, 2015); Port of Long Beach, "Economic Impacts: Contributing to the Local, State & National Economies," *available at* http://www.polb.com/civica/filebank/blobdload.asp?BlobID=2103 (accessed May 26, 2015).

[98] California 2013 gross domestic product is reported in the U.S. Department of Commerce, Bureau of Economic Analysis, Real GDP By State Spreadsheet, *available at* http://www.bea.gov/newsreleases/regional/gdp_state/2014/xls/qgsp0814_real.xls (accessed May 26, 2015), and the state 2013 general fund expenditures are summarized in the 2014-15 California State Budget, Summary Charts, *available at* http://www.ebudget.ca.gov/2014-15/pdf/Enacted/BudgetSummary/SummaryCharts.pdf (accessed May 26, 2015). The tax revenue estimates published by the Long Beach port include "local, state and general federal taxes from Port-related trade," and do not specify the amount of federal tax revenue in the total. Other published estimates indicate that the port generates as much as $5.9 billion in state tax revenue. *See e.g.*, California Chamber of Commerce, 2014 California Business Issues, "Making California Ports More Competitive Can Help Regional, State Economies," *available at* http://www.calchamber.com/GovernmentRelations/IssueReports/Documents/2014-Reports/California-Ports-2014.pdf (accessed May 26, 2015).

[99] California now leads the nation in the dubious distinction of having the most residents who lack high school diplomas, and is near rock-bottom in high school graduation rates nationally. Friedman and Hernandez, Chapman University Center for Demographics and Policy, "California's Social Priorities" (2015), *available at* http://www.chapman.edu/wilkinson/_files/CASocPrioFnSm2.pdf (accessed May 26, 2015).

[100] *Community Alliance For Open Space v. City of Los Angeles, et al.* (2010), *see* Appendix A.

[101] All references to unemployment rates in this paragraph were found using the interactive Local Area Unemployment Statistics Map, United States Bureau of Labor Statistics, *available at* http://data.bls.gov/map/MapToolServlet?survey=la&map=state&seasonal=s (accessed May 26, 2015).

[102] *Desert Protective Council, et al. v. Imperial County, et al.* (2011), *see* Appendix A. *Quechan Tribe of the Fort Yuma Indian Reservation v. County of Imperial, et al.* (2011), *see* Appendix A.

[103] *City of Hayward v. Board of Trustees of California State University*, Supreme Court No. S203939 (Review granted October 17, 2012).

[104] *City of San Diego v. Board of Trustees of California State University*, Supreme Court No. S199557 (Review granted April 18, 2012).

[105] *City of Hayward v. Board of Trustees of California State University* (2012) 207 Cal. App.4th 446, opinion superseded upon review granted by California Supreme Court.

[106] *City of San Diego v. Board of Trustees of California State University* (2011) 201 Cal.App.4th 1134, opinion superseded upon review granted by California Supreme Court.

[107] *See e.g., Friends of the College of San Mateo Gardens v. San Mateo County Community College District, et al.* (2011), *Citizens for a Green San Mateo v. San Mateo County Community College District, et al.* (2011), *City of Culver City, et al. v. Los Angeles Community College District, et al.* (2010), *Jayne Abston, et al. v. Mt. San Jacinto Community College District* (2011), Appendix A.

[108] Smith, Curbed LA, "The Emerson Hollywood Building Backlash Begins" (September 2009), *available at* http://la.curbed.com/archives/2009/09/the_emerson_hollywood_building_backlash_begins.php (accessed May 26, 2015); CEQA Working Group, "CEQA Tour—Case Study (copy available on request from authors).

[109] *Complaint, University of Southern California et al. v. Conquest Student Housing* (C.D.C.A. 2007), *available at* http://www.usc.edu/ext-relations/news_service/pdf/Complaint.pdf (accessed May 27, 2015).

[110] *See* CEQA Working Group, "Competitor uses CEQA to try to stop competing projects and monopolize student housing," *available at* http://ceqaworkinggroup.com/uscgateway (accessed May 27, 2015); Smith, Curbed LA, "Lawsuit A Distant Memory, University Gateway Breaking Ground" (July 9, 2008), *available at* http://la.curbed.com/archives/2008/07/university_gate_1.php (accessed May 27, 2015); Smith, Curbed LA, "Conquest Banned From Even Thinking About USC Housing" (January 25, 2008), *available at*: http://la.curbed.com/archives/2008/01/conquest_studen.php (accessed May 27, 2015); Curbed LA, "USC Sues Conquest Housing; Terrorist Reference Ups the Ante" (September, 4, 2007), *available at* http://la.curbed.com/archives/2007/09/usc_sues_conque.php (accessed May 27, 2015); Grant, USC News, "Lawsuit Filed Against Conquest Housing" (September 4, 2007), *available at* http://news.usc.edu/17989/Lawsuit-Filed-Against-Conquest-Housing/ (accessed May 27, 2015).

[111] *See* Appendix A for reference to all "Public Services & Infrastructure" projects challenged during the study period.

[112] Projects to manage, store, and transfer water from groundwater and surface water supplies often occur in locations that are distant from the communities receiving the water, and may also supply water to multiple communities. The nature of water projects also varies widely, from dams and treatment plants, to water management plans and programs, to temporary transfers of water contract rights involving no physical construction. Challenged water projects are addressed below.

[113] *See* Appendix A for reference to all "Transit" projects challenged during the study period.

[114] *See* Appendix A for reference to all "Highway" projects challenged during the study period.

[115] *See* Appendix A for reference to all "Municipal Waste Management" projects challenged during the study period.

[116] *See* Appendix A for reference to all "Stormwater/Flood Management" projects challenged during the study period.

[117] *See* Appendix A for reference to all "Telecommunications" projects challenged during the study period.

[118] *See* Appendix A for reference to all "Streets" and "Sidewalk/ Streetscape" projects challenged during the study period.

[119] *See* Appendix A for reference to all "Sewage Management" projects challenged during the study period.

[120] *Montecito Agricultural Foundation v. Montecito Fire Protection District, et al.* (2012), *see* Appendix A.

[121] *Concerned Library Users v. City of Berkeley, et al.* (2010); *Friends of Appleton-Wolfard Libraries, et al. v. City and County of San Francisco, et al.* (2011), *see* Appendix A. *See also,* San Francisco North Beach library replacement challenge, *available at* http://ceqaworkinggroup.com/library (accessed May 26, 2015).

[122] *Highland Park Heritage Trust, et al. v. City of Los Angeles, et al.* (2011), *see* Appendix A.

[123] *See* Appendix A for reference to all "Transit" projects challenged during the study period.

[124] CEQA Working Group, "NIMBY Group Uses CEQA Lawsuit in Attempt to Derail Major Public Transit Extension Project," *available at* http://ceqaworkinggroup.com/perrisline (accessed May 27, 2015).

[125] *Los Angeles County Regional Park and Open Space District, et al. v. City of Whittier* (2011), see Appendix A.

[126] *See* Weikel, *Los Angeles Times*, "Gold Line backers reach accord with Monrovia landowner" (February 15, 2015), *available at* http://articles.latimes.com/2012/feb/15/local/la-me-0215-light-rail-20120215 (accessed May 27, 2015); *see also* Neal Broverman, Curb Los Angeles, "Were Taxpayers Screwed by Gold Line's $24 Million Settlement?"(February 15, 2012), *available at* http://la.curbed.com/archives/2012/02/were_taxpayers_screwed_by_gold_lines_24_million_settlement.php (accessed May 27, 2015).

[127] *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority, et al.* (2013) 57 Cal.4th 439.

[128] Jennifer Hernandez et al., Holland & Knight, CEQA Judicial Outcomes: Fifteen Years of Reported California and Supreme Court Decisions (2015), *available at* http://www.hklaw.com/Publications/CEQA-Judicial-Outcomes-Fifteen-Years-of-Reported-California-Appellate-and-Supreme-Court-Decisions-05-04-2015/ (accessed May 27, 2015).

[129] As discussed in greater detail in Part 3.b, Remedy Reform, other appellate courts have declined to extend the *Neighbors for Smart Rail* common sense remedy approach. For example, the 8 Washington Project resulted in a rare CEQA loss for San Francisco, when the trial court judge vacated project approvals concluding that updated traffic counts should have been done – precisely the type of minor technical detail that the Supreme Court was unpersuaded was required in *Neighbors for Smart Rail. Neighbors to Preserve the Waterfront, et al. v. City and County of San Francisco, et al.* (2012), *see* Appendix A; *see also* Case No. CPF 12 512356, *available at* http://webaccess.sftc.org/Scripts/Magic94/mgrqispi94.dll?APPNAME=WEB&PRGNAME=ValidateCaseNumberSHA1&ARGUMENTS=-ACPF12512356 (accessed May 27, 2015). Similarly, a judge concluded that a supplemental historic building study should have been done for a demolished building on a site now occupied by a completed residential project with existing tenants – and ordered that the project approvals be vacated (making ongoing occupancy by tenants illegal) pending completion of the new study. *La Mirada Avenue Neighborhood Association of Hollywood v. City of Los Angeles, et al.* (2012), *see* Appendix A; *see also* Case No. BS137262, *available at* http://www.lacourt.org/casesummary/ui/casesummary.aspx (accessed May 27, 2015); Zahniser, Los Angeles "Judge's ruling on Sunset/Gordon tower puts tenants in limbo" (October 17, 2014), *available at* http://www.latimes.com/local/cityhall/la-me-hollywood-development-20141018-story.html#page=1 (accessed May 27, 2015).

[130] *Town of Atherton, et al. v. California High Speed Rail Authority* (2010); note, this is one of the petitions that was omitted from the CEQA petitions sent by the California Attorney General (CAG) to the authors pursuant to a California Public Records Act request. For purposes of maintaining the integrity of the statistical database, only those petitions actually provided by the CAG are included in Appendix A. Further information about the Atherton lawsuit, and a useful blog on the several lawsuits still pending or anticipated against the high-speed rail project, please refer to http://www.cahsrblog.com/2013/02/the-original-frivolous-lawsuit-is-finally-dismissed/ (accessed May 26, 2015).

[131] *City of Beverly Hills v. Los Angeles County Metropolitan Transportation Authority* (2012), *see* Appendix A; *Beverly Hills Unified School District v. Lost Angeles County Metropolitan Transportation Authority* (2012), *see* Appendix A.

[132] *Timeless Investment, Inc., et al. v. California High Speed Rail Authority* (2012), *see* Appendix A; *City of Chowchilla v. California High Speed Rail Authority* (2012), *see* Appendix A; *County of Madera, et al. v. California High Speed Rail Authority* (2012), *see* Appendix A.

[133] Sheehan, *Fresno Bee*, "Federal law on high-speed rail trumps state environmental lawsuits" (December 15, 2014), *available at* http://www.fresnobee.com/2014/12/15/4287088/us-board-says-federal-law-trumps.html (accessed May 27, 2015).

[134] *Town of Atherton, et al. v. California High Speed Rail Authority* (2014) 228 Cal. App.4th 314.

[135] *People's Coalition for Government Accountability v. County of Santa Clara, et al.* (2012), *see* Appendix A; *Save Our Uniquely Rural Community Environment v. County of San Bernardino, et al.* (2012), *see* Appendix A.

[136] Pew Research Center, "Controversies Over Mosques and Islamic Centers Across the U.S." (September 27, 2012), *available at* http://www.pewforum.org/2012/09/27/controversies-over-mosques-and-islamic-centers-across-the-u-s-2/ (accessed May 27, 2015).

[137] *Concerned Library Users v. City of Berkeley, et al.* (2010), *see* Appendix A; *Friends of Appleton-Wolfard Libraries, et al. v. City and County of San Francisco, et al.* (2011), *see* Appendix A.

[138] *Montecito Agricultural Foundation v. Montecito Fire Protection District, et al.* (2012), *see* Appendix A.

[139] *Highland Park Heritage Trust, et al. v. City of Los Angeles, et al.* (2011), *see* Appendix A; *San Diego Navy Broadway Complex v. San Diego Unified Port District* (2011), see Appendix A.

[140] Williams, Willits News, "Basis for threatened suit against air ambulance base questioned" (December 17, 2014), *available at* http://www.willitsnews.com/general-news/20141217/basis-for-threatened-suit-against-air-ambulance-base-questioned (accessed May 27, 2015).

[141] *Preserve San Leandro Mobility, et al. v. City of San Leandro, et al.* (2010), *see* Appendix A; *North Sonoma County Healthcare District, et al. v. County of Sonoma, et al.* (2010), *see* Appendix A; *CREED-21, et al. v. City of Victorville* (2012), *see* Appendix A; *Tehachapi Area Critical Land Use Issues Group v. Tehachapi Valley Healthcare District* (2011), *see* Appendix A.

[142] *Preserve San Leandro Mobility, et al. v. City of San Leandro, et al.* (2010), *see* Appendix A; *North Sonoma County Healthcare District, et al. v. County of Sonoma, et al.* (2010), *see* Appendix A.

[143] *Citizens Against Airport Pollution v. City of San Jose, et al.* (2010), *see* Appendix A; *Highway 68 Coalition v. Monterey Peninsula Airport District Board of Directors* (2011), *see* Appendix A; *Watsonville Pilots Association v. City of Watsonville* (2011), *see* Appendix A.

[144] *City of Irvine v. County of Orange, et al.* (2011), *see* Appendix A.

[145] *County of Amador v. California Department of Corrections and Rehabilitation, et al.* (2011), *see* Appendix A.

[146] *City of Chowchilla v. California Department of Corrections and Rehabilitation, et al.* (2012), *see* Appendix A.

[147] *Homeowners of Angelo Drive to Save the Great Ficus Trees v. Ken Pfalzgraf, et al.* (2011), *see* Appendix A.

[148] *Tony Barnes v. City of Crescent, et al.* (2011), *see* Appendix A.

[149] During the study period, bike path renovations were challenged in Seal Beach. *Bay City Partners, LLC v. City of Seal Beach, et al.* (2011), *see* Appendix A. San Francisco's Bicycle Plan had an even more tumultuous path to judicial approval. *Coalition for Adequate Review, et al. v. City and County of San Francisco* (2014) 229 Cal.App.4th 1043. The city initiated the plan to add 34 miles of new bike lanes in order to address the alarming increase in the number of collisions between bicycles and cars in certain locations across the City. After a four-year-long injunction imposed by the trial court costing the city invaluable grant funding, the appellate court validated the EIR and removed the injunction. *San Francisco Examiner*, "S.F. bike plan injunction to cost city $35K" (July 21, 2006), *available at* http://www.sfexaminer.com/sanfrancisco/sf-bike-plan-injunction-to-cost-city-35k/Content?oid=2159056 (accessed May 27, 2015).

[150] *See* Appendix A for reference to all "Telecommunications" projects challenged during the study period.

[151] Assem. Bill No. 1486 (2011-2012 Reg. Sess.).

[152] *See* Appendix A for reference to all "Highway" projects challenged during the study period.

[153] Michael Cabanatuan, *San Francisco Chronicle*, "BART can't keep pace with rising 'crush loads'" (April 13, 2015), *available at* http://www.sfgate.com/bayarea/article/BART-can-t-keep-pace-with-rising-crush-loads-6192950.php (accessed May 27, 2015).

[154] For example, CNNMoney's geographic cost-of-living calculator reports that the cost of housing is 56% higher in the City of Los Angeles than the City of Riverside, CNN Money Calculator, "Cost of living: How far will my salary go in another city?" *available at* http://money.cnn.com/calculator/pf/cost-of-living/ (accessed May 27, 2015); *see also*, Friedman, et al., Chapman University Center for Demographics and Policy, "California's Social Priorities" (2015), *available at* http://www.chapman.edu/wilkinson/_files/CASocPrioFnSm2.pdf (accessed May 27, 2015).

[155] *See* Appendix A for reference to all local "Streets" projects challenged during the study period.

[156] *See* Appendix A for reference to all "Stormwater/Flood Management" projects challenged during the study period.

[157] *See e.g.*, Tony Barboza, et al., *Los Angeles Times*, "Regulators detail Exide battery plant closure after decades of pollution," (March 12, 2015), *available at* http://www.latimes.com/local/lanow/la-me-ln-exide-plant-closure-20150312-story.html#page=1 (accessed May 26, 2015); Communities for a Better Environment Press Release, "Residents Call for Shut Down of Exide" (February 9, 2015), *available at* http://www.cbecal.org/press-release-residents-call-for-shut-down-of-exide/ (accessed May 26, 2015).

[158] Personal Communication (2013) from senior official with the California Department of Toxic Substances Control.

[159] *California Native Plant Society v. City of Santa*, 177 Cal. App. 4th 957 (2009).

[160] *Center for Biological Diversity v. Department of Fish and Wildlife* (2014) 224 Cal.App.4th 1105 review granted July 9, 2014 and opinion superseded sub nom. *Center for Biological Diversity v. California Dept. of Fish and Game* (Cal. 2014) 174 Cal.Rptr.3d 80/.

[161] Martha Groves, *Los Angeles Times*, "Annenberg Foundation suspends plan for Ballona Wetlands visitors center" (December 2, 2014), *available at* http://www.latimes.com/local/california/la-me-annenberg-wetlands-20141203-story.html (accessed May 27, 2015).

[162] *See* Appendix A for reference to all local "Park" projects challenged during the study period.

[163] Fairground, zoos and amusement parks were included in the Commercial-Entertainment category; park projects were limited to outdoor recreational areas with few built structures or amenities.

[164] *Friends of Point Pinos, et al. v. City of Pacific Grove, et al.* (2012), *see* Appendix A; *Washoe Meadows Community v. California State Parks and Recreation Commission, et al.* (2012), *see* Appendix A.

[165] *City of Riverside v. City of Rialto, et al.* (2011), *see* Appendix A.

[166] *The Otay Ranch, LP, et al. v. County of San Diego* (2012), *see* Appendix A.

[167] Hannah Rappleye, NBC News, "Is Rubber Mulch a Safe Surface for Your Child's Playground?" (December 2, 2014), *available at* http://www.nbcnews.com/news/investigations/rubber-mulch-safe-surface-your-childs-playground-n258586 (accessed May 27, 2015).

[168] *SF Coalition for Children's Outdoor Play, Education and the Environment et al. v. City and County of San Francisco, et al.* (2012), *see* Appendix A; *See also* C.W. Nevius, *San Francisco Chronicle*, "Campaign against turf soccer fields may be alive and kicking" (November 6, 2014), *available at* http://www.sfgate.com/bayarea/nevius/article/Campaign-against-turf-soccer-fields-may-be-alive-5874056.php (accessed May 27, 2015); Sara Gaiser, Bay City News, "Construction Starts On Golden Gate Park Soccer Fields Project" (November 6, 2014), *available at* http://sfappeal.com/2014/11/construction-starts-on-golden-gate-park-soccer-fields-project/ (accessed May 27, 2015).

[169] *San Francisco Business Times*, "CEQA abuse hits latest victim: Dolores Park" (April 12, 2013), *available at* http://www.bizjournals.com/sanfrancisco/print-edition/2013/04/12/ceqa-abuse-hits-latest-victim.html (accessed May 26, 2015).

[170] *Golden Gate Land Holdings, LLC v. East Bay Regional Park District* (2011), *see* Appendix A.

[171] *See e.g.*, Berkeley Citizen website, Gilman Street Playing Fields Berkeley CEQA comments, *available at* http://www.berkeleycitizen.org/Parks/freeway3.htm (accessed May 26, 2015).

[172] *See* Appendix A for reference to all "Land Use" projects challenged during the study period, which are identified by their governmental level (i.e., City, County and Regional).

[173] This regional plan was sued twice: *Cleveland National Forest Foundation, et al. v. San Diego Association of Governments, et al.* (2012), *see* Appendix A; CREED-21, et al. v. San Diego Association of Governments (2011), *see* Appendix A; and made its way to California Supreme Court: *Cleveland National Forest Foundation, et al. v. San Diego Association of Governments, et al.*, Supreme Court No. S223603 (Review granted March 11, 2015), *available at* http://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=0&doc_id=2096944&doc_no=S223603 (accessed May 26, 2015).

[174] *See* Los Angeles Planning Department, General Plan of the City of Los Angeles: Prior and Current Elements of General Plan flowchart, *available at* http://planning.lacity.org/cwd/gnlpln/History.htm (accessed May 27, 2015); *see also*, Adrian Glick Kudler, Curbed LA, "More Hollywood Community Plan Lawsuits" (July 20, 2012), *available at* http://la.curbed.com/archives/2012/07/more_hollywood_community_plan_lawsuits.php (accessed May 27, 2015).

[175] California Global Warming Solutions Act of 2006, Cal. Health & Safety Code §38500, et seq.

[176] Sen. Bill No. 375 (2007-2008 Reg. Sess.).

[177] *Cleveland National Forest Foundation, et al. v. San Diego Association of Governments, et al.*, Supreme Court No. S223603 (Review granted March 11, 2015), *available at* http://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=0&doc_id=2096944&doc_no=S223603 (accessed May 26, 2015); *see also Cleveland National Forest Foundation, et al. v. San Diego Association of Governments, et al.* (2012), and *CREED-21, et al. v. San Diego Association of Governments* (2011), Appendix A.

[178] A summary of the state's regional housing needs assessment and allocation system was developed by the Southern California Association of Governments, (January 2011), *available at* http://rtpscs.scag.ca.gov/Documents/rhna/RHNA101primer_Dec2010.pdf (accessed May 26, 2015).

[179] *Center for Biological Diversity v. Department of Fish and Wildlife* (2014) 224 Cal.App.4th 1105 review granted July 9, 2014 and opinion superseded sub nom. *Center for Biological Diversity v. California Dept. of Fish and Game* (Cal. 2014) 174 Cal.Rptr.3d 80/.

[180] Friedman, et al., Chapman University Center for Demographics and Policy, "California Environmental Quality Act, Greenhouse Gas Regulation and Climate Change" (2015), *available at* http://www.chapman.edu/wilkinson/_files/GHGfn.pdf (accessed May 27, 2015).

[181] Halstead, Marin Independent Journal, "Two new lawsuits filed to challenge Plan Bay Area" (August 19, 2013), *available at* http://www.marinij.com/general-news/20130819/two-new-lawsuits-filed-to-challenge-plan-bay-area (accessed May 26, 2015). The second lawsuit, filed by an association of developers, is currently pending in the California Supreme Court: *California Building Industry Ass'n v. Bay Area Air Quality Management District*, Supreme Court No. S213478 (review granted November 26, 2013).

[182] *See* Appendix A for reference to all "Local Plastic Bag" and "Local Marijuana" Regulations.

[183] *Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155.

[184] Jennie R. Romer and Shanna Foley, Golden Gate University Environmental Law Journal, "A Wolf in Sheep's Clothing: The Plastics Industry's "Public Interest" Role in Legislation and Litigation of Plastic Bay Laws in California" (2012), (*available at* http://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1082&context=gguelj (accessed May 26, 2015).

[185] Compassionate Use Act of 1996, Cal. Health & Safety Code §§ 11357-11362.9.

[186] *Conejo Wellness Center, Inc. v. City of Agora Hills, et al.* (2010), *see* Appendix A; *Crusaders For Patients' Rights v. Board of Supervisors of the County of San Bernardino* (2011), see Appendix A; *Michael S. Green v. City of Fresno, et al.* (2012), *see* Appendix A; *TCEF, Inc dba Green Collective, et al. v. County of Kern* (2012), *see* Appendix A; *Heavenscent Organic Hortipharm Collective, et al. v. County of Madera* (2012), *see* Appendix A.

[187] *See* Appendix A for reference to all local "Regulation" projects challenged during the study period, which are identified by their governmental level (*i.e.*, City and County).

[188] *See* Appendix A for reference to all "Regional – Regulations" Projects.

[189] *Cleveland National Forest Foundation, et al. v. San Diego Association of Governments, et al.*, Supreme Court No. S223603 (Review granted March 11, 2015), *available at* http://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=0&doc_id=2096944&doc_no=S223603 (accessed May 26, 2015); *see also* Cleveland National Forest Foundation, et al. v. San Diego Association of Governments, et al. (2012), and *CREED-21, et al. v. San Diego Association of Governments* (2011), Appendix A.

[190] *California Building Industry Ass'n v. Bay Area Air Quality Management District* Supreme Court No. S213478 (Review granted November 26, 2013), *available at* http://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=0&doc_id=2056930&doc_no=S213478 (accessed May 26, 2015).

[191] *California Building Industry Ass'n v. Bay Area Air Quality Management District* (2013) 218 Cal.App.4th 1171; *Ballona Wetlands Land Trust et al. v. City of Los Angeles* (2011) 201 Cal.App.4th 455; Hernandez, et al., Holland & Knight, "Recommendations for Complying with Ballona Wetlands' Definitive Rejection of 'Converse-CEQA' Analysis" (May 30, 2012), *available at* http://www.hklaw.com/publications/Recommendations-for-Complying-with-Ballona-Wetlands-Definitive-Rejection-of-Converse-CEQA-Analysis-05-30-2012/ (accessed May 26, 2015).

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[219] *See* Appendix A for reference to all "Commercial" projects challenged during the study period.

[220] *See* Appendix A for reference to all "Oil and Gas" extraction projects challenged during the study period.

[221] *See e.g., City of Petaluma, et al. v. County of Sonoma, et al.* (2011), Appendix A.

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[226] *See* Appendix A for reference to all agricultural projects challenged during the study period.

[227] *Signal Port Creek Property Owners Association v. Ken Pimlott, In His Capacity as Director of the California Department of Forestry and Fire Protection, et al.* (9/12), *see* Appendix A.

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