



PLANNING AND CONSERVATION LEAGUE

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The New Governor and California Water Challenges

Can the Efficiency of Water Use be Maximized?

Now that Gavin Newsom has been elected he will have to address the critical water issues that will face him over the next 4 or 8 years. Climate change is already amplifying the natural history of California: droughts, floods and fires. These impact not only our economy but increasingly our personal safety.

The new Governor will undoubtedly continue efforts to reduce greenhouse gas creation. But at the same time his administration will have to react to a continued or renewed drought, one or more intense floods and many more mega fires. The test will be whether he can lead watershed based approaches to protect lives and properties and maximize the efficiency of all water uses.

These fights will play out in several venues. In the first few months Newsom will have to decide whether he wants to adopt Jerry Brown's proposed massive tunnels to divert water from the San Francisco Bay Delta as his own. A hugely controversial proposal that would require him to expend considerable political capital just when he wants to begin addressing housing, education and homelessness.

Proposition Review

Proposition 1

We are pleased to hear that Prop 1 has passed and a \$4 billion bond was approved to fund housing-related programs for low-income families and veterans. Your vote has pushed CA in the right direction toward solving the housing crisis.

Proposition 2

We are also excited to hear that Prop 2 passed and now authorizes the use of the mental health services tax to fund housing for homeless people suffering from mental illnesses. Thanks to you California can provide for those with the greatest need of housing and community support.

Proposition 3

Prop 3 failed to pass and does not authorize an \$8.9 billion bond to fund various water improvement projects, including water recycling and clean water projects. PCL will continue working to make sure these objectives are promoted outside of the Prop 3 proposal.

Proposition 6

Thanks to your votes, Prop 6 was defeated and the gas tax was saved. This tax will continue to fund road improvements and public transportation projects to ensure a greener California.

Dear Members,

What a crazy year! Our legislative calendar was packed with bills tackling topics across the environmental policy spectrum and continues to highlight the need for us to stay diligent and committed to our policy goals of a sustainable and healthy California for all.

As you read the articles in this newsletter, you will see common themes of fighting for environmental protections for all Californians and even taking that fight to Washington D.C. when necessary. Given the chaos of DC right now, we have needed to be even more responsive to what we need to do nationally in order to protect our quality of life here while not abandoning our California goals. This has stretched our budgets and resources.

Your support continues to help us with those resource needs, and I'm happy to announce that we have hired a new policy associate, Sofia, who is young, ambitious, and passionate. She has a short piece in the newsletter to introduce herself, and it gives me hope that younger advocates are joining our ranks to keep up the good fight. It is for them that we are so committed to our collective future.

Lastly, thank you for your support. It is because of you that we are able to do all that we do!

Howard Penn
Executive Director



Photo credit – Humphrey Muleba

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A related issue is the pending update to the Bay Delta Water Quality Control Plan. This long overdue action would partially restore flows in many of the State's most endangered rivers. The incoming Governor already asked the approving agency to delay its action to allow the regulated districts to try once again to come up with a substitute for water. This is despite the overwhelming scientific consensus that "fish need water."

Tied to all these actions is the catastrophic decline of the State's native fisheries including salmon. Several species are already approaching the brink of extinction as the result of loss of habitat and massive diversions from our rivers. Does this Governor want to be in charge when one or more runs of salmon no longer exit here?

Even though he will be leading the State with the world's fifth largest economy, California still has over a quarter of a million residents, mostly in disadvantaged communities and tribes, whose water does not meet safe drinking standards. How aggressive will the new Governor be in getting those communities the resources they need to obtain and operate systems to provide safe water?

The Salton Sea is another multi-part catastrophe in the works. Over a decade ago water that would have kept the Sea viable for fish and as a key stop on the Pacific flyway was diverted to San Diego. Of course that is causing that ecosystem to crash. But even for those who are not bird or fish lovers the consequences will be dire. With less water the sea bed will be exposed. When the high speed desert winds come through they will blow toxic materials from the exposed lake bed into the air. That will affect the lungs of the several hundred thousand people who live in that airshed.

Already announced is the new Governor's vow to resist the Trump administration on many issues. Water is likely to be one of them. Trump has already called for the federal government to disregard California rules for the operation of the Central Valley Project. Important water quality standards will be fought over for at least the next two years. These are issues the new Governor is highly unlikely to back away from.

The Governor will also inherit implementation of the Sustainable Groundwater Management Act. Although it initially calls for local

regulations, the fallback is to the State if the locals cannot agree. Here the math tells the story. On average California water users, primarily agricultural, pump from the ground about 2 million acre feet more each year than nature replenishes through precipitation.

Although some efficiencies in groundwater replenishment are possible, the deficit cannot be made up. That means that over a half million acres of irrigated agricultural land will have to go out of production. That will result in many late night meetings in the Governor's Office.

The real question for the new Governor is whether he will have the bandwidth to lead California into a new paradigm for water management, or whether he will be able to apply band aids while he works on other issues. And the seeds of that new paradigm are already here.

The Central Valley Flood Protection Board is already developing new ways to protect communities while increasing groundwater recharge and restoring riparian ecosystems. The Delta Protection Commission is working with landowners and local units of government on projects that will restore Delta islands for agricultural and wildlife uses. Earlier efforts to provide safe drinking water to disadvantaged communities and tribes can be revived and refined.

In many rural counties pilot watershed projects are proving effective in reducing the threats of catastrophic wildfires while also allowing forests and meadows to absorb peak winter and spring precipitation and release the water slowly into rivers for beneficial uses downstream later in the year. Many water districts are increasing their supplies through increased water recycling, local storm water capture, and groundwater remediation.

Another way to convert a debit into an asset is to repurpose fallowed agricultural lands into solar farms. Combined with other technologies including advanced batteries, this can be a major way to reduce greenhouse gas creation.

The Planning and Conservation League looks forward to working with the Newsom administration for a better California.

Why AB 1804 Was So Important to PCL

AB 1804, a statutory exemption from environmental review for infill housing in unincorporated areas, was signed by the Governor in October.

Amid California's extreme housing shortage, efforts to "streamline" or entirely remove requirements for project review imposed by the California Environmental Quality Act (CEQA) have become one of the most frequent approaches to accelerating the production of housing. As an author of CEQA almost 50 years ago, PCL has combated attempts to weaken this important public process since. So, when PCL started working to strengthen AB 1804 earlier this year, rather than oppose it, we were often asked the question: "Why is PCL working so hard on writing a CEQA exemption?"

While PCL does not at all agree with the argument that CEQA is the primary barrier to housing production, we do think that CEQA can always be updated to work more efficiently, and to better incentivize the right things in the right place. Further, most smart-growth incentives are tailored to major urban cities, but we also recognize the unique needs for revitalization and densification of suburbs and rural towns as well. In AB 1804, PCL saw an opportunity to incent the best of development practices for these often overlooked areas.

Yet, the original proposal to extend an existing exemption for cities, PRC 15332, to counties was problematic. This exemption is extremely outdated, lacking a true definition of "infill," and otherwise does not meet modern standards for California's climate and equity goals. We set out to craft the exemption to ensure these projects would:

- be 100% infill, minimizing impacts to our natural and working lands, and protecting communities from added flood and fire risk
- incentivize dense, low-VMT, equitable development without displacement of existing residents

The end-product was a new exemption with much stronger infill criteria for an unincorporated situation, but our recommendations for affordable housing requirements and provisions that protect against the displacement of low-income communities were never included. PCL greatly appreciates the authors' efforts to strengthen the bill, but, while much improved, the final bill falls short of California's needs.

We need compact growth, but displacement of disadvantaged communities that infill investment can cause is the Achilles heel of smart-growth. Without promotion and protection of affordable housing in infill areas, not only will we replicate historic patterns of segregation, but we will also undercut our ability to meet our climate goals. If available, low-income residents will use transit and active transportation options significantly more than those with greater economic means, and displacement of low-income communities by infill investment will result in more driving and GHGs. The dual nature of these environmental and social impacts associated with infill should warrant these protections in a full CEQA exemption, or any incentive. These provisions help ensure we are revitalizing communities with equitable access to transportation, essential services, and opportunity—for new and existing residents alike.

PCL's expertise on land use policy and CEQA have put us at the center of discussions on how to address the housing crisis in a way that can also achieve our climate goals. There are already many important approaches to these challenges emerging for 2019, and our objectives for AB 1804 are emblematic of PCL's mission moving forward.

California's historic growth pattern has resulted in great environmental degradation, as well as great social inequities. The solutions to both problems must be the same.



Photo credit – Paul Cockerel

National Campaigns

PCL has partnered with the National Wildlife Federation to promote national initiatives designed to protect wildlife and open spaces and support environmentally friendly solutions to our nation's issues. This year, we were able to generate support for better biofuels to replace the environmentally disastrous corn ethanol production through gathering grassroots and political support for the GREENER Fuels Act. Additionally, we spoke to Congressional legislators about passing the Recovering America's Wildlife Act designed to generate \$600 million over 10 years for threatened species protection in California. Our next focus will be on restoring the desperately needed but recently expired Land and Water Conservation Fund federal program which invested \$2.4 billion in California's national parks and forests over the last 5 decades.

Donation Information

PCL's success has been due to your unwavering support. You can visit [PCL.org](https://www.pcl.org) 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.

If you'd like, you can mail a donation to the address listed below. Please contact PCL at 916.822.5631 if you have any questions. Thank you very much.

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Memo From Our New Policy Coordinator

I was first struck by the fragility of nature when I watched a once beautiful lake that I frequently visited in my childhood become choked with pollution and vanish due to damming and drought. I felt unable to help until I read a memoir of a young man traveling the world in search of endangered species and learned about the deep emotional connection he built with the animals he encountered on his expeditions. His writing spurred my passion for environmental science, activism, and policy. In college, I worked hard to leave a positive impact, be it by designing a water pollution filter for my thesis or by starting a campus-wide campaign to conserve more water. I graduated full of enthusiasm and determination to change the world and, through PCL, I have found a place where policy and activism combine to create long lasting solutions to the toughest environmental problems. People often ask how to get more youth involved in policy, but many of us are already eager to participate and are just searching for such opportunity. PCL gave me that opportunity and I hope that, through my work, I can give others that chance as well.

Sofia Rafikova

CEQA 2.0: Updating CEQA for the 21st Century

The California Quality Act (“CEQA”) was adopted in 1970, 48 years ago. Since that time there has been no comprehensive update of the statute. With immensely complex statewide problems, including critical affordable housing shortages, environmental justice challenges, climate change, wildfire and drought, it is more important than ever that CEQA function effectively and efficiently. CEQA 2.0 is a strategy to identify the problems that have arisen with implementation of CEQA from the business, environmental advocates, and public and governmental agencies’ perspective and to propose amendments to CEQA that could resolve those problems without reducing the informational and environmental protection benefits of CEQA.

After decades of ongoing “hand to hand combat” in the legislature, including a seemingly endless stream of CEQA exemption amendments, it is time to take a careful and comprehensive look at the law, including its guidelines, and to make a patient and good faith attempt to find common ground among the many stakeholders in the State.

Political battles in the legislature over even small changes to the law are typically very contentious. In this context, it was suggested during a CEQA panel a few years ago at the Yosemite Environmental Law Conference that “the only way there would ever be comprehensive CEQA reform” would be to bring together a diverse group of stakeholders who would work together to create an updated law. Doing so would be balanced, clear, internally consistent and interdependent and therefore less susceptible to being picked apart in the legislative process. In colloquial terms, the public interest in this context is not likely to be served by a “sausage making” end result.

To that end, the Planning and Conservation League as a key initiator of the original CEQA legislation, is assembling working groups of CEQA attorneys, planners and stakeholders to meet on a monthly basis to carefully examine how the law is and is not working and to come up with logical amendments. The goal is to have a comprehensive policy framing document and updated bill language ready to go in the legislature by the end of 2019 and to have the Governor sign CEQA 2.0 in 2020, the 50th anniversary of CEQA.

PCL has initially arranged a highly respected and extremely qualified group of CEQA experts from across the state with diverse expertise and backgrounds. This group is not exclusive and others will be added based on needs and interest. They have all agreed to leave their advocacy “hats” at the door, as well as donate their time, and in good faith pursue the public interest which includes not only protecting the environment but also facilitating a healthy economy



Photo credit – Alesia Kazantceva

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and helping government entities operate more efficiently in reviewing discretionary projects. The initial working group members and their primary areas of expertise are:

- Susan Brandt Hawley, Esq. (Petitioners' attorney — statewide practice);
- Doug Carstens, Esq. (Petitioners' attorney — Los Angeles);
- Ellison Folk, Esq. (Petitioners' attorney, based in San Francisco);
- Rick Frank, Esq. (former Deputy Attorney General and current law professor at UC Davis);
- Susan Hori, Esq. (developer representation—Los Angeles);
- Kevin Johnson, Esq. (Petitioners' attorney based in San Diego).
- James Moose, Esq. (lead agency and developer representation-- Sacramento);
- Clark Morrison, Esq. (developer representation—Bay Area);
- Andrea Ruiz-Esquide (attorney, San Francisco City Attorney Office)
- Clem Shute, Esq. (lead agency and petitioner representation based in San Francisco);
- Margaret Sohagi, Esq. (lead agency representation—Los Angeles);
- Terry Watt, Planner (expertise in union and environmental justice Roger Lin, Esq., Adjunct Professor at UC Berkeley School of Law and Environmental Justice Expert

The group began meeting in August of this year and plans to continue its work well into 2019. We are creating other working groups as well and if you represent a group interested in participating, please contact us at **CEQA2.0@pcl.org**. We will be reaching out to all PCL members in the future for comments on our progress.

Save-the-Date! California Environmental Assembly is Feb 23, 2019

PCL's 2019 California Environmental Assembly, *Confronting a Future at Risk*, will be held on February 23rd 2019 at the McGeorge School of Law. Come join us for an exciting discussion about the future of California's environmental policy. The current list of invited keynote speakers includes California Attorney General Xavier Becerra, Mayor of San Jose Sam Liccardo, author Dr. Kim Stanley Robinson, and CivicSpark program fellows. Tickets start at \$75 for nonprofit staff, \$170 for government staff, and \$200 for general admission. For more information, please visit pcl.org/assembly.