CEQA WORKING GROUP

Protect the environment. Improve the economy.

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Policy Principles for CEQA Modernization

Problem: Thoughtful Reforms to CEQA Long Overdue

- When the California Environmental Quality Act (CEQA) was enacted 40 years ago, the wide array of local, state and federal environmental and land use regulations that are now on the books didn't exist. CEQA was essentially it.
- In the 40 years since, Congress and the Legislature have adopted more than 120 laws to protect environmental quality in many of the same topical areas required to be independently mitigated under CEQA, including laws like the Clean Air Act, Clean Water Act, Endangered Species Act, GHG emissions reduction standards, SB 375 and more.
- Despite these stringent environmental laws and local planning requirements, public and private projects throughout the state are commonly challenged under CEQA even when a project meets all other environmental standards of existing laws.
- Many lawsuits are brought or threatened for non-environmental reasons and often times these lawsuits seek to halt environmentally desirable projects like clean power, infill and transit.
- It is time to modernize CEQA to conform with California's comprehensive environmental laws and regulations. Thoughtful CEQA reforms can preserve the law's original intent – environmental protection – while preventing special interest CEQA abuses that jeopardize community renewal, job-creation and the environment.

SOLUTION: Modernize CEQA to Protect Environment and Informed Public Participation, While Limiting Abuses

The Working Group Supports the Following Four Principles to Modernize CEQA:

1. Integrate Environmental and Planning Laws

- ✓ CEQA should continue to serve as *the* state environmental law for environmental impacts not regulated by standards set forth in other environmental and planning laws adopted since 1970.
- ✓ However, where a federal, state or local environmental or land use law has been enacted to achieve environmental protection objectives (e.g., air and water quality, greenhouse gas emission reductions, endangered species, wetlands protections, etc.), CEQA review documents like EIRs should focus on fostering informed debate (including public notice and comment) by the public and decision makers about how applicable environmental standards reduce project impacts.
- ✓ State agencies, local governments and other lead agencies would continue to retain full authority to reject projects, or to condition project approvals and impose additional mitigation measures consistent with their full authority under law other than CEQA.

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2. Eliminate CEQA Duplication

- ✓ As originally enacted, CEQA did not require further analysis of agency actions that already complied with CEQA-certified plans. But a 1987 court decision dramatically changed CEQA's application and required CEQA to be applied even for projects that complied with such laws.
- ✓ Reforms should return the law to its original intent and not require duplicative CEQA review for projects that already comply with approved plans for which an environmental impact report (EIR) has already been completed – particularly since existing laws also require both plans and projects to comply with our stringent environmental standards.
- ✓ Local governments and other lead agencies would continue to retain full authority to reject projects or to condition project approvals and impose additional mitigation measures, consistent with their full authority under law other than CEQA.

3. Focus CEQA Litigation on Compliance with Environmental and Planning Laws

- ✓ CEQA lawsuits would still be allowed to be filed for failure to comply with CEQA's procedural and substantive requirements, including, for example adequate notice, adequate disclosure, adequate mitigation of environmental effects not regulated by other environmental or planning law, adequate consideration of alternatives to avoid unmitigated significant adverse impacts.
- ✓ However, CEQA lawsuits could not be used to challenge adopted environmental standards, or to endlessly re-challenge approved plans by challenging projects that comply with plans.
- ✓ Environmental and other public advocacy efforts to enact environmental protection laws should not be affected by any CEQA reform, and limiting CEQA litigation abuse can also inform advocacy efforts to revisit standards or plans.
- ✓ Finally, "real" environmental lawsuits - seeking to enforce true environmental objectives - could still be pursued against agencies that fail to make regulatory or permitting decisions in compliance with standards and plans.
- ✓ However, the current system of broad brush CEQA lawsuits that can be filed by any party for any purpose to challenge any or all environmental attributes of projects that comply with standards and plans are an outdated artifact of the "anything goes" environment of 1970, which now hinders both environmental improvement and economic recovery.

4. Enhance Public Disclosure and Accountability

- ✓ CEQA would continue to mandate comprehensive environmental disclosure and informed public debate for all environmental impacts, including those covered by standards set in other environmental and planning laws.
- ✓ CEQA's public disclosure principles are enhanced by requiring an annual report of project compliance with required mitigation measures made electronically available to the public as part of the existing Mitigation Monitoring and Reporting Plan process.
- ✓ CEQA lawsuits could no longer be filed by "anonymous" unincorporated associations with shadow members and hidden interests. Anyone seeking to enforce CEQA through litigation needs to disclose who they are, similar to campaign finance disclosure laws and court mandates for third parties seeking to file advocacy briefs in lawsuits.