

# CEQA 101

- **CA Legislature passed CEQA in 1970; signed by Governor Reagan**
- **CEQA statutes are found in Public Resources Code sections 21000 et seq.**
- **The CA Resources Agency provides guidance on how agencies implement CEQA; this is known as the CEQA Guidelines**
  - **These are not statutory, but the courts give them great weight**

# CEQA 101

- **Many consider CEQA to be CA's most powerful environmental law**
- **CEQA requires public agencies to examine the environmental impacts of projects**
  - **Public agencies must avoid or mitigate the significant adverse environmental impacts caused by their actions whenever feasible**
- **Most importantly, CEQA has significantly increased the ability of the public to participate in the planning processes**

# Is an Agency Action Subject to CEQA?

## Three Questions:

1. Is the action a Project?
2. Is the Project exempt?
3. Is there any possibility that the project will cause significant environmental impacts?

If the action is a Project, and the Project is not exempt, and there is a possibility that the Project will cause significant environmental impacts, then it is an action subject to CEQA

# Is the Action a Project?

- **Under CEQA, a Project is an activity which may cause either a direct or indirect foreseeable physical change in the environment. Includes:**
  - **Public agency activities**
  - **Activities with public agency assistance (grants, loans, etc.)**
  - **Activities requiring a lease, permit, license from a public agency (discretionary projects)**

# Is the Project Exempt?

- **If the action is a Project, it may be exempt**
- **Two types of exemptions under CEQA:**
  - 1. Statutory Exemptions provided by the CA legislature**
    - 1. Includes emergency actions, passenger rail**
  - 2. Categorical Exemptions are Projects that have no possibility to cause significant adverse environmental effects**
    - 1. Includes minor alterations of existing structures, public gatherings, small wildlife restoration projects**

# Significant Environmental Impacts?

- Does the project “have the potential to substantially degrade the quality of the environment?”
- Does the project reduce habitat available for wildlife?
- This is the threshold determination
  - An EIR must be prepared if there is substantial evidence in the record supports a “fair argument” that a project may create significant environmental impacts –  
**LOW THRESHOLD**

# CEQA Process

- **Lead agency determines whether the activity is subject to CEQA (How?)**
- **If action is a project and not exempt, the Lead Agency typically conducts an Initial Study; a preliminary environmental analysis**
- **Provides the agency with information to use as a basis for deciding whether to prepare a negative declaration, mitigated negative declaration, or an EIR**

# Negative Declaration/Mitigated Negative Declaration

- If the Initial Study indicates there is no substantial evidence that the proposed project will have a significant effect on the environment, the lead agency may prepare a Neg Dec
- If the Initial Study indicates that one or more adverse significant environmental effects will occur, but they are able to mitigate these effects to levels of insignificance by making project revisions, a Mitigated Neg Dec may be prepared
- Challenges limited to 20-30 days

# Environmental Impact Report Process

- Notice of Preparation
- Scoping sessions?
- Preparation of the Draft EIR
- Notice of Completion
- Public notice
- Public comment period
- Public hearings?
- Final EIR
- FEIR Certification/Project Approval
- Notice of Determination

# EIR General Contents

- **Executive summary**
- **Project description**
- **Environmental setting – baseline**
- **Project's significant adverse environmental effects and mitigation measures**
- **Analysis of reasonable range of alternatives**
- **Analysis of project's growth inducing impacts and cumulative impacts**

# Growth-Inducing Impacts

- **The DEIR must analyze how the proposed project could promote population growth or additional construction either directly or indirectly**
- **Encourages decision-makers to consider the consequences of suburban sprawl prior to taking action**

# Cumulative Impacts

- **The DEIR must analyze the project in the context of the big picture**
- **Cumulative impacts refer to 2 or more individual impacts that, when considered together, are considerable**
- **Can result from individually minor but collectively significant projects taking place over a period of time**

# Commenting on a DEIR

- **Comments presented (preferably in writing) prior to the close of the final public hearing.**
- **Should be clear and concise**
- **Should include factual information or legal theories upon which comment is based**
- **Do not speculate, provide unsubstantiated opinion, argument, fears, concerns, desires, etc.**

# Why is it Important to Provide This Level of Comment?

- **Comments that include factual information or legal theories place the burden on the agency to respond**
- **This also provides a basis for a legal challenge if the agency does not respond or if the response is inadequate**

# Environmental Impact Report Process

## ➤ CEQA's Mandatory Findings

- CEQA mandates that public agencies “avoid or minimize environmental damage where feasible” through project alterations, or
- Provide economic, social, technological or other considerations that preclude the use of mitigation measures or alternatives

## ➤ Statement of Overriding Considerations

- Must be based on substantial evidence and must provide reasons
- Agency deference

# CEQA Process Flow Chart

