

September 9, 2010

Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol
Sacramento, CA 95814

Re: SB 1456 – California Environmental Quality Act (CEQA) revisions

Dear Governor Schwarzenegger:

I respectfully request your signature on Senate Bill 1456, to address various CEQA issues. The bill received bi-partisan support in both the Senate and the Assembly, with the Assembly and Senate passing the measure 77-1 and 37-0 respectively.

In response to certain concerns relating to CEQA, SB 1456:

- Authorizes a person wishing to bring an action or proceeding alleging noncompliance with CEQA to first file a notice requesting mediation with the lead agency and real party in interest. The lead agency may respond to the notice by accepting the request and proceeding with mediation, and the request is deemed denied if the lead agency fails to respond. (Public Resources Code §21167.10).
- Requires an organization formed after project approval that maintains an action alleging noncompliance with CEQA to have a member that has alleged grounds for noncompliance to a public agency during the public comment period (in

addition to having objected to the project as required under current law). (§21177).

- Authorizes the Attorney General, in an action or proceeding alleging noncompliance with CEQA, to file a motion with the court seeking an expedited schedule to resolve the case on grounds that it would be in the public interest to do so. (§21167.4).
- Clarifies that a mediation proceeding in accordance with the Mediation and Resolution of Land Use Disputes Law (Government Code §66030 et seq.), like a CEQA settlement meeting (§21167.8), is intended to be conducted concurrently with any judicial proceeding (since CEQA requires all courts in which an action or proceeding under CEQA is pending to give that action or proceeding preference over all other civil actions).
- Allows any party to file a motion requesting the court to impose a penalty upon attorneys, law firms, or parties for a frivolous claim made in the course of the litigation. (§21169.11).
- Adds provisions relating to the tiering of environmental documents based on provisions contained in the CEQA guidelines. (§21094).

Senate Bill 1456 also contains an urgency clause, contains double-joining provisions with AB 231 (Huber) to avoid chaptering conflicts, and sunsets January 1, 2016.

I believe SB 1456 responds to the need for mediation to resolve CEQA disputes that will avoid litigation while ensuring that mediation after an action is filed does not affect the timing of any judicial proceeding; establishes a process for an expedited schedule to resolve cases while allowing any party to request imposition of a penalty for frivolous litigation; ensures added accountability for an organization challenging a project that is formed after project approval; and sets procedures in statute for tiering environmental documents. The January 1, 2016, sunset provides an opportunity to review the use of these provisions and make further revisions, if needed.

I have worked with various parties to ensure that SB 1456 strikes a balance between business and government interests carrying out development projects, as well as business, government and public concern for the environment.

Senate Bill 1456 is supported by the California Council for Environmental and Economic Balance, and the Silicon Valley Leadership Group. I respectfully request your signature on this bill.

Sincerely,

S. Joseph Simitian
State Senator, Eleventh District

SJS:rp

cc: Michael Prosio, Legislative Secretary and Deputy Chief of Staff
John Moffatt, Deputy Legislative Secretary