

To: Chair and City of Los Angeles Transportation Committee
Re: Item 1 of the July 23, 2008 Agenda

Sent by Email on July 22, 2008 to:
councilmember.greuel@lacity.org
Councilman.Rosendahl@lacity.org
Sharon.Gin@lacity.org

Honorable Chair and Committee Members.

For those reasons stated in this letter the process required by the California Environmental Quality Act have been abrogated from the beginning of the process to present.

This Committee has no legal authority to take action as defined in the Public Meetings Act of the State of California on a project that did not conform to CEQA Statutes.

Therefore I request the item be removed from calendar if an until a legitimate CEQA process is adhered to in full by the City Department of Transportation.

The City has embarked on a process which is not out of conformance with CEQA in a single aspect but minimally;

15351. Applicant

A SINGLE LOS ANGELES CITY COUNCIL MEMBER CANNOT CARRY OUT A PROJECTCANNONT CARRY OUT A PROJECT WITHOUT THE APPROVAL OF THE FULL CITY COUNCIL, THEREFORE THE SINGLE CITY COUNCILMEMBER IS NOT THEREFORE AN APPLICANT.

15352. Approval

AN AGENCY MAY NOT RENDER "APPROVAL" AS DEFINED BY CEQA WITHOUT A PROJECT APPLICANT. THEREFORE THE CEQA PROCESS HAS BEEN IRREPAIRLY BROKEN EARLY ON.

15357. Discretionary Project

THE PROPOSED PROJECT WOULD HAVE TO BE A DISCRETIONARY PROJECT PURSUANT TO CEQA, REQUIRING AN EXERCISE OF JUDGEMENT BY A PUBLIC AGENCY OR BODY OR THE PROPOSED PROJECT MUST BE WITHIN CONFORMANCE APPLICABLE STATUTES, ORDINANCES, OR REGULATIONS.

THIS PROPOSED PROJECT IS NEITHER SINCE THE WAS NEVER A LEGAL APPLICANT "CAPABLE TO 'CARRY OUT A PROJECT".

15102. Initial Study

THERE IS NO APPLICANT IN CONFORMANCE WITH SECTION 15351. NO APPLICATION HAS BEEN RECEIVED. NO APPLICATION HAS BEEN DEEMED COMPLETE

THEREFORE A NO INITIAL STUDY IN CONFORMANCE WITH CEQA EVER BEGAN, ONLY AN ILLEGAL PROCESS.

15103. Response to Notice of Preparation

NO NOTICE OF PREPERATION HAS BEEN SENT WITHIN THIRTY DAYS BY THE LEAD AGENCY TO THE OFICE OF PLANNING AND RESEARCH. DISABLING THE OFFICE OF PLANNING AN RESEARCH FROM THE OPPORTUNITY TO PROVIDE A RESPONSE TO SUCH NOP. THEREFORE FURTHER VIOLATIONS OF CEQA ARE APPEARANT IN THIS PROCESS.

15107. Completion of Negative Declaration

THE NEGITIVE DECLARATION WAS PRODUCED ON NOVEMBER 7, 2007. THE COMMITTEE IS TIME-BARRED BY CEQA FROM TAKING ACTION BEYOND A ONE-HUNDRED-EIGHTY DAY PERIOD FROM TAKING ACTION. THE STATUED OF LIMITATIONS BARS ACTION BY THE COUNCIL.

15105. Public Review Period for a Draft EIR or a Proposed Negative Declaration or Mitigated Negative Declaration

THE STATE CLEARING HOUSE HAS NO RECORD OF THE PROPOSED INTENT TO ADOPT A NEGEGATIVE DECLARATION AND NO CLEARING HOUSE SCHEDUAL NUMBER EXISTS ATTESTING TO FRAUD AND NO PUBLIC REVIEW PROCESS IN ACCORDANCE WITH CEQA HAS YET BEGUN.

15074. Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration.

THERE IS NO LEGAL PROPOSAL TO ADOPT A NEGATIVE DECLARATION IN ACCORDANCE WITH CEQA THEREFORE ADOPTION OF SUCH WOULD NOT ONLY CONSTITUTE A VIOLATION OF CEQA BUT FRAUD.

15075. Notice of Determination on a Project for which a Proposed Negative or Mitigated Negative Declaration has been Approved.

THIS COMMITTEE CAN NOT LEGALLY APPROVE ANYTHING TODAY BECAUSE IN ACCORDANCE WITH CEQA NO APPLICANT EXISTS, NO APPLICATION HAS BEEN DEEMED COMPLETE AND THE CALIFORNIA OFFICE OF PLANNING AND RESEARCH REMAINS TO BE NOTIFIED.

15200. Purposes of Review

THE PUBLIC HAS NOT PARTICIPATED BECAUSE THE CEQA PROCESS HAS BEEN ABBROGATED BY THE CITY IN ALL RESPECTS STATED IN THIS LETTER.

15074. Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration.

THERE IS NO LEGAL PROPOSAL TO ADOPT A NEGATIVE DECLARATION IN ACCORDANCE WITH CEQA THEREFORE ADOPTION OF SUCH WOULD NOT ONLY CONSTITUTE A VIOLATION OF CEQA BUT FRAUD.

15202. Public Hearings

THE PUBLIC HAS NOT BEEN AFFORDED THE LEGAL COMMENT PERIOD BECAUSE NO PROCESS IN ACCORDANCE WITH CEQA EVER COMMENCED THEREFORE FRAUD IS AFOOT.

15203. Adequate Time for Review and Comment

ADEQUET TIME HAS NOT BEEN PROVIDED FOR REVIEW AND COMMENT BECAUSE THE PROCESS IN ACCORDANCE WITH CEQA NEVER BEGAN.

15205. Review by State Agencies

NO NEGATIVE DECLARATOIN TO BE REVIEWE3D BY STATE AGENCIES SUCH AS CALIFORNIA DPT. OF FISH AND GAME HAS BEEN SUBMITTED TO THE STATE CLEARINGHOUSE THEREFORE NO STATE DEPARTEMENT SUCH AS THE CALIFORNIA DPT. OF FISH AND GAME HAS LEGALLY COMMENTED IN ACCORDANCE WITH CEQA.

15206. Projects of Statewide, Regional, or Area wide Significance

THE PROJECT IS OF STATEWIDE AND REGIONAL AND AREAWIDE SIGNIFICANCE IN THAT IT IS PROPOSED IN THE CALIFORNIA COASTAL ZONE WHICH IS REGULATED BY THE STATE AND NATIONAL GOVERNMENTS. FURTHERMORE ACCESS TO PUBLIC TRUST LANDS GOVERNED BY THE STATE OF CALIFORNIA CONSTITUTION HAVE NOT BEEN ADDRESSED BY THE STATE LANDS COMMISSION NOR THE CALIFORNIA COASTAL COMMISSION IN THAT THE STATE CLEARINGHOUSE HAS NO RECORD AND THERE IS NO CLEARINGHOUSE SCHEDULE NUMBER ATTACHED TO THE PROPOSED ADOPTION OF THE NEGATIVE DECLARATION.

15074. Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration.

Title 14. California Code of Regulations

Chapter 3. Guidelines for Implementation of the California Environmental Quality Act

Article 20. Definitions

Sections 15350 to 15387

15350. General

The definitions contained in this article apply to terms used throughout the Guidelines unless a term is otherwise defined in a particular section.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21083, Public Resources Code.

THERE IS NO APPLICANT.

A NEIGHBORHOOD ASSOCIATION CANNOT CARRY OUT A PROJECT THEREFORE IT CANNOT BE AN APPLICANT. ONLY THE CITY OF LOS ANGELES MAY CARRY OUT THE SPECIFIED PROJECT UPON APPROVAL OF THE FULL COUNCIL

A SINGLE LOS ANGELES CITY COUNCIL MEMBER CANNOT CARRY OUT A PROJECT CANNOT CARRY OUT A PROJECT WITHOUT THE APPROVAL OF THE FULL CITY COUNCIL, THEREFORE THE SINGLE CITY COUNCIL MEMBER IS NOT THEREFORE AN APPLICANT.

15351. Applicant

"Applicant" means a person who proposes to carry out a project which needs a lease, permit, license, certificate, or other entitlement for use or financial assistance from one or more public agencies when that person applies for the governmental approval or assistance.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21065, Public Resources Code.

AN AGENCY MAY NOT RENDER "APPROVAL" AS DEFINED BY CEQA WITHOUT A PROJECT APPLICANT. THEREFORE THE CEQA PROCESS HAS BEEN IRREPAIRLY BROKEN EARLY ON.

15352. Approval

(a) "Approval" means the decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person. The exact date of approval of any project is a matter determined by each public agency according to its rules, regulations, and ordinances. Legislative action in regard to a project often constitutes approval.

(b) With private projects, approval occurs upon the earliest commitment to issue or the issuance by the public agency of a discretionary contract, grant, subsidy, loan, or other form of financial assistance, lease, permit, license, certificate, or other entitlement for use of the project.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21061 and 21065, Public Resources Code.

15353. CEQA

"CEQA" means the California Environmental Quality Act, California Public Resources Code Sections 21000 et seq.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21050, Public Resources Code.

THE PROPOSED PROJECT WOULD HAVE TO BE A DISCRETIONARY PROJECT PURSUANT TO CEQA, REQUIRING AN EXERCISE OF JUDGEMENT BY A PUBLIC AGENCY OR BODY OR THE PROPOSED PROJECT MUST BE WITHIN CONFORMANCE APPLICABLE STATUTES, ORDINANCES, OR REGULATIONS.

THIS PROPOSED PROJECT IS NEITHER SINCE THE WAS NEVER A LEGAL APPLICANT "CAPABLE TO 'CARRY OUT A PROJECT".

15357. Discretionary Project

"Discretionary project" means a project which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations. A timber harvesting plan submitted to the State Forester for approval under the requirements of the Z'berg-Nejedly Forest Practice Act of 1973 (Pub. Res. Code Sections 4511 et seq.) constitutes a discretionary project within the meaning of the California Environmental Quality Act. Section 21065(c).

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(a), Public Resources Code; *Johnson v. State of California*, (1968) 69 Cal. 2d 782; *People v. Department of Housing and Community Development*, (1975) 45 Cal. App. 3d 185; *Day v. City of Glendale*, (1975) 51 Cal. App. 3d 817; *N.R.D.C. v. Arcata National Corp.*, (1976) 59 Cal. App. 3d 959.

Title 14. California Code of Regulations
Chapter 3. Guidelines for Implementation of the
California Environmental Quality Act

Article 8. Time Limits
Sections 15100 to 15112

THERE IS NO APPLICANT IN CONFORMANCE WITH SECTION 15351.
NO APPLICATION HAS BEEN RECEIVED.
NO APPLICATION HAS BEEN DEEMED COMPLETE

THEREFORE A NO INITIAL STUDY IN CONFORMANCE WITH CEQA EVER
BEGAN, ONLY AN ILLEGAL PROCESS.

15102. Initial Study

The Lead Agency shall determine within 30 days after accepting an application as complete whether it intends to prepare an EIR or a Negative Declaration or use a previously prepared EIR or Negative Declaration except as provided in Section 15111. The 30 day period may be extended 15 days upon the consent of the lead agency and the project applicant.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.2, Public Resources Code

1511 IS NOT APPLICABLE TO THIS PROJECT

15111. Projects with Short Time Periods for Approval

(a) A few statutes or ordinances require agencies to make decisions on permits within time limits that are so short that review of the project under CEQA would be difficult. To enable the Lead Agency to comply with both the permit statute

and CEQA, the Lead Agency shall deem an application for a project not received for filing under the permit statute or ordinance until such time as progress toward completing the environmental documentation required by CEQA is sufficient to enable the Lead Agency to finish the CEQA process within the short permit time limit. This section will apply where all of the following conditions are met:

(1) The enabling legislation for a program, other than Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, requires the Lead Agency to take action on an application within a specified period of time that is six months or less, and

(2) The enabling legislation provides that the project will become approved by operation of law if the Lead Agency fails to take any action within such specified time period, and

(3) The project involves the issuance of a lease, permit, license, certificate, or other entitlement for use.

(b) Examples of time periods subject to this section include, but are not limited to:

(1) Action on a timber harvesting plan by the Director of Forestry within 15 days pursuant to Section 4582.7 of the Public Resources Code,

(2) Action on a permit by the San Francisco Bay Conservation and Development Commission within 90 days pursuant to Section 66632(f) of the Government Code, and Section 66632(f) of the Government Code, and (3) Action on an oil and gas permit by the Division of Oil and Gas within 10 days pursuant to Sections 3203 and 3724 of the Public Resources Code.

(c) In any case described in this section, the environmental document shall be completed or certified and the decision on the project shall be made within the period established under the Permit Streamlining Act (Government Code Sections 65920, et seq.).

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21100.2 and 21151.5, Public Resources Code; *N.R.D.C. v. Arcata National Corp.* (1976) 59 Cal.App.3d 959.

NO NOTICE OF PREPERATION HAS BEEN SENT WITHIN THIRTY DAYS BY THE LEAD AGENCY TO THE OFICE OF PLANNING AND RESEARCH. DISABLING THE OFFICE OF PLANNING AN RESEARCH FROM THE OPPORTUNITY TO PROVIDE A RESPONSE TO SUCH NOP.

THEREFORE FURTHER VIOLATIONS OF CEQA ARE APPEARANT IN THIS PROCESS.

15103. Response to Notice of Preparation

Responsible and Trustee Agencies, and the Office of Planning and Research shall provide a response to a Notice of Preparation to the Lead Agency within 30 days after receipt of the notice. If they fail to reply within the 30 days with either a response or a well justified request for additional time, the Lead Agency may assume that none of those entitles have a response to make and may ignore a late response.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080.4, Public Resource Code.

THE STATE CLEARINGHOUSE DID NOT DISTRIBUTE THE PROPOSED NEGATIVE DECLARATION. AS EVIDENCE NEITHER THE NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION NOR THE LETTER FROM CALIFORNIA FISH AND GAME CONTAIN A SCHEDULE NUMBER ISSUED BY THE STATE OFFICE OF PLANNING AND RESEARCH.

THEREFORE THE CEQA PROCESS IS FURTHER BROKEN.

15105. Public Review Period for a Draft EIR or a Proposed Negative Declaration or Mitigated Negative Declaration

(e) The State Clearinghouse shall distribute a draft EIR or proposed negative declaration or mitigated negative declaration within three working days after the date of receipt if the submittal is determined by the State Clearinghouse to be complete.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21091 and 21092, Public Resources Code; *People v. County of Kern* (1974) 39 Cal.App.3d 830.

THE NEGATIVE DECLARATION WAS PRODUCED ON NOVEMBER 7, 2007. THE COMMITTEE IS TIME-BARRED BY CEQA FROM TAKING ACTION BEYOND A ONE-HUNDRED-EIGHTY DAY PERIOD FROM TAKING ACTION. THE STATUTE OF LIMITATIONS BARS ACTION BY THE COUNCIL.

15107. Completion of Negative Declaration

With private projects involving the issuance of a lease, permit, license, certificate, **or other entitlement for use by one or more public agencies, the negative declaration must be completed and approved within 180 days from the date when the lead agency accepted the application as complete.**

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21100.2 and 21151.5, Public Resources Code.

Title 14. California Code of Regulations

Chapter 3. Guidelines for Implementation of the

California Environmental Quality Act

Article 6. Negative Declaration Process

Sections 15070 to 15075

THE INITIAL STUDY WAS PREDICATED ON A NON-EXISTANT APPLICANT THEREFORE THE INITIAL STUDY IS A FRAUD.

15070. Decision to Prepare a Negative or Mitigated Negative Declaration

A public agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project subject to CEQA when:

(a) The **initial study shows that there is no substantial evidence**, in light of the whole record before the agency, that the project may have a significant effect on the environment, or

(b) **The initial study identifies potentially significant effects, but:**

(1) Revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and

(2) There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21064, 21064.5, 21080(c), and 21082.1, Public Resources Code; *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988; *Running Fence Corp. v. Superior Court* (1975) 51 Cal.App.3d 400..

THE CALIFORNIA OFFICE OF PLANNING AND RESEARCH IS EITHER A RESPONSIBLE OR TRUSTEE AGENCY. THE OFFICE HAS NO RECORD OF THE NOI AT HAND THEREFORE THE CEQA PROCESS IS BROKEN.

15072. Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration

(a) **A lead agency shall provide a notice of intent to adopt a negative declaration or mitigated negative declaration to the public, responsible agencies, trustee agencies,** and the county clerk of each county within which the proposed project is located, sufficiently prior to adoption by the lead agency of the negative declaration or mitigated negative declaration to allow the public and agencies the review period provided under Section 15105.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21091, 21092, 21092.2, 21092.4, 21092.3, 21092.6, 21098 and 21151.8, Public Resources Code.

THE STATE CLEARING HOUSE HAS NO RECORD OF THE PROPOSED INTENT TO ADOPT A NEGATIVE DECLARATION AND NO CLEARING HOUSE SCHEDULE NUMBER EXISTS ATTESTING TO FRAUD AND NO PUBLIC REVIEW PROCESS IN ACCORDANCE WITH CEQA HAS YET BEGUN.

15073. Public Review of a Proposed Negative Declaration or Mitigated Negative Declaration

(a) The lead agency shall provide a public review period pursuant to Section 15105 of not less than 20 days. **When a proposed negative declaration or mitigated negative declaration and initial study are submitted to the State Clearinghouse for review by state agencies, the public review period shall not be less than 30 days, unless a shorter period is approved by the State Clearinghouse under Section 15105(d).**

Note: Authority cited: Section 21083, Public Resources Code; References: Sections 21000(e), 21003(b), 21080(c), 21081.6, 21091, and 21092.5, Public Resources Code; *Plaggmier v. City of San Jose* (1980) 101 Cal.App.3d 842..

THERE IS NO LEGAL PROPOSAL TO ADOPT A NEGATIVE DECLARATION IN ACCORDANCE WITH CEQA THEREFORE ADOPTION OF SUCH WOULD NOT ONLY CONSTITUTE A VIOLATION OF CEQA BUT FRAUD.

15074. Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration.

(a) Any advisory body of a public agency making a recommendation to the decision making body shall consider the proposed negative declaration or mitigated negative declaration before making its recommendation.

(b) Prior to approving a project, the decisionmaking body of the lead agency shall consider the proposed negative declaration or mitigated negative declaration together with any comments received during the public review process. The decisionmaking body shall adopt the proposed negative declaration or mitigated negative declaration only if it finds on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the negative declaration or mitigated negative declaration reflects the lead agency's independent judgment and analysis.

(c) When adopting a negative declaration or mitigated negative declaration, the lead agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based.

(d) When adopting a mitigated negative declaration, the lead agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to mitigate or avoid significant environmental effects.

(e) A lead agency shall not adopt a negative declaration or mitigated negative declaration for a project within the boundaries of a comprehensive airport land use plan or, if a comprehensive airport land use plan has not been adopted, for a project within two nautical miles of a public airport or public use airport, without first considering whether the project will result in a safety hazard or noise problem for persons using the airport or for persons residing or working in the project area.

(f) When a non-elected official or decisionmaking body of a local lead agency adopts a negative declaration or mitigated negative declaration, that adoption may be appealed to the agency's elected decisionmaking body, if one exists. For example, adoption of a negative declaration for a project by a city's planning commission may be appealed to the city council. A local lead agency may establish procedures governing such appeals.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080(c), 21081.6, 21082.1, 21096, and 21151, Public Resources Code; *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988.

THIS COMMITTEE CAN NOT LEGALLY APPROVE ANYTING TODAY BECAUSE IN ACCORDANCE WITH CEQA NO APPLICANT EXISTS, NO APPLICATION HAS BEEN DEEMED COMPLETE AND THE CALIFORNIA OFFICE OF PLANNING AND RESEARCH REMAINS TO BE NOTIFIED.

15075. Notice of Determination on a Project for which a Proposed Negative or Mitigated Negative Declaration has been Approved.

(a) The lead agency shall file a notice of determination within five working days after deciding to carry out or approve the project. For projects with more than one phase, the lead agency shall file a notice of determination for each phase requiring a discretionary approval.

(b) The notice of determination shall include:

(1) An identification of the project including the project title as identified on the proposed negative declaration, its location, and the State Clearinghouse identification number for the proposed negative declaration if the notice of determination is filed with the State Clearinghouse.

(2) A brief description of the project.

(3) The agency's name and the date on which the agency approved the project.

(4) The determination of the agency that the project will not have a significant effect on the environment.

(5) A statement that a negative declaration or a mitigated negative declaration was adopted pursuant to the provisions of CEQA.

(6) A statement indicating whether mitigation measures were made a condition of the approval of the project, and whether a mitigation monitoring plan/program was adopted.

(7) The address where a copy of the negative declaration or mitigated negative declaration may be examined.

(c) If the lead agency is a state agency, the lead agency shall file the notice of determination with the Office of Planning and Research within five working days after approval of the project by the lead agency.

(d) If the lead agency is a local agency, the local lead agency shall file the notice of determination with the county clerk of the county or counties in which the project will be located, within five working days after approval of the project by the lead agency. If the project requires a discretionary approval from any state agency, the local lead agency shall also, within five working days of this approval, file a copy of the notice of determination with the Office of Planning and Research.

(e) A notice of determination filed with the county clerk shall be available for public inspection and shall be posted by the county clerk within 24 hours of receipt for a period of at least 30 days. Thereafter, the clerk shall return the notice to the local lead agency with a notation of the period during which it was posted. The local lead agency shall retain the notice for not less than 12 months.

(f) A notice of determination filed with the Office of Planning and Research shall be available for public inspection and shall be posted for a period of at least 30 days. The Office of Planning and Research shall retain each notice for not less than 12 months.

(g) The filing of the notice of determination pursuant to subdivision (c) above for state agencies and the filing and posting of the notice of determination pursuant to subdivisions (d) and (e) above for local agencies, start a 30-day statute of limitations on court challenges to the approval under CEQA.

(h) A sample notice of determination is provided in Appendix D. Each public agency may devise its own form, but the minimum content requirements of subdivision (b) above shall be met. Public agencies are encouraged to make copies of all notices filed pursuant to this section available in electronic format on the Internet. Such electronic notices are in addition to the posting requirements of these guidelines and the Public Resources Code.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21080(c), 21108(a) and (c), 21152(a) and (c) and 21167(b), Public Resources Code; *Citizens of Lake Murray Area Association v. City Council* (1982) 129 Cal. App. 3d 436.

Title 14. California Code of Regulations

Chapter 3. Guidelines for Implementation of the California Environmental Quality Act

Article 13. Review and Evaluation of EIRs and Negative Declarations

Sections 15200 to 15209

THE REVIEW HAS NOT BEEN CONDUCTED IN ACCORDANCE WITH CEQA IN THAT THE CLEARINGHOUSE HAS NO RECORD OF THIS PROPOSED PROJECT.

15200. Purposes of Review

The purposes of review of EIRs and Negative Declarations include:

- (a) Sharing expertise,
- (b) Disclosing agency analyses,
- (c) Checking for accuracy,
- (d) Detecting omissions,
- (e) Discovering public concerns, and
- (f) Soliciting counter proposals.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21000, 21108, and 21152, Public Resources Code; *Environmental Defense Fund v. Coastside County Water District*, (1972) 27 Cal. App. 3d 695; *County of Inyo v. City of Los Angeles*, (1977) 71 Cal. App. 3d 185.

THE PUBLIC HAS NOT PARTICIPATED BECAUSE THE CEQA PROCESS HAS BEEN ABBROGATED BY THE CITY IN ALL RESPECTS STATED IN THIS LETTER.

15200. Purposes of Review

Public participation is an essential part of the CEQA process. Each public agency should include provisions in its CEQA procedures for wide public involvement, formal and informal, consistent with its existing activities and procedures, in order to receive and evaluate public reactions to environmental issues related to the agency's activities. Such procedures should include, whenever possible, making environmental information available in electronic format on the Internet, on a web site maintained or utilized by the public agency.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21000, 21082, 21108, and 21152, Public Resources Code; *Environmental Defense Fund v. Coastside County Water District*, (1972) 27 Cal. App. 3d 695; *People v. County of Kern*, (1974) 39 Cal. App. 3d 830; *County of Inyo v. City of Los Angeles*, (1977) 71 Cal. App. 3d 185.

THE PUBLIC HAS NOT BEEN AFFORDED THE LEGAL COMMENT PERIOD BECAUSE NO PROCESS IN ACCORDANCE WITH CEQA EVER COMMENCED THEREFORE FRAUD IS AFOOT.

15202. Public Hearings

(a) CEQA does not require formal hearings at any stage of the environmental review process. Public comments may be restricted to written communication.

(b) If an agency provides a public hearing on its decision to carry out or approve a project, the agency should include environmental review as one of the subjects for the hearing.

(c) A public hearing on the environmental impact of a project should usually be held when the Lead Agency determines it would facilitate the purposes and goals of CEQA to do so. The hearing may be held in conjunction with and as a part of normal planning activities.

(d) A draft EIR or Negative Declaration should be used as a basis for discussion at a public hearing. The hearing may be held at a place where public hearings

are regularly conducted by the Lead Agency or at another location expected to be convenient to the public.

(e) Notice of all public hearings shall be given in a timely manner. This notice may be given in the same form and time as notice for other regularly conducted public hearings of the public agency. To the extent that the public agency maintains an Internet web site, notice of all public hearings should be made available in electronic format on that site.

(f) A public agency may include, in its implementing procedures, procedures for the conducting of public hearings pursuant to this section. The procedures may adopt existing notice and hearing requirements of the public agency for regularly conducted legislative, planning, and other activities.

(g) There is no requirement for a public agency to conduct a public hearing in connection with its review of an EIR prepared by another public agency.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21000, 21082, 21108, and 21152, Public Resources Code; *Concerned Citizens of Palm Desert, Inc. v. Board of Supervisors*, (1974) 38 Cal. App. 3d 272.

ADEQUAT TIME HAS NOT BEEN PROVIDED FOR REVIEW AND COMMENT BECAUSE THE PROCESS IN ACCORDANCE WITH CEQA NEVER BEGAN.

15203. Adequate Time for Review and Comment

The Lead Agency shall provide adequate time for other public agencies and members of the public to review and comment on a draft EIR or Negative Declaration that it has prepared.

(a) Public agencies may establish time periods for review in their implementing procedures and shall notify the public and reviewing agencies of the time for receipt of comments on EIRs. These time periods shall be consistent with applicable statutes, the State CEQA Guidelines, and applicable Clearinghouse review periods.

(b) A review period for an EIR does not require a halt in other planning or evaluation activities related to a project. Planning should continue in conjunction with environmental evaluation.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21082, 21108 and 21152, Public Resources Code.

NO NEGATIVE DECLARATON TO BE REVIEWE3D BY STATE AGENCIES SUCH AS CALIFORNIA DPT. OF FISH AND GAME HAS BEEN SUBMITTED

TO THE STATE CLEARINGHOUSE THEREFORE NO STATE DEPARTEMENT SUCH AS THE CALIFORNIA DPT. OF FISH AND GAME HAS LEGALLY COMMENTED IN ACCORDANCE WITH CEQA.

15205. Review by State Agencies

(a) Draft EIRs and **negative declarations to be reviewed by state agencies shall be submitted to the State Clearinghouse**, 1400 Tenth Street, Sacramento, California 95814. For U.S. Mail, submit to P.O. Box 3044, Sacramento, California 95812-3044. When submitting such documents to the State Clearinghouse, the public agency shall include, in addition to the printed copy, a copy of the document in electronic form on a diskette or by electronic mail transmission, if available.

(b) The following environmental documents shall be submitted to the State Clearinghouse for review by state agencies:

(1) Draft EIRs and Negative Declarations prepared by a state agency where such agency is a Lead Agency.

(2) Draft EIRs and Negative Declarations prepared by a public agency where a state agency is a Responsible Agency, Trustee Agency, or otherwise has jurisdiction by law with respect to the project.

(3) Draft EIRs and Negative Declarations on projects identified in Section 15206 as being of statewide, regional, or areawide significance.

(4) Draft EISs, environmental assessments, and findings of no significant impact prepared pursuant to NEPA, the Federal Guidelines (Title 40 CFR, Part 1500, commencing with Section 1500.1).

(c) Public agencies may send environmental documents to the State Clearinghouse for review where a state agency has special expertise with regard to the environmental impacts involved. The areas of statutory authorities of state agencies are identified in Appendix B. Any such environmental documents submitted to the State Clearinghouse shall include, in addition to the printed copy, a copy of the document in electronic format, on a diskette or by electronic mail transmission, if available.

(d) When an EIR or Negative Declaration is submitted to the State Clearinghouse for review, the review period set by the Lead Agency shall be at least as long as the period provided in the state review system operated by the State Clearinghouse. In the state review system, the normal review period is 45 days for EIRs and 30 days for Negative Declarations. In exceptional circumstances, the State Clearinghouse may set shorter review periods when requested by the Lead Agency.

(e) A sufficient number of copies of an EIR, negative declaration, or mitigated negative declaration, shall be submitted to the State Clearinghouse for review and comment by state agencies. The notice of completion form required by the State Clearinghouse must be submitted together with the copies of the EIR and may be submitted together with the copies of the negative declaration or mitigated negative declaration. The notice of completion form required by the State Clearinghouse is included in Appendix C. If the lead agency uses the on-line process for submittal of the notice of completion form to the State Clearinghouse, the form generated from the Internet shall satisfy this requirement (refer to www.ceqanet.ca.gov).

(f) While the Lead Agency is encouraged to contact the regional and district offices of state Responsible Agencies, the Lead Agency must, in all cases, submit documents to the State Clearinghouse for distribution in order to comply with the review requirements of this section.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Section 21083, 21091, 21104, and 21153, Public Resources Code.

THE PROJECT IS OF STATEWIDE AND REGIONAL AND AREAWIDE SIGNIFICANCE IN THAT IT IS PROPOSED IN THE CALIFORNIA COASTAL ZONE WHICH IS REGULATED BY THE STATE AND NATIONAL GOVERNMENTS. FURTHERMORE ACCESS TO PUBLIC TRUST LANDS GOVERNED BY THE STATE OF CALIFORNIA CONSTITUTION HAVE NOT BEEN ADDRESSED BY THE STATE LANDS COMMISSION NOR THE CALIFORNIA COASTAL COMMISSION IN THAT THE THE STATE CLEARINGHOUSE HAS NO RECORD AND THERE IS NO CLEARINGHOUSE SCHEDULE NUMBER ATTACHED TO THE PROPOSED ADOPTION OF THE NEGATIVE DECLARATION.

15206. Projects of Statewide, Regional, or Areawide Significance

(a) Projects meeting the criteria in this section shall be deemed to be of statewide, regional, or areawide significance.

(1) A draft EIR or negative declaration prepared by any public agency on a project described in this section shall be submitted to the State Clearinghouse and should be submitted also to the appropriate metropolitan area council of governments for review and comment. The notice of completion form required by the State Clearinghouse must be submitted together with the copies of the EIR and may be submitted together with the copies of the negative declaration. The notice of completion form required by the State Clearinghouse is included in Appendix C. If the lead agency uses the on-line process for submittal of the notice of completion form to the State Clearinghouse, the form generated from the Internet shall satisfy this requirement (refer to www.ceqanet.ca.gov).

(2) When such documents are submitted to the State Clearinghouse, the public agency shall include, in addition to the printed copy, a copy of the document in electronic format on a diskette or by electronic mail transmission, if available.

(b) The Lead Agency shall determine that a proposed project is of statewide, regional, or areawide significance if the project meets any of the following criteria:

(1) A proposed local general plan, element, or amendment thereof for which an EIR was prepared. If a Negative Declaration was prepared for the plan, element, or amendment, the document need not be submitted for review.

(2) A project has the potential for causing significant effects on the environment extending beyond the city or county in which the project would be located. Examples of the effects include generating significant amounts of traffic or interfering with the attainment or maintenance of state or national air quality standards. Projects subject to this subdivision include:

(A) A proposed residential development of more than 500 dwelling units.

(B) A proposed shopping center or business establishment employing more than 1,000 persons or encompassing more than 500,000 square feet of floor space.

(C) A proposed commercial office building employing more than 1,000 persons or encompassing more than 250,000 square feet of floor space.

(D) A proposed hotel/motel development of more than 500 rooms.

(E) A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or encompassing more than 650,000 square feet of floor area.

(3) A project which would result in the cancellation of an open space contract made pursuant to the California Land Conservation Act of 1965 (Williamson Act) for any parcel of 100 or more acres.

(4) A project for which an EIR and not a Negative Declaration was prepared which would be located in and would substantially impact the following areas of critical environmental sensitivity:

(A) The Lake Tahoe Basin.

(B) The Santa Monica Mountains Zone as defined by Section 33105 of the Public Resources Code.

(C) The California Coastal Zone as defined in, and mapped pursuant to, Section 30103 of the Public Resources Code.

(D) An area within 1/4 mile of a wild and scenic river as defined by Section 5093.5 of the Public Resources Code.

(E) The Sacramento-San Joaquin Delta, as defined in Water Code Section 12220.

(F) The Suisun Marsh as defined in Public Resources Code Section 29101.

(G) The jurisdiction of the San Francisco Bay Conservation and Development Commission as defined in Government Code Section 66610.

(5) A project which would substantially affect sensitive wildlife habitats including but not limited to riparian lands, wetlands, bays, estuaries, marshes, and habitats for endangered, rare and threatened species as defined by Section 15380 of this Chapter.

(6) A project which would interfere with attainment of regional water quality standards as stated in the approved areawide waste treatment management plan.

(7) A project which would provide housing, jobs, or occupancy for 500 or more people within 10 miles of a nuclear power plant.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Section 21083, Public Resources Code.

THE ILLEGAL CITY PROCESS PRECLUDE THE CALIFORNIA COASTAL COMMISSION FROM COMMENTING ON THE PROPOSED ADOPTION OF A NEGATIVE DECLARATION BECAUSE THE STATE CLEARINGHOUSE HAS NOT PROVIDED THE AFFECTED STATE AGENCY WITH NOTICE THAT A COMMENT PERIOD BEGAN IN ACCORDANCE WITH CEQA. THE CITY OF LOS ANGELES SHALL NOT ACT AT THE STATE OFFICE OF PLANNING AND RESEARCH ABSENT ANY SUCH LEGAL JURISDICTION.

15207. Failure to Comment

If any public agency or person who is consulted with regard to an EIR or Negative Declaration fails to comment within a reasonable time as specified by the Lead Agency, it shall be assumed, without a request for a specific extension of time, that such agency or person has no comment to make. Although the Lead Agency need not respond to late comments, the Lead Agency may choose to respond to them.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21104 and 21153, Public Resources Code; Cleary v. County of Stanislaus, (1981) 118 Cal. App. 3d 348.

THERE ARE NO LEGAL RECORDS OF COMMENT TO BE RETAINED BECAUSE CEQA HAD BEEN BROKEN AS ANNOUNCED ABOVE.

15208. Retention and Availability of Comments

Comments received through the consultation process shall be retained for a reasonable period and available for public inspection at an address given in the final EIR. Comments which may be received on a draft EIR or Negative Declaration under preparation shall also be considered and kept on file.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21104, 21082.1 and 21153, Public Resources Code; Section 4, Chapter 480, Statutes of 1981; *People v. County of Kern*, (1974) 39 Cal. App. 3d 830. Formerly Section 15166.

Sincerely,

John Davis
PO 10152 Marina del Rey Ca 90295

