

CEQA OVERVIEW

Presented by:

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CEQA

- California Environmental Quality Act.
 - Division 13, Public Resources Code, (§ 21000, *et seq.*).
- Enacted in 1970, one year after NEPA, the National Environmental Policy Act.
- Many provisions are similar.

CEQA

- CEQA is the foundation of Calif. environmental policy.
- Applies to public agencies
 - Multi-disciplinary analysis of environmental consequences of a proposed action.
 - Requires that decisions be made on those studies findings.

Policies of CEQA

- Maintenance of environment of statewide concern.
- Every citizen responsible to protect environment.
- Govt. Agencies must give major consideration to prevent env. Damage.
- All actions to protect, rehabilitate and enhance env. should be taken.

Policies of CEQA (continued)

- Actions to provide clean air, water, aesthetic, and natural and historic qualities should be taken.
- Elimination of fish and wildlife species should be prevented by ensuring self-sustaining populations.

Policies of CEQA (continued)

- The policies in CEQA have influenced court decisions.
- CEQA should be interpreted:
 - “...so as to afford the fullest protection of the environment within the reasonable scope of the statutory language.”
 - » *Friends of Mammoth v. Board of Supervisors of Mono County*; 8 cal. 3d. 297 (1972)

Procedural and Substantive

- CEQA is Procedural – “action forcing.”
 - Initial studies.
 - Negative declarations.
 - Environmental impact reports (“EIR”).
 - Alternatives and mitigation measures.
 - Required findings.
 - Etc.

Procedural and Substantive

- CEQA is substantive as well.
 - Agencies required to avoid or mitigate env. damage where feasible.
 - Mitigation monitoring required.
 - Where not feasible, CEQA requires written Statement of Overriding Considerations.
 - Findings supporting decisions must be based on substantial evidence in the record.

The Law of CEQA

- The Statute (Pub. Resources Code Section 21000 *et seq.*).
- The State CEQA Guidelines adopted by the Resources Agency Title 14, C.C.R, Sections 15000-125387.
- Local Guidelines – compliance procedures
- Court Decisions.
- Generally enforced through litigation.

“Significant Effect”

- Key concept to the requirements of CEQA.
- “Significant effect on the environment” is:
 - ...a substantial, or potentially substantial adverse change to the environment (21066).
- CEQA requires that an EIR be prepared where a project may have a significant effect on the environment.
- Also used in EIR to develop, consider appropriate mitigation measures.

Environmental Review Process

- (1) Preliminary review: Determine whether the project is subject to CEQA. If yes:
- (2) Initial Study: Determine whether the project may have a significant effect on the environment.
- (3) Documentation: If the project will not have a S/E, prepare Negative Declaration. If project may have a S/E, prepare EIR.

Salton Sea Restoration

- In the case of the Salton Sea Restoration Study, the usual CEQA 3-step process for analyzing projects doesn't apply.
- The Legislature has directed the preparation of a programmatic EIR for the Restoration Study.
 - Fish & Game Code § 7081.7(e)(1)

Phase 3: Documentation: EIR

- EIR is a detailed informational document prepared by the Lead Agency.
 - Analyzes potential significant effects.
 - Identifies reasonable alternatives and mitigation measures to avoid potential S/E's.
- Purposes:
 - Inform decision makers.
 - Demonstrate to public that env. being protected
 - Ensures political accountability.

Kinds of EIR's

- In addition to the project EIR, there are specific EIR's.
 - Programmatic (series related actions).
 - Master (general plan, phased projects).
 - Staged (many years of planning or approvals).
 - Community plan EIR.
 - General/specific plan EIR.
 - Redevelopment plan EIR.
 - Etc.

Program EIR

- Looks at a series of actions that are related geographically or a chain of contemplated events.
- Considers broad policy alternatives and programmatic mitigation at an early stage.
- Can focus on cumulative impacts.
- Can reduce paperwork through tiering and reuse of data.

Steps to Prepare EIR

■ Lead Agency:

- Consults with responsible agencies, determines scope, content, focus of EIR.
- Circulates DEIR for agency, public comment.
- Issues FEIR, responds to comments, issues
- Adopts findings regarding significant effects and , appropriate mitigation.
- Adopts statement overriding considerations for unavoidable significant effects.
- Adopts mitigation monitoring.

Determining Scope of EIR

- Scoping.
 - Early agency consultation, scoping ,meetings.
 - Initial study.
- Notice of Preparation.
 - Brief description of Project and location (map).
 - Date, time, place of public hearing (if any).
 - Address where documents available.
 - Deadline and address to submit comments.

Notice of Preparation

EIR Contents

- Table of Contents.
- Informative (executive) summary.
- Project description.
 - No detail beyond what needed to review S/E's.
 - Project concept.
 - Proposed structures, construction.
 - Reasonably foreseeable future phases.
 - Statement of objectives and purposes of project.

FID Contents (continued)

CEQA and NEPA

- Both CEQA and the National Environmental Policy Act encourage joint preparation of EIR/EIS when project subject to both.
- A final NEPA EIS may be used for CEQA compliance, supplemented as necessary.

CEQA Litigation

- CEQA enforced through litigation brought by individuals, organizations and public agencies.
- Courts have interpreted CEQA liberally to protect environment.
- Courts use NEPA decisions as a precedent, where CEQA precedents not available.

CEQA Litigation (Continued)

- Judicial remedies for violation of CEQA.
 - Void agency action.
 - Suspend agency actions with significant environmental impacts.
 - Writ of mandate ordering agency compliance with CEQA.
 - Injunction only upon finding that continued activity will prejudice consideration, implementation of mitigation measure or alternative.

CEQA Litigation (continued)

- Statutes of limitation to challenge CEQA actions:
 - 35 days following filing of Notice of Exemption.
 - 30 days after notice of determination filed (negative declaration or EIR).
 - 180 days after agency decides to carry out project, if no NOD filed.

For more information

- The Resources Agency's CERES web site contains information on CEQA, the Guidelines, major CEQA cases and information on NEPA.
 - <http://ceres.ca.gov/elaw/>

Questions?

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