



“CONSTRUCTING A WAY FOR A BETTER FUTURE”

# ECA NEWSLETTER

## JOHNS SOAPBOX



Remember-this is an op-ed piece and I do not speak for the ECA or any of its members in this “Soapbox”. These are just my ramblings that hopefully you find thought provoking.



### “SEE-kwa”

Why is it so damned difficult and expensive to build projects in California?

One of the main reasons is CEQA. Let me explain-----

The California Environmental Quality Act, universally known by its serendipitously phonetic acronym “SEE-kwa,” was passed by the state legislature in 1971. At that time, it was the first legislation of its kind in the nation, if not the world. Its original intent was to “inform government decisionmakers and the public about the potential environmental effects of proposed activities and to prevent significant, avoidable environmental damage.”

Over the past half-century, however, CEQA has acquired layers of legislative updates and precedent setting court rulings, warping it into a beast that denies clarity to developers and derails projects. When projects do make it through the CEQA gauntlet, the price of passage adds punitive costs in time and money. Knowing this will happen deters countless investors and developers from even trying to complete a project in the state.

The concept of CEQA is unassailable. If a project may cause “significant impact” to the environment, the CEQA process will ensure that either the impact is appropriately mitigated, or the project is stopped. An Environmental Impact Report is needed should CEQA be enacted on a project because the development may have environmental effects from the project construction or proposed activities once constructed. Lately, CEQA has adopted “vehicle miles travelled” as one criterion for determination if there may be environmental effects from a project (for instance, if a road is proposed to be widened, the project will probably not be able to pass CEQA because it will increase vehicle miles travelled).

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Declaring there are exemptions to the CEQA process has become the shortcut taken for politically favored projects. Exemption from CEQA has been the default remedy pursued by the state legislature whenever they decide it is important to prioritize any project, or category of projects. But carving out one exemption after another does not fix CEQA. Even if the state legislature were capable of correctly prioritizing projects, which is an absurd reach, it remains an absolute process without gradation. Anointed projects skip through the exemption portal and are fast-tracked, even though many of them may cause environmental impacts that are significant. Meanwhile, all other projects, many of which are just as urgently required, must go through the labyrinth called CEQA.

Along with the relatively new and central role of climate change impact in the CEQA process, another major new concern now considered in CEQA cases is “environmental justice,” that is, the alleged disproportionate effect development projects may have in low-income neighborhoods. It is hard to argue that a low-income area that has seen highways, treatment plants, airports and power plants built in close proximity to their houses would further devalue and negatively impact those neighborhoods with noise and pollution should another big project get built in their neighborhood.

It is also valid to argue that the residents and elected officials in wealthy neighborhoods have the economic wherewithal to hire attorneys to litigate against industrial projects and high-density housing in their neighborhoods, whereas these same projects can be directed into lower income neighborhoods where the residents do not have the resources to resist.

This gives rise to a criticism of CEQA that is double-edged. On one hand, CEQA offers people in low-income communities one of the only legal tools available to fight high density housing and industrial or warehouse development that will create more noise, more congestion, more of a service burden, and more pollution in their communities. But at the same time, while residents in these low-income communities have to find an attorney willing to carry their objections, often pro bono, into a legal battle, CEQA is an off-the-shelf, potent weapon in the hands of wealthy residents across town, who deploy it at will to keep high density housing and unwanted commercial development out of their communities.

We saw an example of this firsthand a decade or so ago, in Marin County when Lucas wanted to expand his business that did special effects. A small group of well to do homeowners challenged the Lucas project EIR and Lucas finally gave up and moved his expansion overseas rather than continue to fight to build in Marin County. The homeowners won mainly because they were well funded and their lawyers played on the legal complexities of CEQA to kill the Lucas project.

Now we see housing projects being challenged, water reservoirs being challenged, and many deserving projects are facing uncertainty due to the long drawn-out process that add 50% or more to the project cost when the CEQA EIR is used as a “Not In My Backyard” weapon.

Continued from page 2

So what can be done?

Here are some “solutions” proposed by the Little Hoover Commission recently:

- 1 – Eliminate all exemptions. Anyone wanting an exemption is speaking just for their special interest.
- 2 – End anonymous lawsuits; require environmental standing to sue. Accept only environmental criteria for litigation. Only allow standing to people directly impacted on environmental grounds. For example, NEPA does not give standing to labor.
- 3 – Clarify the conditions under which if a development conforms to a county’s standing environmental impact report for that category of project, then it is not subject to further CEQA review.
- 4 – Allow applicants to rely on previously approved EIR. If a proposed project is consistent with the county’s specific general plan, community plan, and zoning, eliminate the requirement for additional environmental review.
- 5 – Make reviews of housing projects ministerial, or, make review of *any* project – including energy development – ministerial.
- 6 – Require the loser in CEQA lawsuits to pay the prevailing party’s legal fees.
- 7 – End duplicative lawsuits; once a plan or project is approved with CEQA it can be challenged in a lawsuit once but not multiple times for each subsequent agency approval.
- 8 – Do the CEQA process just once, with all involved agencies operating together, not sequentially.
- 9 – Change the timeline for notifying agencies of the objections to EIRs. Designate a final review step in the CEQA process after which further litigation is prohibited. This is already a provision of NEPA. As it is, objections including litigation are filed at the last possible moment, often in the final public hearing before approval of a project.
- 10 – For all private proposals, eliminate the requirement that the EIR include an evaluation of alternative sites for the project.
- 11 – Impose a maximum time limit on how long an agency has to respond to an initial or revised environmental impact report.
- 12 – Expedite the process so problems identified in an EIR review can be fixed right away by the developer. As it is every time the process is restarted there is potential for new claims.
- 13 – Match the CEQA remedy to the CEQA deficiency. Specify that while a court can order more CEQA analysis and mitigation, it cannot block a project or rescind a project approval unless there is a significant adverse health or safety impact if the project is constructed.
- 14 – Flaws found in EIRs are often extremely technical and it is often questionable whether or not a particular technical deficiency would prevent the project from being approved in its current form. Therefore if there is a technical flaw but it is not prejudicial and will not really make a difference, a harmless error standard should apply, such that if the project would be approved anyway notwithstanding the technical deficiency that should not be a basis for denying the EIR.
- 15 – Judicially enforce [California Public Resources Code PRC § 21083.1](#). Judges should not require anything more than what is expressly required in CEQA statutes and guidelines. Doing this would make CEQA more predictable, which would improve the law and its effect on development.
- 16 – Replace the right to appeal with the right only to a writ of mandamus. This way if the court of appeal believes the appeal is frivolous they can deny the writ and hence avoid a full briefing, oral arguments, and having to write an opinion. A writ of mandamus can be evaluated within months. If an appellate court does think an appeal has merit, they can approve a writ of mandamus and then it becomes treated like an appeal. The reform language can include a provision that if there is a “likelihood” the petitioner is right, the appellate court must accept the writ.
- 17 – If a project is approved, that approval shall remain recognized for a set number of years even if rules are subsequently updated.
- 18 – Repeal CEQA entirely. Rely on NEPA and other environmentalist legislation to protect the environment from developments that may have a significant impact.

## ECA SAFETY CLASS

### CPR/First Aid Class

Wednesday, August 23, 2023  
9 am - 11 am



Training includes bleeding control, strokes, seizures, broken bones and other life-threatening emergencies. Adult/child/infant CPR & airway obstruction management covered. This course is designed as both a course for first-timers and as a refresher.

click [HERE](#) for flyer



This year's event will be even better! **West Coast Diesel's** is proud to announce that the event will be hosted by **West Coast Fundamentals**, a non-profit that is geared towards helping young people get better access to the trades.

We will be using funds from sponsors and donors to help young people into auto mechanics and other trades.

For the event, we will be adding a dyno.

The event is on September 9th! The dyno will be opening at 9am due to the excess demand! The Show and Shine will be open at 12pm and the Tractor Pulls will start at 5:30pm.

Please email/call us with any questions or if you'd like to be part of the show.

Email: [info@westcoastdiesels.com](mailto:info@westcoastdiesels.com)—Phone: 707-595-3026—Donation and Sponsorships will be tax deductible!

Click [HERE](#) for more information on the Tractor Pulls!

## Blockbusters at the Ballpark ~ LUCA

*September 7th 6:00-9:00pm*

Attention all athletes, families, volunteers, and friends! Get ready for a movie night extravaganza on our fabulous Miracle League field. It's time to kick off the fall baseball season in style, and we want you to join us for a night of Italian fun! So mark your calendars for September 7th and get ready to be swept away! Click [HERE](#) to register!



## ECA 2023 EVENTS

# ECA WINE & DOZERS DINNER & AUCTION

Graton Resort & Casino  
Saturday, September 16,

Thank you to our sponsors:

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## WORKER'S COMPENSATION

### Worker's Compensation Endorsement By ECA-

HELLO!!! HAVE YOU ASKED YOUR HUMAN RESOURCES PERSON TO CHECK OUT THE WORKERS COMP PROGRAM ECA HAS ENDORSED? Everybody likes to save money, don't they? Doesn't cost you a thing to consider this as an option! Jeff Okrepkie at 707-360-4338.



George Petersen Insurance Agency

## FIRE CLEAN UP LIST:

The Sonoma County Environmental Health Department, Transportation and Public Works, and James Gore's office are utilizing the ECA as a resource for debris testing, and debris cleanup for fire victims from the Kincadee Fire. Please review the list that has been provided to the fire victims and the County, of ECA Firms that are interested and listed in various categories as being helpful in the fire aftermath. This is another benefit for ECA members and if you want to be included on the list, and are not, please contact [mary@nceda.org](mailto:mary@nceda.org). There is no charge for this. You can access the list by clicking [HERE](#)

## EMERGENCY RESPONSE MANUAL

The updated 2023-2024 Emergency Response Manual is now available online!

In the event of an emergency, we have put together this manual to help our community receive quick service from our members.

Thank you to our sponsors for helping to get this manual completed. It is sent to city and county agencies in case of an emergency so they will know who to call for services, equipment and materials.

Click [HERE](#) for the manual.

## NEWS YOU CAN USE

1. No recession but cloudy outlook-AGC offers mixed outlook for remainder of 2023.  
A rebound from the bottomed-out homebuilding market seems possible as a recession appears less likely in the near term, says Ken Simonson, chief economist for the Associated General Contractors of America. The outlook for construction for the remainder of the year remains cloudy, however, as costs continue to rise and as financing becomes harder to find. Full Story: [Equipment World](#)
2. How contractors are responding to materials costs  
Clients have been canceling projects in the face of construction materials costs, which have risen 19% since the onset of the pandemic, most respondents say in a Construction Dive survey. Respondents say they're adjusting fees, searching for alternative materials and redoing contracts to shield against further cost increases. Full Story: [Construction Dive](#)
3. California Court Clarifies Employer's Obligation to Reimburse Expenses  
On July 11, 2023, the California Court of Appeal in *Thai v. IBM* held that whether an employer is obligated to reimburse expenses incurred by an employee working from home turns on whether the expenses were a direct consequence of the discharge of the employee's job duties, not on whether the employer directly caused the expenses. This case is important for all employers whose workforce suddenly began working from home due to the COVID-19 pandemic and employers who continue to permit employees to work from home today.
4. [BKF Engineers names new marketing director \(northbaybusinessjournal.com\)](#)
5. [Should ECA support yet another new tax?? Napa transportation agency crafting 2024 ballot measure to help fix county roads \(northbaybusinessjournal.com\)](#)
6. [North Coast Builders Exchange appoints new board president, directors \(northbaybusinessjournal.com\)](#)
7. [What's ahead for North Bay commercial construction in 2023 \(northbaybusinessjournal.com\)](#)

## From the Desk of Jim Persons

### Attitude and Safety

How does attitude affect your work and safety on the job? What is your attitude today? We all have days where our overall attitude could improve, but how is yours towards your coworkers, boss, or safety on a day-to-day basis?

click [HERE](#) to read more!



### Expert COVID-19 Safety info Available at a Discount

The Shelter in Place Orders issued by County Health Officers in Sonoma, Napa, and Mendocino - as well as the Governor, have highlighted for the building industry the need for all contractors to have an up-to-date written COVID-19 Exposure Control Plan.

This should be an addendum to your IIPP and safety meetings for COVID-19

Jim Persons, SafetyPride, an ECA member who serves as a consultant and safety instructor for ECA, is offering his services to our members and they will receive a 40% discount on his regular rates if you are a current member of ECA.

Contact Jim if you are interested in getting his help on COVID-19 related issues or other health and safety programs. email: [jimpersons@safetypride.com](mailto:jimpersons@safetypride.com) or phone: 707-889-0881

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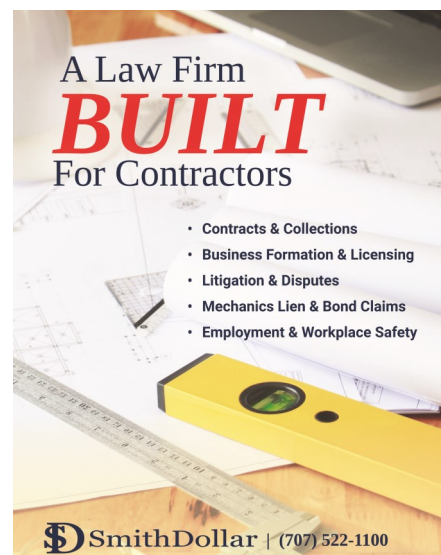
Although this “Soapbox” probably gives you more than you wanted to think about regarding CEQA, it is good to have a rudimentary knowledge of the primary reason for projects being so expensive to build in California.

The main culprit is SEE-kwa!

That’s All Folks!  
John

## SPECIAL MEETINGS & EVENTS:

1. The Nominating Committee, led by Chair Walt Turner, met on Monday, July 17, 2023 and got some great input into 2023 award winners. Final nominating committee meeting to be held in the next 2-3 weeks to discuss and finalize 2024 Board of Directors and Officers as well as the 2023 Award nominees. Final decisions will be made by the entire Board of Directors in September and October.
2. ECA Exec Meeting to be held August 15, 2023, at 11:00 am to 12:00 pm at NCBE small conference room.
3. ECA Board of Directors Meeting to be held August 15, 2023, from 12-1:30 pm., special presentation by the City of Santa Rosa Transportation and Public Works to introduce the new Deputy Director and discuss upcoming projects.
4. July 18 the Sonoma County Board of Supervisors voted on a revised Project Labor Agreement Policy. As soon as I receive the approved new PLA policy, I will distribute it to the ECA membership. Basically, the County left suppliers and truckers out of the PLA policy (unlike the City of Santa Rosa recently), left out emergency work, and lowered the project trigger size from \$10 million to \$1 million.







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## COMMITTEE NEWS & INFORMATION

**The ECA Golf Tournament** happened July 21 and it was pretty warm but I think everyone had a great time! Big thank you to all participants and sponsors who came and generously supported the ECA. My quick accounting this morning shows we once again hit our budgeted income or bettered it! ECA Members are the best!

**ECA Spec Committee**-chaired by *Dale Smith of RCX and Casey Wood of Girotti Brothers Inc.* met on Wednesday, July 19. Chairs were joined by myself, Gabe Osburn, Nathan Quarles, Antonio Mencarini, and Steve Mosiucchak from Sonoma County Fire. We discussed roadblocks and delays in getting grading permits, encroachment permits, and fire line permits from both the City of SR and County of Sonoma. Each agency had a different reason for the long lead times in getting permits. City of SR has a prioritization process that gives priority to bigger projects rather than “one off” projects. The City of SR delays make some sense as they have limited staff and when a bigger project comes in front of them, they put staff on the bigger project and the smaller ones see a delay. The County has a different issue, and their problems are more complex and harder to understand and/or fix. The County gets the permit application and once a tech determines the app is complete, it is distributed to half a dozen reviewers that have to all complete their review prior to sending the app back to the engineer/developer/contractor. This takes a minimum of 5-8 weeks for review, then another 8-week minimum for resubmitting the application. That is why the County takes 4-7 months for simple permits. We all agreed (except maybe the County) that this was unacceptable and there is nothing the drafter can really do to speed up the process other than submit a perfect application that does not need to go back and resubmit.

County says they are reinstating the “Express” lane for “over the counter” permit issuance for projects under \$50,000. That is a step in the right direction!

**Auction Committee** met last week and the ticket price was raised slightly to \$180 per person due to much higher costs for food (price per person is \$115 plus markups which is crazy but that is similar to other venue price increases). All in all, this auction is shaping up to be a very nice event and the Board decided in January that we wanted to step up the quality of the facility and the experience and I believe Mary and her hard-working auction committee will do just that! Now we need ECA member firms to support this year’s last big event and sign up, bid on the items donated and purchased, and have a great time!



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**Northern California Engineering Contractors Association**

The ECA, and its Board of Directors, has been the voice of the engineering construction industry for over 40 years.

The foundation of the ECA has been to address local needs and issues.

The purpose and goal of ECA and its staff are to provide services to the members that help them run their businesses safely, efficiently, and in compliance with the many rules and regulations and mandates of government.

The working committees are the heart and soul of the ECA. The committees are comprised of ECA members.

The committees promote events that enable the ECA to fund community projects that include: Fathers Day "Show & Shine" Car Show, Public Officials Night, the Golf Tournament, and, the "Days of Wine & Dozers" Auction Dinner.

If you would like to join a committee, please email [mary@nceca.org](mailto:mary@nceca.org) ~ We would love to have you!