



SR-710 North Project

Commenting on the
Draft Environmental Impact Report/
Environmental Impact Statement

Make a Difference by
Using Effective Written Strategies!

February 28th, 2015

Your Opinions and Participation Matters!



Topics to Be Covered in Workshop

- A brief history leading up to the two landmark environmental laws (i.e., NEPA/CEQA)
- An overview of the environmental review process
- How to target your comments on the Draft EIR/EIS
- How to present and submit your comments for maximum effectiveness
- How to make sure you are notified of all hearings and relevant developments
- What to expect as next steps



Single Purpose Federal and State Laws



Some Environmental Laws Pre-NEPA & CEQA

- Forest Reserve Act of 1891
- Rivers and Harbors Act of 1899
- American Antiquities Act of 1906
- Migratory Bird Treaty Act of 1918
- Historic Sites Act of 1935
- Federal Water Pollution Control Act of 1948
- Federal Air Pollution Control Act of 1955
- Federal Clean Air Act of 1963
- National Historic Preservation Act of 1966



Environmental Events: Disasters and Birth of the Environmental Movement



Environmental Activities Before NEPA & CEQA

- Isolated events of past contamination and media reports:
 - ❖ Minamata “disease” in 1950s
 - ❖ 1952 London smog disaster
 - ❖ Lake Erie declared “dead” in 1960s
 - ❖ Love Canal in 1960s/1970s
- Grass-root environmental organizations
- *Silent Spring* by Rachel Carson in 1962
- Santa Barbara oil spill in 1969

Santa Barbara Oil Spill in 1969



“

I don't like to call it a disaster, because there has been no loss of human life. I am amazed at the publicity for the loss of a few birds.

”

1969 Santa Barbara Oil Spill (offshore well blowout spreading between Goleta and Ventura)

Fred Hartley, president of Union Oil

National Environmental Policy Act of 1969



National Environmental Policy Act of 1969

President Richard Nixon
signed this federal
landmark environmental
law on January 1, 1970



California Environmental Quality Act of 1970



CEQA = Mini NEPA and State's Landmark Environmental Law

Governor Ronald Reagan
signed CEQA into law on
November 23, 1970



Goals of CEQA

- Inform decision-makers about the project's significant environmental impacts
- Identify ways in which environmental damage can be avoided or minimized
- Prevent environmental damage, where feasible with mitigation measures
- Foster public participation in the CEQA process
- Encourage interagency coordination during the CEQA process

Misunderstandings with CEQA

CEQA does **NOT**:

- Give public agencies any new powers, rather it encourages accountability
- Approve or deny a project, rather it informs decision-makers and the public
- Apply to private projects that don't need a public agency's approval
- Issue a permit, instead it is a process

Plain English Definition for “Project”

- An activity by a public agency that causes a physical change to the environment in the state of California.
- An activity by a private party that needs approval, funding, or leasing by a public agency and causes a physical change to the environment in the state of California.

Other Aspects of a Project

- The definition includes all phases of a project:
 - ❖ Planning
 - ❖ Designing
 - ❖ Funding
 - ❖ Contracts
 - ❖ Construction
 - ❖ Operation
 - ❖ Routine maintenance
 - ❖ Expansion/modifications
 - ❖ Termination

Plain English Definition for “Environment”

- The physical conditions at the project’s location(s)
- Includes natural and man-made elements

Environmental Categories

- Aesthetics
- Agricultural and Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality

Environmental Categories

- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation and Traffic
- Utilities and Service Systems
- *Additional NEPA Categories for Joint CEQA/NEPA documents:
 - ❖ Environmental Justice
 - ❖ Indian Trust Assets
 - ❖ Socioeconomics

Plain English Definition for “Significant Impact”

- Substantial damage or physical changes to the environment by the project.
- An economic or social change to the environment by the project is NOT a significant impact.
- Limited, negative aesthetic changes by the project as viewed from a private area (e.g., backyard) is NOT a significant impact.

Plain English Definition for “Mitigation Measure”

An action that neutralizes or lessens a significant environmental impact by:

- Avoidance
- Minimization
- Rectify
- Reduction or elimination
- Compensation or substitution

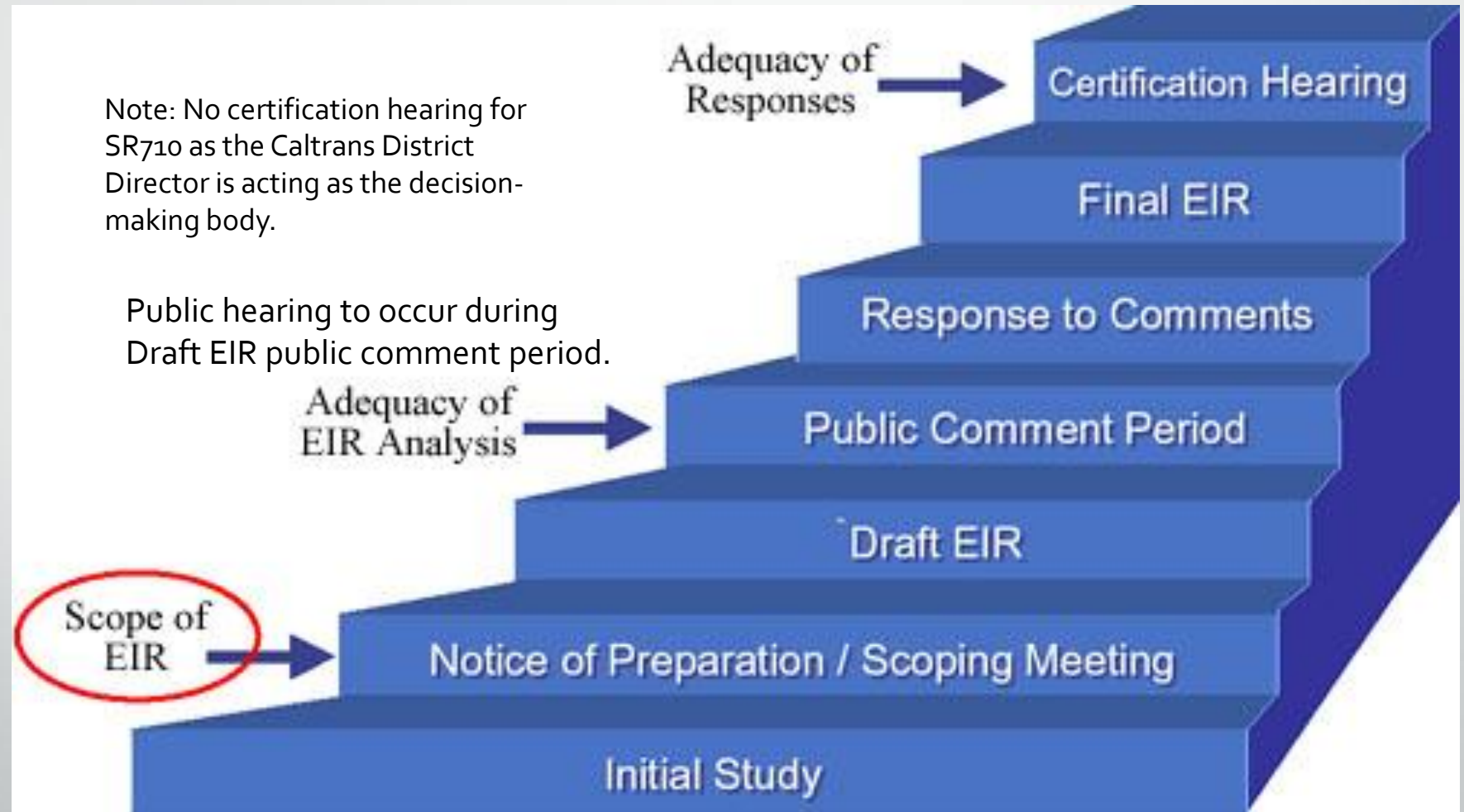
CEQA Participants

- Public Agencies/Management/Staff
- Politicians
- Attorneys/Judges
- Consultants/Technical Experts
- Organizations/Institutions
- Businesses
- Native American Tribes
- Citizen Groups
- Environmental Activists
- Individuals

Public Agency Involvement

- **Lead Agency:** a state or local agency that is the primary authority to approve project and is in charge of the CEQA documentation preparation and processing
- **Responsible Agency:** a public agency that issues permits or other approvals after lead agency completes the CEQA process. Responsible agency generally relies on lead agency's CEQA document prior to issuing permits/approvals
- **Trustee Agency:** a state agency that manages and protects California's natural resources, and reviews lead agency's CEQA document prior to issuing permits/approvals

Generic Steps in the EIR Process



Key Elements of a Draft EIR/EIS

- Project Objectives/Purpose and Need
- Existing Setting/Affected Environment
- Description of Proposed Project/Alternatives
- Significance Threshold Criteria
- Evaluation of Impacts/Environmental Consequences of Effects
 - ❖ Direct and Indirect
 - ❖ Cumulative (from collectively proposed project and related projects)
 - ❖ Reverse?
- Evaluation of Impacts/Effects (Significant/Adverse) for Each Alternative
- Proposed/Recommended Mitigation for Significant Impacts/Adverse Effects

One Comment Can Make a Difference

- **Lincoln Heights:** Proposed Mitigated Negative Declaration Derailed Because of One Comment
- **City of Carmel:** Draft EIR Comment Overlooked by Lead Agency A Fatal Flaw to the Judge

Last Step in the CEQA/NEPA Process

- CEQA: After project approval, lead agency files Notice of Determination
 - ❖ A one-page form that sets the statute of limitations for litigation at 30 days; if NOD not filed properly, the maximum time allotted would be 180 days
 - ❖ NOD is filed with the State Clearinghouse and the County Clerk's office for posting within five days of project approval
 - ❖ California Fish and Wildlife collect fee with NOD filing if impacts to biological resources

- NEPA: Publish notice of record of decision in *Federal Register*
 - ❖ ROD includes the approved alternative, reasons for the decision, identifies all alternatives, and states compliance with applicable laws
 - ❖ ROD cannot be issued sooner than 30 days after the approved Final EIS is distributed nor 90 days after the Draft EIS is circulated
 - ❖ ROD statute of limitations for litigation at 180 days if published in Federal Register, otherwise the maximum time allotted would be six years

Enforcement of CEQA by State Courts

Types of Rulings:

- Whether CEQA applies
- Whether an EIR should be prepared
- Whether the CEQA document is adequate
- Whether procedures were followed

Draft EIR/EIS Comment Letter

Start with a Plan!!!



Strategy Plan: Write an Effective Comment Letter

- Decide on the main comment(s) or theme to express in your letter
 - ❖ Rely on your expertise, experience, and passion
 - ❖ Look at the Executive Summary's impact table for environmental categories discussed
 - ❖ Review Appendix G of the State CEQA Guidelines
- Set up a schedule to read, gather information, write, and mail letter
 - ❖ Use a scheduling technique that best suits your needs
 - ❖ Set up milestone dates (deadlines) for each action item
- Read strategically only those subsections related to your comments
 - ❖ Alternative Description/Environmental Setting/Significance Criteria/Impacts/Mitigation
- Visit the location or use Google that relates to the comment(s)
 - ❖ Even if you know the area, refresh your memory
 - ❖ Focus on that portion of the environment that will change if the project is built

Strategy Plan: Write an Effective Comment Letter

- Visit the library, contact organizations, or search online for articles, studies, and reports that support your comment(s)
- Outline/organize your letter (introduction, comments, conclusion, address, State Clearinghouse No., title of project, and attachments)
- Focus on discrepancies, lapses in logic, lack of evidence, old data, etc.
- Write your letter and be aware of who will read it
 - ❖ Present your comments in a neutral tone
 - ❖ Stick to the points and don't go off topic
 - ❖ Mention your expertise/experience briefly and include a return address
 - ❖ State your comment(s) with specifics and include attachments
 - ❖ Request a written response on your comments prior to certification of the Final EIR and ask to be placed on mailing list to receive notification on future public meetings for this project
- Mail letter or E-Mail and cc (organizations and politicians)

New Developments in CEQA

Tribal Cultural Resources-
Assembly Bill 52: New
CEQA Process with
Native American Tribes

Project Design Feature that
Lessen Environmental
Impacts Versus Mitigation
Measures

Updating Transportation Impacts Analysis in the CEQA Guidelines

*Preliminary Discussion Draft of Updates to the CEQA Guidelines Implementing
Senate Bill 743 (Steinberg, 2013)*

Governor's Office of Planning and Research
8/6/2014



“

The only way forward, if we are going to improve the quality of the environment, is to get everybody involved.

”



Richard Rogers, Architect (born 1933)

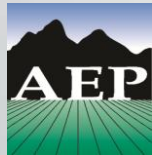
Helpful Websites

Governor's Office of Planning & Research: CEQA Website

http://www.opr.ca.gov/m_ceqa.php

Caltrans Standard Environmental Reference Website

<http://www.dot.ca.gov/ser/>



California Association of Environmental Professionals (AEP)

<http://www.califaep.org/>

White House Council on Environmental Quality Website on NEPA

<https://ceq.doe.gov/>

Federal Highway Administration Environmental Review Tool Kit

<http://environment.fhwa.dot.gov/index.asp>