

Reform CEQA to help live with drought

By Kristina D.
Lawson

Published 3:39 pm, Friday, January 23, 2015

•



Photo: Leah Millis / The Chronicle

Humberto Hernandez uses an excavator to place a dead almond tree into a wood chipper as the sun rises on a former block of almond trees on the land of Baker Farming in Firebaugh (Fresno County). Barry Baker decided to pull up 1,000 acres of his almond trees to save water during the drought.

Image 1 of 1

Humberto Hernandez uses an excavator to place a dead almond tree into a wood chipper as the sun rises on a former block of almond trees on the land of Baker Farming in Firebaugh (Fresno County). Barry Baker decided to pull up 1,000 acres of his almond trees to save water during the drought.

Three years into the longest drought in California's recorded history, a fourth dry year now looks likely. January has seen no rain and very warm temperatures are expected across the Bay Area this weekend. California took enormous

steps to address our water future by passing a water bond and landmark groundwater laws last year, but there's more to be done. Lawmakers should look to reform the California Environmental Quality Act to ensure we are using water efficiently and sustainably.

CEQA, as California's environmental protection law is known, does include special review processes and, in some cases, complete exemptions for some projects, e.g., building on agricultural land, transit-oriented development, flood control, housing, higher education projects — even the Olympics. State agencies and CEQA observers have debated — with no resolution — the proper way to analyze potential traffic impacts (vehicle miles traveled? automobile trips generated?) but shockingly haven't considered reforming CEQA to analyze how projects use water. Nor have we moved to speed up the process for projects that demonstrate efficient water use.

The time is right to reform CEQA.

Last year, the [Association of California Water Agencies](#) urged state and federal agencies to work with local agencies to put California on a path to drought resilience. That is, to work toward building capacity or capability to weather drought without significant adverse environmental, economic, social and other effects. A variety of techniques are used across California and the world to ensure drought resilience, from increased water storage, better groundwater management, to water conservation and efficiency measures, such as low-flow plumbing features, restrictions on certain types of landscaping and stormwater capture. One of the association's 10 recommendations was for the state to rethink regulations and permitting processes to encourage innovative technologies, including water recycling and desalination.

One way to work toward drought resilience is to use CEQA to evaluate whether future projects will use water efficiently and sustainably. CEQA does require certain projects to show they have an adequate water supply, and identify real alternative sources if the supply becomes insufficient. But CEQA doesn't require a thoughtful analysis of whether the proposed project's use of water is efficient.

The CEQA process should provide Californians with practical and substantive information that encourages good decision-making and rewards superior projects. There is no need to make the already arduous CEQA review more difficult, time-consuming or costly. Reforming CEQA to focus on what's important to California for the long term however will make the statute more effective.

The state and the nation listened intently earlier this month as Gov. [Jerry Brown](#) delivered his State of the State report to the Legislature. The governor reminded us that, as Californians, we have made “bold commitments to sustain our environment,” leading the way in renewable energy and efficiency efforts. While he discussed an ambitious proposal to continue to reduce greenhouse gas emissions and slow the threats associated with global climate change, he made no mention of reforming CEQA. But legislators have.

The first CEQA reform bill of the year, SB122, was introduced by state Sen. [Hannah Beth Jackson](#), D-Santa Barbara, and co-authored by state Sens. [Jerry Hill](#), D-San Mateo, and [Richard Roth](#), D-Riverside. The bill only proposes a change to CEQA's litigation procedures but, by including substantive yet commonsense changes in requirements and review, SB122 could be made into a real reform bill.

I urge you to contact your elected representatives in the Legislature to share your concerns about the need to build water use considerations into our key environmental law. While CEQA reform will be a significant step forward, building in drought resilience will not solve the state's water woes. It will, however, go a long way toward ensuring the resources we have are used effectively.

[Kristina D. Lawson](#) is a partner at Manatt, Phelps & Phillips LLP, where she specializes in land use and environmental law and policy. She is also the former mayor of Walnut Creek. To comment, submit your letter to the editor at www.sfgate.com/submissions/#1

H E A R S T *newspapers*

© 2015 Hearst Communications, Inc.