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To: CEQA Working Group
From: John Husing
Subject: Misuse of CEQA and Prevailing Wage Workers
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Over the past month, Economics & Politics, Inc. has been analyzing the impact that misuses of the California Environmental Quality Act (*CEQA*) through lawsuits have on prevailing wage workers. Specifically, the types of inappropriate uses have included:

1. NIMBY's use of CEQA to stop or delay projects simply because they do not want them built nearby.
2. Business firms' use of NIMBY groups and CEQA lawsuits to stop or delay projects to gain a marketplace advantage over a competitor.

Summary

Too often discussions about the impact of the difficulties in California's regulatory processes have focused on the impact on companies. More important would seem to be the impact on employees who have paid for the delays and cancellations of projects by not having the work and the income that their jobs would generate.

In this analysis, just seven projects were reviewed. They were chosen because they are typical of the types of projects being impacted by CEQA abuses. They ranged from major commuter rail efforts to massive affordable housing/transit oriented developments to smaller community projects. On just these seven projects:

- On an annual basis, these projects meant that 3,245 prevailing wage jobs were delayed or eliminated due to CEQA litigation.
- The average of the wages and benefits impacted was \$100,502.
- The total annual wages and benefits affected was \$326.1 million.

Since these seven cases only represent a small fraction of the projects that are delayed or stopped due to CEQA litigation, it does not appear to be a stretch to say that annually thousands of prevailing wage, union jobs are lost or delayed due to the current structure of CEQA.

To analyze this issue, the following steps were taken:

1. Seven "prevailing wage" projects were identified that were either cancelled, seriously delayed or put at-risk because of CEQA objections. In each case, the objections were determined to be unjustified by the courts. Each of these situations represents a class of projects vulnerable to misuse under CEQA.

2. In most cases, the total budgets for these projects were determined through contact with the agencies attempting to have them built. In one case, it was estimated based upon the square footage of the project and standard construction costs per square foot for projects of that type.
3. For these projects, it was possible to determine what share of each project's budget would be used to pay for labor and of that, what share would be for "prevailing wage" workers. The sponsor or contractor was asked to provide the percentage breakdown of the construction budget by trade when that data was available. In those cases where only the overall project budget was available, two sources were used to develop the data needed to model the share of the budget going to "prevailing wage" workers:
 - a. Data from similar projects for which detailed information was available as part of this analysis.
 - b. Data from major contractors specializing in this type of work:
 - i. A major infrastructure construction firm
 - ii. A major builder of attached housing and transit oriented facilities
4. Once the total budget for prevailing wage labor for a project was received or modeled with estimates by craft skill, the prevailing wage and benefits for the appropriate jurisdiction from the California Employment Development Department was used to indicate how many total hours of labor were involved.
5. Using these data, annual incomes were estimated.

EXPO 2: NIMBYs Delay Light Rail

Development of light rail lines has been fundamental to the city of Los Angeles, the LA County Metropolitan Transit District and the Southern California Association of Governments (SCAG) in their joint goal of getting people out of cars to lower congestion, improve air quality and reduce greenhouse gas emissions. The latest development, called EXPO 2, is a 6.6 mile segment from Culver City to Santa Monica designed to complete the route from downtown Los Angeles to the coast.

In developing the project's Draft Environmental Impact Report, 1,800 comments were received. Another 9,000 were received when the draft was circulated. Further analysis was then undertaken plus coordination with other agencies and community outreach. The Final EIR incorporated numerous proposed changes and was circulated for public comment in December 2009. Following a public hearing, the project was approved and the Final EIR certified in February 2010. At that point a group of homeowners unhappy with the route (*Neighbors for Smart Rail*) filed a CEQA lawsuit to overturn the process. They lost in Superior Court, appealed to the Appellate Court and lost. They then appealed to California Supreme Court where they lost again in August of 2013. The 3½ year court room process cost the taxpayers millions of dollars that would have been better spent improving transit facilities.

Exhibit 1.-Prevailing Wage & Benefits, EXPO 2 Commuter Line, Los Angeles Co.

Trade	Share	Budget	Hourly Wage & Benefits	Hours	Full Time Weeks	Full Time Workers	Full Project Wage & Benefit
Laborers	38.0%	\$26,600,000	\$47.39	561,300	14,032	281	\$94,780
Operating Engineers	26.0%	\$18,200,000	\$58.89	309,051	7,726	155	\$117,780
Carpenters	10.0%	\$7,000,000	\$52.65	132,953	3,324	66	\$105,300
Cement Masons	8.0%	\$5,600,000	\$51.12	109,546	2,739	55	\$102,240
Ironworkers	9.0%	\$6,300,000	\$51.17	123,119	3,078	62	\$102,340
Other	9.0%	\$6,300,000	\$51.49	122,366	3,059	61	\$102,970
Totals	100.0%	\$70,000,000	\$51.53	1,358,335	33,958	679	\$103,067

Source: California Employment Development Department for prevailing wages; labor budget percentage estimated by agencies

Altogether, the CEQA process put construction of the EXPO 2 line at risk for nearly 3½ years. The agencies charged with building project estimate that \$70,000,000 will be spent on prevailing wage labor that will be hired to build the line. For this group of occupations, the NIMBY lawsuit created uncertainty for over 600 prevailing wage workers for over 3½ years. The overall impact has been as follows (*Exhibit 1*):

- \$51.53 is the weighted average of the median hourly wage & benefit levels of the six categories of prevailing wage jobs that were at-risk.
- Nearly all of the workers will earn from \$50-\$60 in wages & benefits except laborers (\$47.39).
- The “other” category was the average of median hourly wages and benefits (\$51.49) of teamsters, sheet metal workers, plumbers and pipe fitters.
- 1,358,335 hours of work will eventually be created at the prevailing wage & benefit rates of the various occupations.
- 679 full time equivalent jobs have been at-risk. That is 1,358,335 hours of work spread across 40 hours a day or 33,958 full time weeks of work. For a 50 week year, that means 679 full time equivalent jobs have been under a legal cloud. The most were 281 laborers, 155 operating engineers, 66 carpenters and 62 iron workers. The least was the equivalent of 55 full time cement workers.

During a time when Los Angeles County’s construction sector was in a depression, the attempted delaying tactics inherent in the NIMBY CEQA lawsuits used against the EXPO 2 project created uncertainty for hundreds of workers who could have lost their jobs had the CEQA challenge been successful. Further, it diverted taxpayer funds to pay for legal costs instead of going to build the project.

Parkmerced Affordable Housing: NIMBYs May Stop Transit Oriented Housing

San Francisco’s Parkmerced is a massive 3,221 unit World War II-era housing complex with no on-site retail and poor access to public transit, forcing residents to travel by car for basic services. To renew the site, the city has proposed the largest affordable housing investment in the city’s history. This would include 3,221 permanent rent-controlled homes, 900 below-market-rate inclusionary homes, and 5,679 net new units. On-site attributes would include acres of open

space, several neighborhood common areas, a pre-school/K-5 school, a community and fitness center, large flexible ball fields and community gardens. To provide jobs and shopping 315,000 square feet of area would be used for neighborhood shopping and office development. The Muni Metro M-Line light rail would be rerouted into the complex. Because CEQA considers any 50-year old unmodified structure to be historic, the project has identified significant impacts on historic resources and adopted mitigation for them. Ultimately, the intent of the Parkmerced project is to create a location that is a model of safety, sustainability and ecological friendliness. Over the long construction period, it is estimated that the undertaking would create 22,630 annual prevailing wage jobs and pay \$2.8 billion to prevailing wage construction workers.

In May 2011, the project was approved. However, in July 2011, a NIMBY group (*San Francisco Tomorrow*) filed a CEQA lawsuit to stop it. They cited insufficient historical resource alternatives (*though 8 were discussed*); unidentified greenhouse gas impacts (*project goal is a net-zero carbon community*); new streets being built in an earthquake zone; hypothetical issues related to a PG&E gas line; and the fact that impacts shorter than the 30 year period were not studied. In the two years since, the suit has yet to be heard leaving the project on hold and an enormous amount of prevailing wage work in limbo.

Exhibit 2.-Income & Benefits, Parkmerced Project, San Francisco County							
Activity	2012-2016	2017-2021	2022-2026	2027-2032	Total	Average	Annual Avg.
Construction Spending	\$1,010,451,157	\$1,167,932,022	\$1,450,017,565	\$1,470,556,065	\$5,098,956,809	\$1,274,739,202	\$254,947,840
Share to Workers	70.0%	60.8%	52.4%	45.4%	55.8%	55.8%	37.2%
Spending on Workers	\$706,811,100	\$710,330,700	\$759,730,800	\$667,718,400	\$2,844,591,000	\$711,147,750	\$94,819,700
<i>Income Per Worker</i>	\$83,800	\$83,800	\$83,800	\$83,800	\$83,800	\$83,800	\$83,800
Income & Benefits	\$125,700	\$125,700	\$125,700	\$125,700	\$125,700	\$125,700	\$125,700
Construction Workers	5,623	5,651	6,044	5,312	22,630	5,658	1,132

Source: CB Richard Ellis Economic Analysis of Parkmerced Project & CA Employment Development Department prevailing wage data

Due to the pending litigation, it was necessary to study the potential impacts of this project on prevailing wage workers from one step removed. To do so, a useful report was the CB Richard Ellis economic analysis of the Parkmerced completed in early 2011.¹ The data from this report indicated that the spendable income going to construction workers averaged \$83,000. That is an underestimate of the full impact of the pay going to construction workers as it did not include benefit payments. A look at the various sectors involved in construction shows that on average benefits represented more than 1.50 times the income from wages. Using that factor, the average income and benefits that would go to construction workers is estimated at \$125,700. For full time work 40 hours a week, 50 weeks a year, the hourly rate for wages and benefits would average \$62.85.

Over the full period of the four phases of the Parkmerced project, the jeopardy to prevailing wage workers from the CEQA lawsuits includes the potential for losing (*Exhibit 2*):

- Of the \$5,098,956,809 spent to build the project, an average of 55.8% of the expenditure would go to prevailing wage workers. This would range from 70.0% in the early phase

¹ Parkmerced Fiscal And Economic Impact Analysis Overview, CB Richard Ellis, January 2011

when a substantial amount of demolition and replacement was occurring to 45.4% in the final phase when the underlying infrastructure was complete.

- \$2,844,591,000 that would be spent on total wages & benefits to workers building it. In each of the four 5-year phases of the effort, an average of \$711,147,750 would flow to workers if the project is allowed to move ahead.
- In any given year, an average of \$94,819,700 dollars in wages and benefits would flow to prevailing wage workers.
- Altogether, 22,630 jobs would be created by the project if it is built. This would be divided into four periods that would average 5,658 workers each.
- In any given year, an average of 1,132 workers would have the equivalent of full time work on the effort.

If there is a project that thoroughly underscores the jeopardy faced by prevailing wage workers due to the ability of NIMBYs to use the CEQA law to delay or stop projects, it must be Parkmerced. Given the litigious nature of the environment surrounding this environmentally sensitive, affordable housing effort, it could well be that a very large number of prevailing wage workers may never see the employment that such an undertaking would create for them.

USC Student Apartments: Competitor Seriously Delays Transit Oriented Housing

One of the most outrageous uses of the CEQA process to delay an important transit oriented project using prevailing wage workers was a lawsuit filed against USC's Gateway student housing project. Here, the developer's project was fought by a rival (*Conquest Housing*) and some neighbors. All the issues raised were satisfactorily resolved and a Final EIR approved July 2006. The rival then filed a CEQA law suit. It was rejected in April 2007. An Appellate Court appeal was later rejected and the Final EIR certified. A writ of mandate was requested from the California Superior Court but rejected in January 2008. During this period, it was found that the rival had paid residents to raise issues against the project in the EIR process and had stated that they knew how to "bomb" competing projects using CEQA. They had in fact done so, filing against the developer's projects throughout California. The delaying tactics ended when a federal racketeering lawsuit was filed against the rival, accusing them of violating the RICO Act, the Sherman Act and California Unfair Competition Laws by their frivolous filing of CEQA complaints.

During this two year period, the modeling shows that misuse of the CEQA process left the equivalent of 701 full time prevailing wage workers on the sidelines. This result is similar to press reports that put the number of affected jobs at 700.

Exhibit 3.- Prevailing Wage & Benefits, USC Student Housing, Los Angeles Co.							
Trade	Share	Budget	Hourly Wage & Benefit	Hours	Full Time Weeks	Full Time Workers	Total Wage & Benefit
Carpenter	45.3%	\$27,203,111	\$52.65	516,678	12,917	258	\$105,300
Laborers	4.3%	\$2,588,683	\$47.39	54,625	1,366	27	\$94,780
Electricians	10.4%	\$6,230,390	\$65.78	94,716	2,368	47	\$131,560
Cement Masons	2.9%	\$1,763,815	\$51.12	34,503	863	17	\$102,240
Iron Workers	5.1%	\$3,036,218	\$51.17	59,336	1,483	30	\$102,340
Plumbing	8.5%	\$5,107,165	\$42.70	119,606	2,990	60	\$85,400
Elevators	1.3%	\$807,318	\$40.99	19,695	492	10	\$81,980
Glass/Aluminum	6.7%	\$4,036,591	\$38.95	103,635	2,591	52	\$77,900
Heating & Air	10.4%	\$6,230,390	\$32.79	190,009	4,750	95	\$65,580
Painters	2.8%	\$1,667,287	\$26.50	62,917	1,573	31	\$53,000
Plasterers	2.3%	\$1,404,032	\$30.03	46,754	1,169	23	\$60,060
Total	100.0%	\$60,075,000	\$46.12	1,302,474	32,562	701	\$85,670

Source: California Employment Development Department for prevailing wages; labor budget percentage by Economics & Politics, Inc.

To determine the impact of the delay in prevailing wage jobs associated with this project, it was first estimated that 44.5% the \$130 million price tag or \$60,075,000 would be used for labor on it. That percentage was derived from similar projects by other prominent developers. Next, the percentage breakdown of the budget by trades was estimated from the same sources. The hourly wage and benefits came from the California Employment Development Department prevailing levels for Los Angeles County.

Altogether, the misuse of the CEQA process resulted in delaying construction of the USC Gateway student housing project for nearly two years. The overall impact has been as follows (*Exhibit 3*):

- \$46.12 is the weighted average of the median wage & benefit levels of the six categories of prevailing wage jobs that were delayed.
- In 2013 terms, the highest paid workers on the project were electricians (\$65.78) and carpenters (\$52.65). The lowest paid were painters (\$26.50) and plasterers (\$30.03).
- 1,302,474 hours of work were eventually created at the prevailing wage & benefit rates of the various occupations.
- 701 full time equivalent jobs were delayed. That is 1,302,474 hours of work spread across 40 hours a day or 32,562 full time weeks of work. For a 50 week year, that means 701 full time equivalent jobs were affected. The most were 258 carpenters, 95 heating and air conditioning workers and 60 plumbers. The least was the equivalent of 17 full time cement workers.
- The weighted average wage & benefit earnings of the workers whose jobs were held up was \$82,670 over the period of construction.

By the intentional misuse that CEQA lawsuits allow, the rival firm was able to prevented a very large number of prevailing wage workers from being employed for nearly two years.

Perris Line Extension of Metrolink: NIMBY’s Nearly Stop Commuter Rail

As part of strategies aimed at reducing vehicle miles traveled and lowering associated environmental impact, the Riverside County Transportation Commission (RCTC) has planned the extension of the Riverside Metrolink line from the city of Riverside to the city of Perris along an existing freight rail line. The project was through the CEQA process and ready for construction when a NIMBY lawsuit overturned the CEQA approval. This was done by a small group of homeowners (*Friends of Riverside Hills*) living above the existing rail line that will be used. The court upheld their complaint on the grounds that RCTC had failed to study how many truckloads of dirt would be moved for the project, the safety of trespassers crossing the rail line or the noise from trains rounding curves. The latter item was included even though freight trains have been operating on the line for nearly a century. The judge ruled that the CEQA process would have to be entirely redone. Ultimately, a \$3 million settlement allowed the project to go forward. However, this action put in jeopardy hundreds of prevailing wage jobs.

Exhibit 4.-Prevailing Wage & Benefits, Perris Metrolink Line, Riverside Co.					
Trade	Wage Hourly & Benefits	Prevailing Wage & Benefit Budget	Hours	Full Time: 6 Months	Wage & Benefit Earnings
Operating Engineers	\$58.89				
Carpenter	\$52.65				
Laborers	\$47.39				
Electricians	\$56.51				
Cement Masons	\$51.12				
Iron Workers	\$51.17				
Teamsters	\$51.05				
Sheet Metal Workers	\$62.96				
Plumbing	\$46.62				
Pipe Fitters	\$60.85				
Median Pay	\$51.91	\$25,549,089	492,180	448	\$57,044

Source: California Employment Development Department, Job Types & Construction Budget From Ames Construction

Specifically, the project’s total labor budget was \$35,228,643. Of this, the contractor, Ames Construction, indicated that \$25,549,089 would be trade union labor or 72.5%. Total labor would be 618 positions. If 72.5% were prevailing wage positions, 448 would be created. That is likely an underestimated as most of the jobs created would be for construction workers. The workers would be divided amongst the ten trades (*Exhibit 4*):

For this group of occupations, the potential losses from the NIMBY lawsuit were:

- \$51.91 is the median wage & benefit level of the prevailing wage jobs (*half paid more; have paid less*).
- Workers who will earn wages & benefits over \$55.00 per hour include sheet metal workers (\$62.96), pipe fitters (\$60.85), operating engineers (\$58.89) and electricians (\$56.51).
- The lowest wages & benefits will be for plumbers (\$46.62) and laborers (\$47.39).

- 492,180 hours of work will be created at the median prevailing wage & benefit rate of \$51.91.
- For this project alone, if construction lasted one year and 448 workers worked for a total of 492,180 hours, the average number of hours worked would be 1,098. That is the equivalent of 54.9% of a year.
- The median annual wage & benefit earnings of the workers would be \$57,004.

In this case, though a financial compromise was reached that will allow the project to go forward, it was clearly shown that environmentally important projects and their highly paid prevailing wage jobs are vulnerable to small groups of NIMBY activists using the CEQA law.

Booker T. Washington Community Center: NIMBYs Delay Transit Oriented Housing

San Francisco’s Booker T. Washington Community Service Center has provided job training and after school programs to underserved communities since 1919. To expand services, the group raised the funding to expand to 8-stories, including 42,000 square feet of affordable housing (*half for transitioning foster youth*) and a 20,000 square feet community center. This was reduced to 5 stories and 50 residential homes during community outreach. The draft EIR was approved in June 2010. Two NIMBY groups (*Presidio Heights Association of Neighbors; Neighbors for Fair Planning*) filed suit to overturn the preliminary EIR’s approval disagreeing with the facility’s size, aesthetics and parking adequacy. The latter though the users rarely drive and transit is two blocks away. The suit was dismissed in 2011 and an appeal dismissed in 2013.

Exhibit 5.-Prevailing Wage & Benefits, Booker T. Washington, San Francisco Co.						
Trade	Budget	Hourly Wages & Benefits	Total Hours	Weeks of 40 Hour Work	Full Time: 6 Months	Avg. Wage & Benefit
Carpenters	\$3,100,000	\$66.97	46,289	1,157	46	\$66,970
Laborers	\$295,000	\$45.86	6,433	161	6	\$45,860
Electricians	\$710,000	\$78.32	9,065	227	9	\$78,320
Cement Masons	\$201,000	\$50.99	3,942	99	4	\$50,990
Iron Workers	\$346,000	\$51.17	6,762	169	7	\$51,170
Plumbing	\$582,000	\$90.94	6,400	160	6	\$90,940
Elevators	\$92,000	\$48.69	1,890	47	2	\$48,690
Glass/Aluminum	\$460,000	\$41.83	10,997	275	11	\$41,830
Heating & Air	\$710,000	\$54.55	13,016	325	13	\$54,550
Painters	\$190,000	\$35.15	5,405	135	5	\$35,150
Plasterers	\$160,000	\$35.78	4,472	112	4	\$35,780
Totals	\$6,846,000	\$54.57	114,670	2,867	115	\$59,702

Source: California Employment Development Department for prevailing wages; labor budget from construction firm

Altogether, the delays prevented construction for six years. The reduced project that was finally approved had a \$6,846,000 budget for construction work. For this group of skills, the NIMBY lawsuit led to the equivalent of 112 prevailing wage workers not having jobs for six years. The overall impact has been as follows (*Exhibit 5*):

- \$54.57 is the weighted mean average of wage & benefit level of the prevailing wage jobs that were delayed.²
- Ultimately, the best paid of these workers will earn wages & benefits over \$60.00 per hour. This includes plumbers (\$90.94), electricians (\$78.32) and carpenters (\$66.97).
- The lowest wages & benefits will be paid to painters (\$35.15) and plasterers (\$35.78).
- 114,670 hours of work will eventually be created at the prevailing wage & benefit rates of the various occupations.
- 115 full time equivalent jobs have been delayed. That is 114,670 hours of work spread across 40 hours a day or 2,867 full time weeks of work. For 25 weeks, 115 full time equivalent jobs have been affected. The most were 46 carpenters, 13 heating and air conditioning and 11 glass and aluminum workers. The least was the equivalent of 2 full time elevator workers and 4 masons and plasterers.
- The weighted average wage & benefit earnings of the workers whose jobs were held up will be \$59,702.

In addition, the NIMBY efforts during the CEQA process succeeded in reducing the size of the originally proposed 2006 project from 85,000 square feet to 68,206 square feet, a reduction of -19.8%. Using that percentage factor, the rough impact was the permanent loss of prevailing wage activity of:

- \$1,352,609 in lost prevailing wage activity
- 22,656 hours of lost prevailing wage work
- 566 full time equivalent weeks of lost work for six months
- 23 full time equivalent jobs for six months lost to potential workers

Here, the use of the CEQA law by committed NIMBYs seriously delayed the building of an important community facility and the employment of a large number of prevailing wage workers and eliminated nearly 20% of the potential prevailing wage work. The lack of validity of their claims was shown in that both the Superior Court and the Appellate Court overruled their suits. But, for workers, the impact of this situation was lower incomes.

Netflix Related Senior Housing Project: NIMBYs Stop Transit Oriented Housing

In August 2011, Los Gatos Business Park, LLC received approval from the Town of Los Gatos to redevelop an old business park. Their plan was to update an existing office complex including building 168 senior homes and up to 550,000 square feet of office space. The site would represent transit oriented housing as it is within 1,000 feet of a planned light rail extension. Netflix, a major local business, became a partner in the project as the firm needed to expand their office campus. A mitigated negative declaration EIR was used to comply with CEQA.

² Weighted average used instead of the median as detailed data available by trade

However, a NIMBY group (*Los Gatos Citizens for Responsible Development*) vigorously opposed the expansion largely on aesthetic, not environmental grounds and filed a CEQA lawsuit to force a full blown EIR. Netflix decided to complete the full EIR, but anticipating further litigation delays and associated carrying and development costs, scaled down the design including removing the senior housing component. At this point, the project has been delayed for two years and the 168 units of senior housing will never be built. That will mean that the NIMBY use of CEQA has resulted in the loss of prevailing wage jobs required to build them.

Exhibit 6.-Prevailing Wage & Benefits, Netflix Senior Housing, Los Gatos, CA.								
Trade	Share	Labor	Budget	Hourly Wage & Benefit	Hours	Full Time Weeks	Full Time Workers	Total Wage & Benefit
Framing	25.0%	52.0%	\$3,212,446	\$64.24	50,007	1,250	25	\$128,480
Dry Wall	7.0%	71.0%	\$1,228,143	\$66.97	18,339	458	9	\$133,940
Plasterer/Stucco	6.0%	60.0%	\$889,600	\$45.86	19,398	485	10	\$91,720
Finishing	5.0%	50.0%	\$617,778	\$78.32	7,888	197	4	\$156,640
Electricians	12.0%	50.0%	\$1,482,667	\$50.99	29,078	727	15	\$101,980
Concrete (Carpenter)	10.0%	50.0%	\$1,235,556	\$51.17	24,146	604	12	\$102,340
Roofing	3.0%	50.0%	\$370,667	\$50.66	7,317	183	4	\$101,320
Mechanical	12.0%	40.0%	\$1,186,134	\$61.91	19,159	479	10	\$123,820
Plumbing	15.0%	60.0%	\$2,224,001	\$90.94	24,456	611	12	\$181,880
Other	5.0%	49.0%	\$605,422	\$80.95	7,479	187	4	\$161,900
Total	100.0%		\$13,052,414	\$62.97	207,266	5,182	104	\$125,949

Source: CA Employment Development Department prevailing wage data & REED Construction data

Senior housing projects generally range in size from 500 to 800 square feet. An average of 750 square feet per unit is assumed for this analysis as this would include hallways, common areas, dining areas, reception areas and elevators. At that size, the canceled project would have had 126,000 square feet of space. According to REED Construction Data, a standard source for estimating construction costs, such a facility would average \$196.12 per square foot in Santa Clara County, or \$24,711,120. A prominent builder of such units provided data on the various subcontractors it would use to build a similar facility. The information included the share of the budget going to each type of firm for each type of function, and the share of those budgets that would go to wage & benefits for prevailing wage workers. Based upon this information, the lost earnings for workers would be calculated as follows (*Exhibit 6*):

- \$24,711,120 in construction cost would see \$13,052,044 spent on wages & benefits to prevailing wage workers or 52.8%.
- The weighted average of the median hourly pay levels for the various trades would be \$62.97. The range of lost hourly wages and benefits would be from a high of \$90.94 for plumbers to a low of \$45.86 for plasterers and stucco workers.
- Altogether, 207,266 hours of construction worker activity was lost.
- Assuming a 40 hour work week, 207,266 hours of lost construction represents 5,182 weeks of full time construction work.

- A total of 104 full time equivalent workers will not be engaged. The largest number would be 25 framers; the lowest would be four finishing carpenters, roofers and other workers.
- The average wage & salary earnings to full time equivalent workers on this project that were lost was \$125,949.

Here again, the misuse of the CEQA process by NIMBYs has been shown to affect a significant number of prevailing wage jobs. In this case, the lost work has occurred in a period when the construction economy is just beginning to recover from the Great Recession.

Sacramento Senior Homes Project: NIMBYs Delay Transit Oriented Housing

Sacramento Senior Homes is a 40-unit infill housing project serving very low income senior citizens, many of whom were homeless before moving into the new building on Sacramento Street in Berkeley, CA. The project is a transit oriented development with three bus lines and BART nearby as well as shopping and services. The site had been a graffiti-laden lot and abandoned storefront. Plans for the facility reflected neighborhood feedback before the site was acquired, and in November 2001, non-profit developer Affordable Housing Associates filed for a permit with the city. An EIR was conducted and led to measures to mitigate potential impacts of noise, air quality, geology/soils during construction and traffic and staff concerns.

After eight public meetings, six design overhauls to address concerns, Berkeley voted to approve the project. However, a local neighborhood group filed a CEQA lawsuit alleging a more extensive environmental review must be conducted to address the fact that the project was not “visually compatible with its surroundings.” The court rejected the claim, but the NIMBY group appealed and were denied again. However, the CEQA process led to a two year delay and \$5 million in city and affordable housing money lost to legal fees and inflation. Another project could have been built with those funds.

Exhibit 7.-Prevailing Wage & Benefits, Sacramento Senior Housing, Berkeley CA.								
Trade	Share	Labor	Budget	Hourly Wage & Benefit	Hours	Full Time Weeks	Full Time Workers	Total Wage & Benefit
Framing	25.0%	52.0%	\$2,052,342	\$64.24	31,948	799	16	\$128,480
Dry Wall	7.0%	71.0%	\$784,626	\$66.97	11,716	293	6	\$133,940
Plasterer/Stucco	6.0%	60.0%	\$568,341	\$45.86	12,393	310	6	\$91,720
Finishing	5.0%	50.0%	\$394,681	\$78.32	5,039	126	3	\$156,640
Electricians	12.0%	50.0%	\$947,235	\$50.99	18,577	464	9	\$101,980
Concrete (Carpenter)	10.0%	50.0%	\$789,362	\$51.17	15,426	386	8	\$102,340
Roofing	3.0%	50.0%	\$236,809	\$50.66	4,674	117	2	\$101,320
Mechanical	12.0%	40.0%	\$757,788	\$61.91	12,240	306	6	\$123,820
Plumbing	15.0%	60.0%	\$1,420,852	\$90.94	15,624	391	8	\$181,880
Other	5.0%	49.0%	\$386,788	\$80.95	4,778	119	2	\$161,900
Total	100.0%		\$8,338,824	\$62.97	132,416	3,310	66	\$125,949

Source: CA Employment Development Department prevailing wage data and U.S. CPI from U.S. Bureau of Labor Statistics

For prevailing wage workers, who ultimately built the senior housing facility, the result was a two year delay before they could start work. Here, the project’s total cost was \$12,000,000 in

2002. Bringing that forward to 2013, the adjusted cost at the 31.6% inflation rate would be \$15,787,247. That is necessary as the wage and benefit rates used here are for first quarter 2013.

Using the shares of the construction budget typically going to different types of firms, and the share of those budgets that would go to wage & benefits for prevailing wage workers, the labor portion of the budget is estimated at \$8,338,824. Based upon this information, and current pay scales for workers, the delayed earnings for workers were the equivalent of (*Exhibit 7*):

- The weighted average of the median hourly pay levels for the various trades would be \$62.97. Delayed pay would range from a high of \$90.94 for plumbers to a low of \$45.86 for plasterers and stucco workers.
- Altogether, 132,416 hours of construction worker activity was delayed for two years.
- Assuming a 40 hour work week, 132,416 hours of delayed construction represents 3,310 weeks of full time construction work.
- A total of 66 full time equivalent workers were not engaged for two years. The largest number were 16 framers; the lowest were two roofers and other workers.
- The average wage & salary earnings to full time equivalent workers on this project that were delayed was \$125,949.

In this case, the misuse of the CEQA process by NIMBYs significantly delayed when prevailing wage workers could begin working on the project. Cases of this type have been reported in communities throughout the state, given the ability of the CEQA process to seriously delay even the most beneficial smaller projects.

Summary

Too often discussions about the impact of the difficulties in California's regulatory processes have focused on the impact on companies. More important would seem to be the impact on workers who have seen their livelihoods actually or potentially impacted by cancelations, delays and legal threats to project that would employ them. This effort has looked at these situations for blue collar workers who are potentially among the best paid in the state: those able to work on projects in which prevailing wages and benefits are paid. For these workers, the fact that the CEQA process can be used by NIMBYs or rival companies to put projects at-risk that are intended to accomplish important outcomes for their communities also means the process places a cloud over their living standards. At a time when the trend in the workplace is to generally create jobs for the well-educated, having CEQA structured in a way that hurts blue collar workers is unsettling.

In this analysis, just seven projects were reviewed. They were chosen because they are typical of the types of projects being impacted by CEQA abuses. They ranged from major commuter rail efforts to massive affordable housing/transit oriented developments to smaller community projects. On an annual basis, these projects meant that 3,245 prevailing wage jobs were delayed, eliminated or put at-risk. The average of the wages and benefits impacted was \$100,502. The

total annual wages and benefits affected was \$326.1 million. For the workers, the jobs that were impacted would have put their families well within the middle class.

Exhibit 8.-Annual Workers, Wages & Benefits, Total Annual Wages & Benefits Seven Projects Delayed or Canceled by CEQA Abuses			
Project	Annual Workers	Wages & Benefits	Total Annual Payroll
Perris Metrolink Rail Line	448	\$57,004	\$25,552,270
Booker T. Washington Transit Orient Housing	115	\$59,702	\$6,846,000
EXPO 2 Light Rail	679	\$103,067	\$70,000,000
USC Student Housing/Transit Oriented Housing	701	\$85,670	\$60,075,000
Netflix Affordable Housing/Transit Oriented Housing	104	\$125,949	\$13,052,414
Berkeley Affordable Housing/Transit Oriented Housing	66	\$125,949	\$8,338,824
Parkmerced Affordable Housing/Transit Oriented Housing	1,132	\$125,700	\$142,229,550
Totals	3,245	\$100,502	\$326,094,057

Here, it should be noted that in talking with the people involved in each of these seven projects, it became clear that the situations they faced were all too typical of a much larger number of efforts that were not part of this analysis. While CEQA is an important environmental tool, one has to wonder whether it could not be structured in a way that has a less deleterious impact on those parts of our society that are struggling the most economically.