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Thought Experiment Gets Real

A little over a year ago, PCL staff initiated a “thought experiment” - how could California water law be updated to deal with the early onset of climate change? It focused on the early onset of climate change rather than drought because how you react to a short-term drought is different than how to react to long-term drought. With a drier, hotter climate you can no longer assume it is okay to deplete your surface and groundwater reservoirs with the expectation that next year the drought will break and the reservoirs will refill. (Cue to the music from “Happy Days are Here Again.”)

At that time we gave the chances for meaningful change at less than 5%. Water is just too much a third rail of California politics.

But since then the thought experiment became more real. Precipitation was below average (i.e. the old average). Even so, as late as April the snowpack was at 70% (again of the old average). Then in April the Big Suck hit. Hotter temperatures, higher evapotranspiration and drier ground caused the snowpacks to disappear almost overnight. Some of it was absorbed by the vegetation. Some seeped into the dry ground. And some of it literally went up in the air (technically known as sublimation.)

By the time water project operators and regulators caught on it was too late. Much of the little remaining surface water was already released to downstream diverters. With little storage water remaining, the reservoir temperatures got too hot for fish to survive.

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A New Planning Paradigm for California

What would a new planning process in California look like?

A former Metropolitan Planning Organization executive once posed to PCL the observation that “CEQA is a public process law, but we try to use it as a planning law, for lack of effective planning law in California.”

As one of the authors of the California Environmental Quality Act in 1970, PCL has defended the law ever since as one of the most effective tools we have to protect the environment and our communities. PCL has spent a significant amount of time and resources in recent years on questions of maximizing the efficiency of CEQA and maximizing the efficacy of planning incentives—primarily CEQA streamlining mechanisms, grant programs, and various financing instruments. While this has been noble work, meaningful and positive CEQA reform continues to be elusive, and many well-designed grant programs and financing mechanisms have yet to move the needle toward more sustainable and equitable development in a significant way. Many of the fruits of our

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PCL.org

Dear Members,

Thank you for reading our annual newsletter about the important work PCL is performing. Although these past pandemic years have been challenging, it has accentuated the gross injustices and inequalities in how we work, live, and survive. Much of our work in environmental policy concerning land use and conservation, water, habitat restoration, and climate change has been impacted by the recurring and more starkly realized inequalities in our state. PCL will continue to prioritize environmental justice issues in all the work we do and we appreciate your support as we navigate new and more challenging threats to our world.

Each year, our policy committee addresses our legislative priorities as well as other efforts with our allies across the state, and we are alarmed by the concerning reports that are being presented by notable scientific entities around the globe on the drastic downward spiral of the climate crisis. In fact, in certain circles, the conversation is now focusing on resiliency and adaptation and not just mitigating the climate crisis. We are focused on both.

Much of PCL's environmental policy work is directly related or linked to the climate crisis, and it is more obvious now than ever how important all the factors of stopping climate impacts are for any environmental sustainability. Our annual assembly this year will focus on the climate crisis including various subject matter



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At the same time, the State Water Project had to reduce its deliveries to the Bay Area and Southern California water users to virtually zero. Disadvantaged communities dependent on groundwater are continuing to see their drinking water wells go dry as adjacent farmers keep chasing groundwater to greater and greater depths. And if this water year is another dry year, Karla Nemeth, Director of the California Department of Water Resources, said we need to be ready for a “worst-case scenario.”

Now back to what started as a thought experiment. The group of water law and policy experts assembled by PCL identified several deficiencies in California water laws. The main regulatory agency, the State Water Resources Control Board has only limited authorities to act until a formal drought has been declared. This summer that meant they could only act after all the water was already gone.

The water quality standards for California's largest watershed stretching from north of Redding to below Fresno and out the San Francisco Bay Delta have not been substantially updated for over 25 years. There is not even a requirement that all those who divert water prove the basis of their rights.

You will want to attend the water panel at PCL's 2022 Assembly (pcl.org/assembly) to hear first-hand what recommendations are being developed to ensure environmental justice, water social justice, and reliable water supplies for residents, the environment, agriculture, and businesses.

California on Fire | Rethinking Forest Management and Disaster Recovery to Promote Habitat and Community Resilience

California has faced the worst wildfire season in its history these last two years. Scientists predict that these fires are going to become more rampant and deadly each year. How did we get here?

The answer is decades of forest mismanagement compounded by the early onset of climate change. When the US Government first took over the management of California's forests, their first instinct

was to suppress any fires that started. This technique resulted in forests full of overgrowth that now have a higher chance of catching on fire. California's ecosystems have adapted to experience regular wildfires, and some trees, such as the ponderosa pine, even require fire once every 50 years to help with the pruning of old branches and allowing younger trees to grow. When wildfires do happen after decades of suppression, the fires burn at such high intensity and temperature that they kill even the fire-resistant vegetation.

Given that fires are becoming more intense, what can we do? One idea is to rethink how we can rebuild following a disaster. The current strategy is to rebuild what was lost as fast as possible. Not only does this strategy make little sense as the new housing is more likely to burn down again due to the frequency of fires, but developers are also very likely to take advantage of this situation. Projects defined as rebuilding lost housing are usually expedited, including allowing them to be exempt from CEQA. Thus, such projects can be built without regard for climate and disaster resilience and other important environmental and community considerations.

Instead, PCL proposes that at-risk areas take a more strategic approach by defining a pre-disaster land use plan for recovery, perhaps as part of the jurisdiction's General Plan. This plan would consider not only the specifics of how the area would rebuild following a disaster, but would also make sure that the rebuilding process complies with California's climate, equity, and housing goals, specifically affordable housing needs. The plan would be an adaptable blueprint for the accelerated direction of resources and incentives in accordance with the specific needs after a disaster. The development of this plan should also involve the community as much as possible so that people living in affected areas can have a say in how they want to rebuild.

Although these types of pre-disaster land-use plans would differ depending on the region, PCL suggests that every plan should:

- Be fiscally constrained,
- Be constrained to existing water supplies, with particular consideration of existing residents that lack safe water supply,
- Demonstrate compliance with state GHG reduction mandates, including Vehicle Miles Traveled (VMT) performance requirements and other location efficiency strategies,
- Discourage redevelopment in high-risk areas susceptible to subsequent disasters,
- Demonstrate compliance with the jurisdiction's current Regional Housing Needs Allocation (RHNA) across income levels, including specific inclusionary and anti-displacement requirements,
- Develop post-disaster protocols for efficient recalibration of the pre-disaster plan that reflects the proportionate losses of housing across incomes, local business, services, and infrastructure,
- Include a robust community engagement process throughout the development of the plan.



Other solutions include helping restore habitat and wildlife populations back to pre-disaster levels. This would include on-site work of planting trees to replace the lost ones and providing water and shelter for small animals and birds. More long-term solutions would include restructuring our forest management policy in a way that builds habitat resiliency. This would include tactics such as making sure the Forest Service is well funded, regularly clearing forests of dry debris that is more likely to start fires, protecting water supplies such as rivers and groundwater, funding best forest management and wildfire suppression practices in habitat areas, and conducting prescribed burns wherever possible. **Finally, since climate change is a major cause of our current wildfires, making sure that California hits its climate goals should be the number one priority to reduce the scale of these disasters.**

One of PCL's goals in 2022 is to continue its disaster recovery planning efforts as well as to form a new program focusing on helping wildlife recover following a wildfire event. If you would like to support our efforts, please consider donating at pcl.org/donate.

CAPTI Provides the Road Map | Now We Need Drivers

The California Action Plan for Transportation Infrastructure (CAPTI) provides a map forward for building less roads and for Californians to drive less.

The Governor's Executive Order on Climate, EO N-19-19, among other things, directed the California State Transportation Agency (CalSTA) to develop a plan for bringing the state's transportation investment portfolio into better alignment with our state's GHG reduction mandates. This sounds like common sense, but it turns out that it's not so easy.

Unravelling California's many pathways of how federal, state, and local transportation dollars are programmed, and the many laws and policies that guide those pathways is a monumental task. Shifting those pathways will be an even greater task.

As written in these pages before, the California Air Resources Board's (CARB's) 2017 AB 32 Scoping Plan found that even if California was to achieve 100% electric vehicle usage and 75% renewable energy production by 2050, we would still need an additional 15% vehicle miles traveled (VMT) reduction beyond the reductions currently projected in our Regional Transportation Plans to meet our 2050 GHG reduction mandate (AB 32 Scoping Plan, pg. 101). Yet, CARB's SB 150 Progress Report on our regional Sustainable Communities Strategies also finds that per capita VMT is going up, not down, in all regions of the state.

We are making strong progress in the transition to renewable energy and zero-emission vehicles, but **California is still building our housing, jobs, and services too far away from each other and**

directly linked to mitigating and adapting to climate changes. See PCL.org/Assembly for more information.

In this newsletter, you will find a compilation of past and current articles about our statewide policy work. We are not lacking in topics to cover and have selected the most relevant articles to publish for those not on our email distribution list (please sign-up on our website at pcl.org/newslettersignup). We have also included some new articles about current issues at the legislature we hope you will find educational.

Also, your support is greatly appreciated and because much of our work is complicated, time consuming, and long-term, your donations are critical to the success of our efforts.

Be well, and may your holiday moments bring joy to the end of a challenging year.

Howard Penn
Executive Director



Donation Information

PCL's success has been due to your unwavering support. You can visit [PCL.org/donate](https://pcl.org/donate) to learn about the many donation options available. Please consider contributing today to help ensure our environment is protected for humans, plants, and wildlife forever.

You can also mail your donation to the address listed below. Please contact PCL at 916.822.5631 if you have any questions. Thank you.

Contact PCL

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labor may not yet be realized, but currently the fact remains that both greenhouse gas emissions from Vehicle Miles Travelled (VMT) and the disparities between rich and poor continue to increase at alarming rates.

PCL does not believe, as some would have it, that CEQA is the primary barrier to meeting our housing needs, and so, finds this focus on maximizing the efficiency of CEQA, while important, to be ultimately only nipping around the edges of the problem. The most important aspect of CEQA is indeed the input process and the legal recourse it provides the public on planned development, but it remains problematic that this public engagement happens at the end of the planning process when it is extremely difficult and expensive to change the direction of a project or a plan.

Meeting our housing needs in a way that will achieve our climate mandates and address social inequities will require a fundamental shift in the way we deploy our land use and transportation investments, and we just aren't getting there fast enough. What then is the new planning law, or laws, that are needed at the front end of the process? As PCL helped design CEQA, we are now focusing on the design of the answer to this question.

Does the answer look like a new State Plan, as some have long pondered? Or is it a regional solution, providing for better alignment of state and local housing and infrastructure investment with the Sustainable Communities Strategies mandated by SB 375 (2008)? Could the answer be reform at the General Plan level, building upon the Equity Element defined by SB 1000 and recent RHNA reforms? Or is an entirely new planning process required? What does a non-CEQA, genuine, and productive public participation process look like at the front end of the planning process? How do we ensure significantly improved compliance to state mandates while respecting local control and community-driven input?

PCL has many thoughts on these questions, but identifying answers will take time and we can't do it alone. Moving ahead, PCL endeavors to build a cross-interest, cross-sector team to explore these questions and to begin scoping the shape of what a new planning paradigm in California could look like.

Stay tuned in the next year to hear what we learn.

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building too much road capacity to connect them. How to change this remains our biggest challenge.

After more than a year of outreach and collaboration with partner agencies and many NGO stakeholders, CalSTA released the draft CAPTI plan for public review. We commend CalSTA and their inter-agency partners for providing a vision for California's transportation

infrastructure that we feel, if followed, represents the kind of transformational shift we need to make in the way we invest our resources to achieve California's climate and equity goals.

The criticism can be made that the plan doesn't go far enough and is light on specific tangible actions and accountability measures, but we recognize that CalSTA does not have the authority to prescribe and dictate what the multiple other relevant agencies will need to do to realize this vision. Implementation of this shift will take the respective action and coordination of many state and local agencies, and the responsibility now falls on those agencies to develop their respective action plans in accordance with the CAPTI recommendations.

Some state agencies, including CARB and the Dept. of Housing and Community Development (HCD), are moving to take such action. **PCL calls on the California Transportation Commission (CTC), specifically, to follow suit and make a formal commitment to adapt their program guidelines and project prioritization protocols to reflect the shift in investment that is needed as recommended by CAPTI.** The CTC ultimately approves the allocation of the bulk of the state transportation funds and their commitment to CAPTI is critical for the plan's success. The CTC should determine and adopt specific VMT reduction targets, in line with the need identified by CARBs Scoping Plan, to guide its project prioritization, and to be able to measure the progress of the performance of our system investments moving forward.

Over the course of the next year, the CTC will be revising many of its program guidelines, with multiple public workshop opportunities. We urge you to engage in this process, as the decisions that will be made could affect California's infrastructure planning for generations to come.

CAPTI was approved in July of this year, but that cannot be the end of the conversation. **CAPTI lays out a plan for where we need to go, but the work to get there is only beginning.**

Coming Soon | 2022 Environmental Assembly!

The 2022 California Environmental Assembly is underway! This year, we will be hosting a hybrid event at the McGeorge School of Law in Sacramento, California and online! Our sessions will focus on the fact that The Climate Crisis is Here Now by addressing the issues of habitat fragmentation, drought, wildfires, lack of affordable housing, and early onset of climate change. We encourage our panelists to think about the big picture and offer possible solutions on how California's administration can solve these pressing problems. Come join us for an exciting series of discussions and learn how we can inspire action in environmental policy on both individual and systemic levels.

The Assembly will be held in late January/early February. Subscribe to our newsletter at pcl.org/newslettersignup or visit the Assembly page at pcl.org/assembly to stay informed!

