

Local Development/ Intergovernmental Review

District 4



Transportation Planning Academy
October 17, 2012

Erik Alm, District 4 Branch Chief, Local Development/Intergovernmental Review
Gary Arnold, District 3 Chief, Office of Transportation Planning – North

Overview

Who We Are

What We Do in LD-IGR

Why We Do It

- Laws & Regulations
- Policies & Directives
- Case Law

The Planning Process

The NEPA/CEQA Process

The LD-IGR Process

WHO WE ARE

A cyclist wearing a bright yellow jacket and a black helmet is riding a bicycle on a paved path. The path is bordered by a dark wooden railing. In the background, there is a large, curved concrete structure, possibly a bridge or a walkway, with a similar railing. The overall scene is outdoors, and the lighting is somewhat dim, suggesting an overcast day or late afternoon. The text "WHO WE ARE" is overlaid in a bold, orange, sans-serif font across the middle of the image.

WHO WE ARE, in D04

LD-IGR BRANCH

Office of Transit & Community Planning

Vacant
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Vacant
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Erik Alm
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WHO WE ARE, Statewide

HQ DIVISION OF TRANSPORTATION PLANNING

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Statewide LD-IGR Program Manager/HQ LD-IGR Branch Chief
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HQ DIVISION OF TRAFFIC OPERATIONS

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An aerial view of a street corner. A person is walking on a sidewalk that runs parallel to the road. To the left of the sidewalk is a road with a crosswalk. A green pedestrian crossing sign is mounted on a pole near the sidewalk. The sign features silhouettes of a person and a child, and a smaller sign below it with an arrow pointing left. The sidewalk is bordered by a concrete curb and a strip of greenery. The road has white crosswalk stripes and yellow double lines. The text "WHAT WE DO" is overlaid in large, orange, 3D-style letters across the center of the image.

WHAT WE DO



WHAT WE DO

LD-IGR Program Objectives

Review Federal/State/local/Tribal plans, programs & land use development proposals

Assess potential impacts to the State Hwy. System (SHS)

Coordinate with Lead Agencies on mitigation measures to protect facilities, operations and programs in our charge

WHAT WE DO

Districts

- Coordinate review of most development projects
- Establish partnerships with state and local land use authorities
- Coordinate with Lead Agencies on transportation mitigation

Headquarters

- Coordinates review of U.S. Army Corps of Engineers (USACE), U.S. Coast Guard (USCG) and multi-district/regional proposals
- Functions as Legal Liaison for Planning
- Provides training on program fundamentals and technical matters
- Provides direction on procedures, conflict resolution, legislative analysis, "best practices"
- Administers Statewide LD-IGR Program
- Helps ensure statewide consistency

WHAT WE DO

What is an LD-IGR Project?

Federal/State/Local/Tribal Development types

- Subdivisions of Land
- Commercial, including Casino Resorts
- Residential
- Industrial
- Schools and Offices
- Utility Lines
- General, Specific, & Community Plans
- Agricultural, including Forestry & Timber Operations
- Local Agency Formations & Annexations

WHAT WE DO

What is an LD-IGR Project?

CEQA/NEPA Environmental Documents

- From OPR-State Clearinghouse or the Lead Agency
- Formal Notices and Impact Assessments
- Mitigation and Monitoring Reports

Non-CEQA/NEPA Local Development Documents

Preliminary Tentative Maps, Feasibility Studies, Concept Plans, Draft Project Proposals, Site Plans, Traffic Studies, Conditional Use Permit Applications

WHAT WE DO

What is NOT an LD-IGR Project?

Federal/State/Locally Funded Transportation Projects

Caltrans = Oversight authority

- Caltrans (State Routes/Interstate Highways/US Highways [SHS])
- Local Assistance (bridges, city streets)
- Measure Projects (local/regional Highways)
- Special Funded Projects (>\$1 mill mitigation feature, passenger rail, some transit)
- Encroachment Permits (discretionary approval)

LD-IGR Review Team Identifies Impacts, Reviews Mitigation & Potential Permit Requirements

- Access management (locations, corner radii, surface material, mainline width, interchanges, tunnels)
- Sight distance and ROW encroachments
- Turn lanes, pockets, signals
- Pedestrian & Bicycle Accommodations
- Transit stops, railroad crossings
- Curb, gutter & sidewalks
- Bridges, Culverts & Drains
- Viewshed, Landscaping, Signs
- Additional traffic/hydrological studies



WHY WE DO IT

WHY WE DO IT

Laws & Regulations

Streets and Highways Code sections

90, 92, 124 – Caltrans overall authority

- To construct, improve, maintain & restrict use of SHS facilities
- By any act necessary or convenient

670, 670.1 – Discretion to require permits & condition encroachment onto SHS R/W

104, 113 - Obtain or Lease R/W, including non-motorized and drainage facilities

WHY WE DO IT

Laws & Regulations

Streets and Highways Code sections

- *94* - Contracts OK, including with Tribal Governments
- *114, 130* – Cooperative agreements for Caltrans to “bank” mitigation funds and to negotiate future mitigation

Government Code 14000-14456

- Specifies DOT structure, powers & duties
- Ultimate Statutory Authority > traffic expertise

Government Code 830-835

- Defines Tort Liability & Responsibilities

WHY WE DO IT

Laws & Regulations

National Environmental Policy Act

(NEPA, 1969), 42 USC Sec. 4321 -70

- Established CEQ (40 CFR 1500-8), Guidelines for Statutory Agency Cooperation, in each State
- Multi-step process of Environmental Review

California Environmental Quality Act

(PRC 2100, 1970) and CEQA Guidelines (CCR 1500, 1972)

- Localized analog to NEPA
- Flow Chart of Docs & Consultations
- Permit Approval Streamlining – Concurrent Rev.
- Requires review of environmental impacts, intergovernmental consultation, and mitigation

WHY WE DO IT

Laws & Regulations

Other Public Resources Codes & GC Planning Laws

- **Subdivision Map Act (GC 66410)**
- **Surface Mining & Reclamation Act (SMARA)**
- **Planning and Zoning Laws, incl. Gen. Plans**
- **Local Agency Formation Commission (LAFCO)**
- **Smart Growth – Infill, Affordable Housing & Transit Oriented Developments**
- **Transportation \$ – SB45 (75% Local/25% CT)**

WHY WE DO IT

Laws & Regulations

Case Law Interpretations by the Courts

Nollan v. California Coastal Commission (483 US 825, 1988)

- Must have logical link between proposed mitigation and the impact (ex: reduce average daily trips [ADT] by adding transit, or reduce intersection congestion w/ signal; but not pedestrian access for view) = **Nexus**

Dolan v. City of Tigard (512 US 374, 1994)

- Amount of required mitigation must be roughly proportional to and not exceed magnitude of the impact (ex: dedication of property v. building exclusion for R/W)
= **Rough Proportionality**

WHY WE DO IT

Laws & Regulations

Presidential Executive Order 12372 (1982)

- Established Federal IGR process
- Delegates to states if Federal financial assist
- Requires compliance with state IGR

Governor's Executive Order D-24-83 (1983)

- Requires state & local agencies to conduct IGR
- Established a State Clearinghouse in Gov's OPR, as the "single point of contact"

WHY WE DO IT

Policies & Directives

2005 HQ Deputy Directive (DD)-25-R1

Local Development - Intergovernmental Review

- Timely & consistent collaboration to ensure state planning priorities are considered for transportation facilities in our jurisdiction (EQUITY, ECONOMY, ENVIRONMENT)
- Obligations for each level of staff, 6 Deputies (Planning & Modal Programs, Maint. & Operations, Project Development, Finance, External Affairs, Chief Counsel)
- 3 Appendices: LD-IGR Decision Process, CEQA Litigation Policy, and Mitigation Monitoring & Reporting Guidelines
- Caltrans Traffic Impact Study Guide (TISG, 2002)

The Planning Process

General Plans

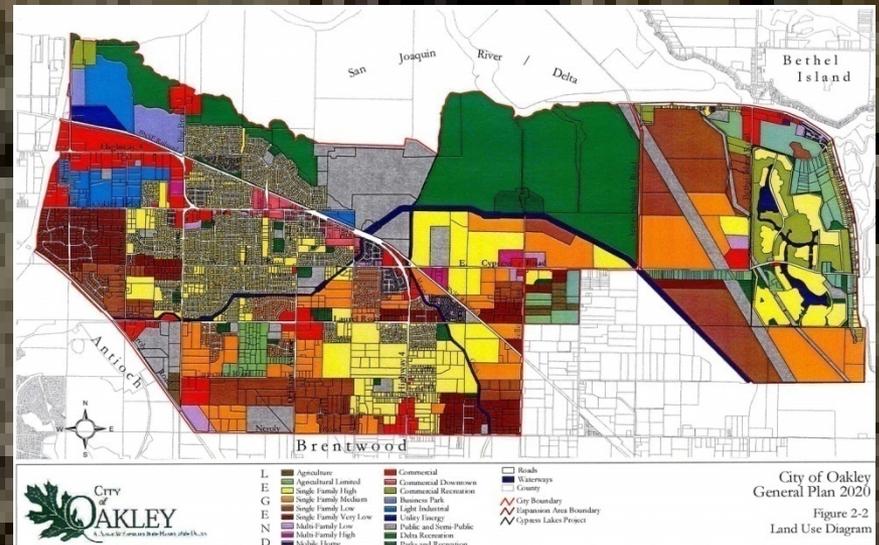
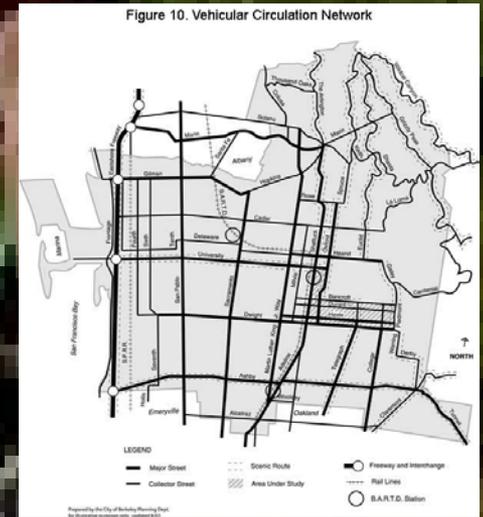
The Permit Process

CEQA and NEPA

General Plans

Each county and city must adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries which it may affect.

The general plan acts as a "constitution for future development."



General Plans

- General Plans

Overarching policy documents that determine the future growth of a city or county.

Consists of diagrams and text describing goals, objectives, policies and programs.

- Formats Vary

General Plans

The seven mandatory elements

- Land Use
- Circulation
- Housing
- Conservation
- Open Space
- Noise
- Safety

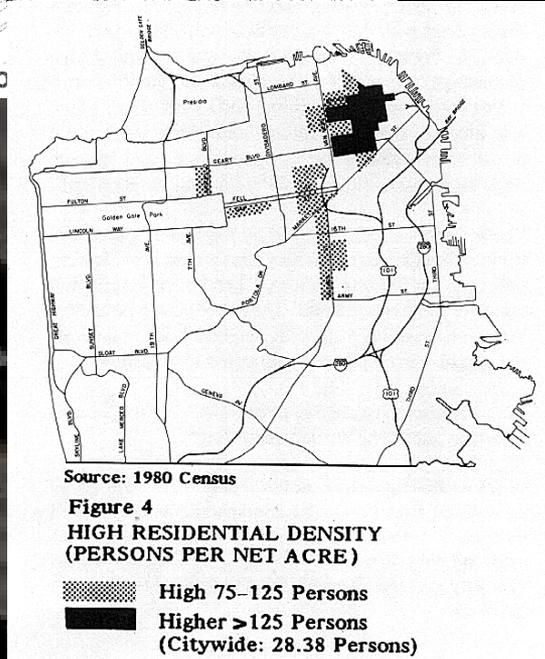
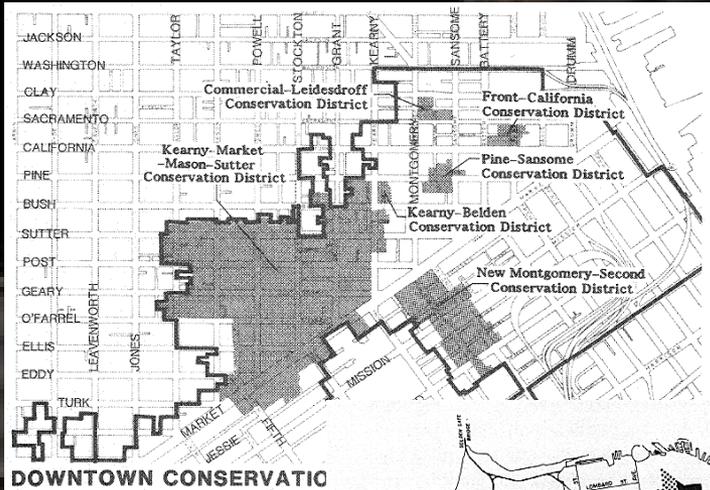
Optional elements may be included, but must be consistent with other elements.

Adoptions, updates or amendments typically trigger CEQA

LD-IGR may engage before or during CEQA (prior is preferred)

General Plans - Implementation

Every land use decision must be consistent with the General Plan



- Zoning
- Subdivisions
- Specific Plans
- Public Works Projects
- Acquisition/Disposition of Property
- Capital Improvement Plans



THE PERMIT PROCESS

G PERMIT

to be placed on the site of construction.

The Permit Process

Developer brings application to the Planning Department, which examines project and conducts environmental review.

Developer presents project to Planning Commission

Citizens comment

Planning Commission votes to approve project (Advisory/Certification of EIR, etc.) – Role varies

City Council/County Board votes for final approvals.





The CEQA/NEPA Process

CEQA

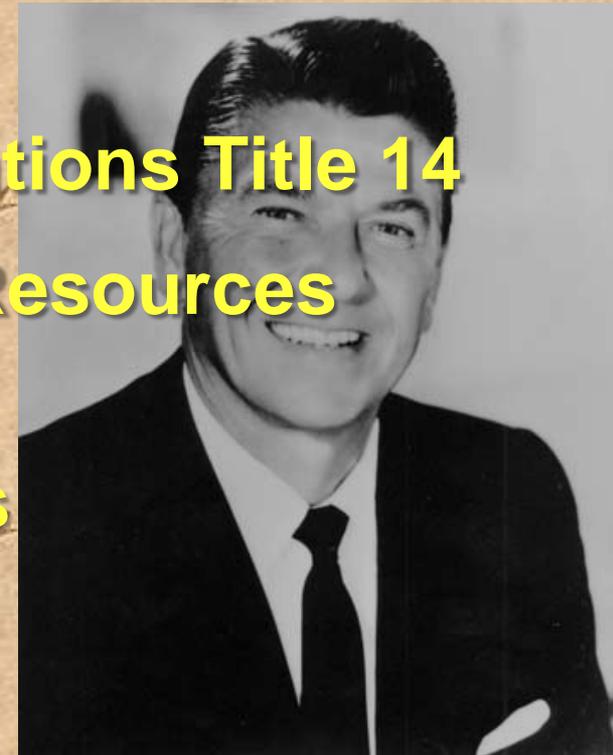
California Environmental Quality Act

- Public Resources Code (21000-21177)

CEQA Guidelines

- California Code of Regulations Title 14
- Secretary of the Natural Resources Agency
- Amended every two years

<http://ceres.ca.gov/ceqa/>



CEQA

Purposes of CEQA

- Inform decision makers about significant environmental effects
- Identify ways in which environmental effects can be avoided
- Prevent avoidable environmental damage
- Disclose the public why a project is approved even if it leads to environmental damage

CEQA also carries mitigation monitoring and reporting requirements

CEQA

CEQA Document Stage/Type

Notice of Preparation (NOP)

Initial Study (IS)

Environmental Impact Report (EIR)

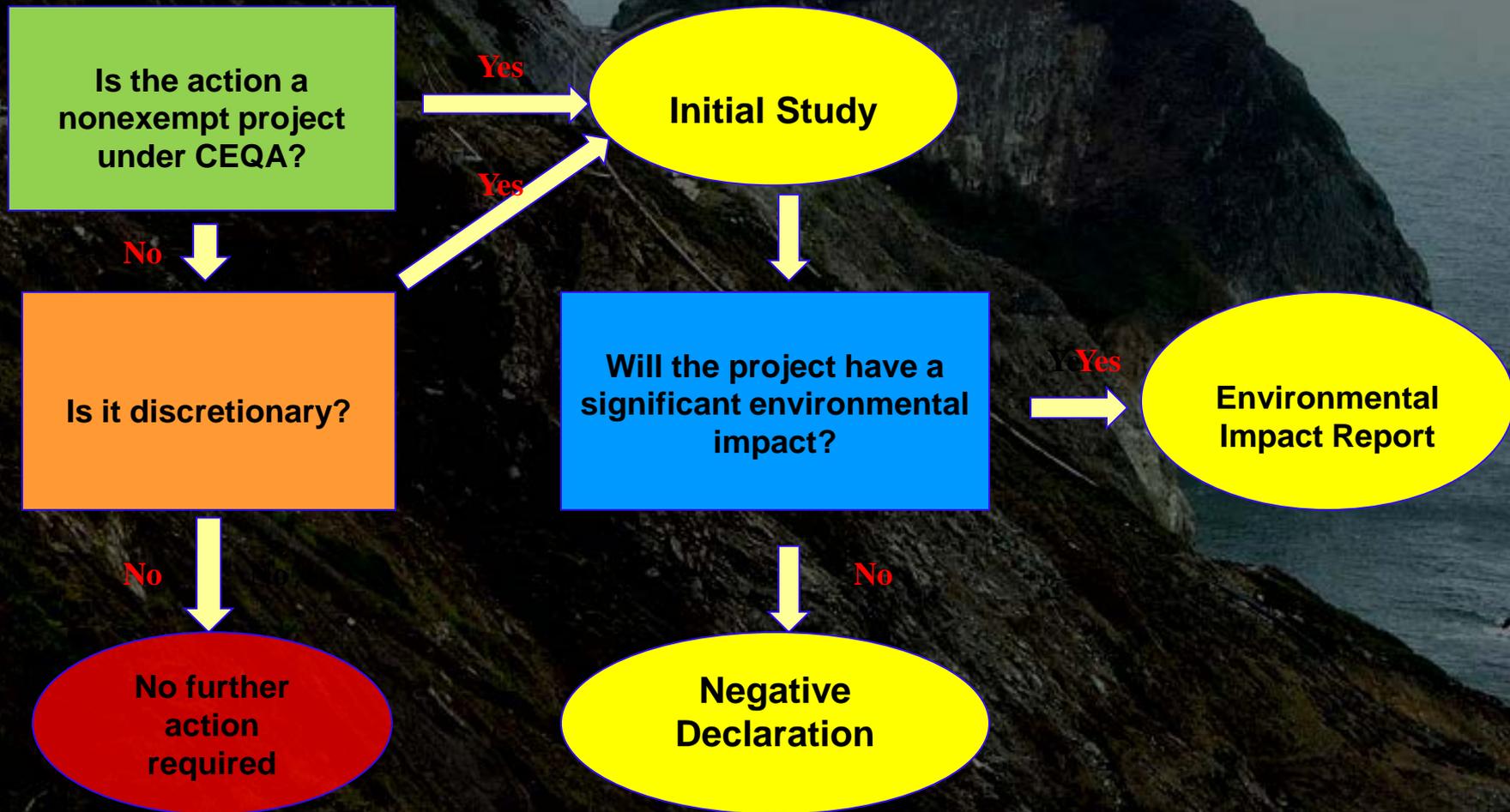
Notice of Determination (NOD)

Negative Declaration (NegDec)

Categorical Exemption (CatEx, CE)

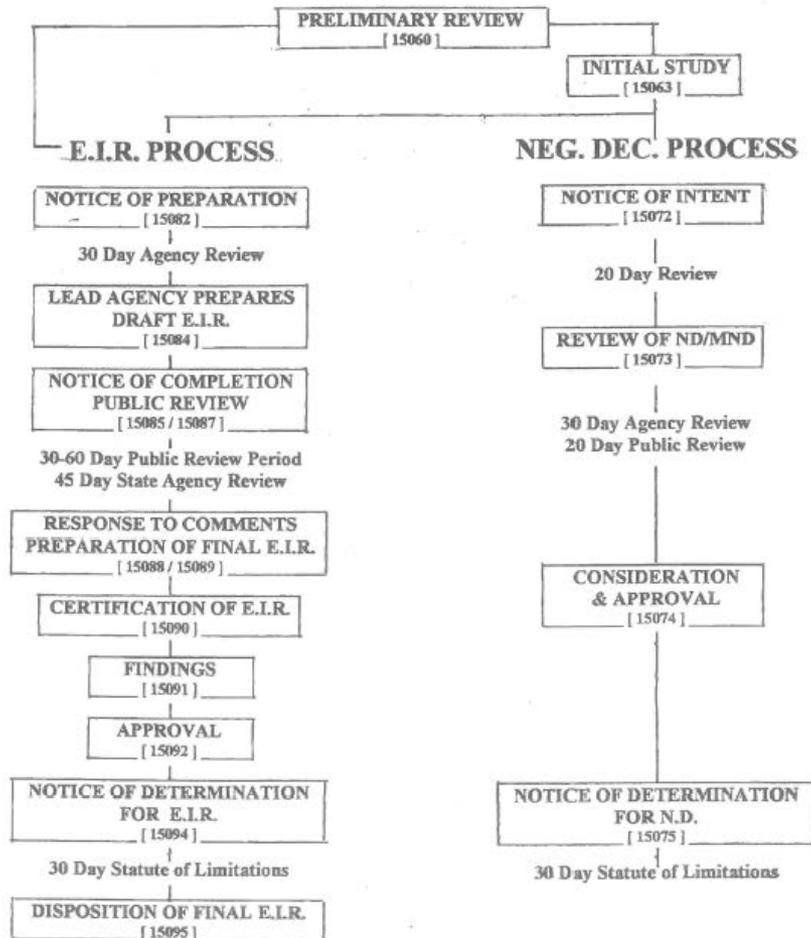
CEQA

The “3-Step Process” Model



CEQA

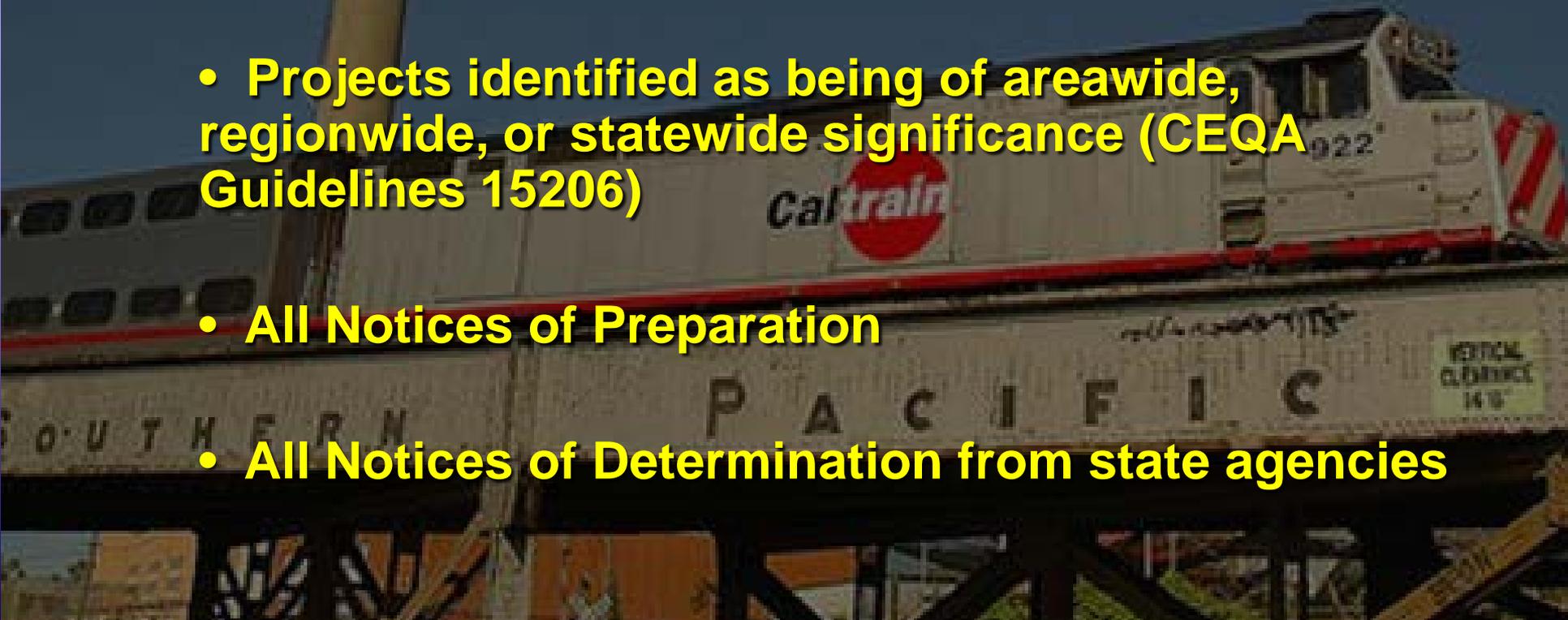
CEQA REVIEW FLOW CHART FOR CALTRANS AS A RESPONSIBLE AGENCY



CEQA

Distribution of certain CEQA documents through OPR

- Draft EIR or ND where state agency is Lead, Responsible, Trustee, or has jurisdiction by law for a project.
- Projects identified as being of areawide, regionwide, or statewide significance (CEQA Guidelines 15206)
- All Notices of Preparation
- All Notices of Determination from state agencies





CEQA



The 2 Hats of Caltrans

1. Builder and Developer: Lead Agency (Project Delivery)

Example: We build highways → OVERSIGHT

2. Owner-Operator of an Affected Resource

- **Responsible Agency:** An agency other than the Lead Agency, having approval authority over some portion of a project.

Example: Permits

- **Commenting Agency:** An agency with "jurisdiction by law" over a particular resource, but is neither a lead agency nor a responsible agency.

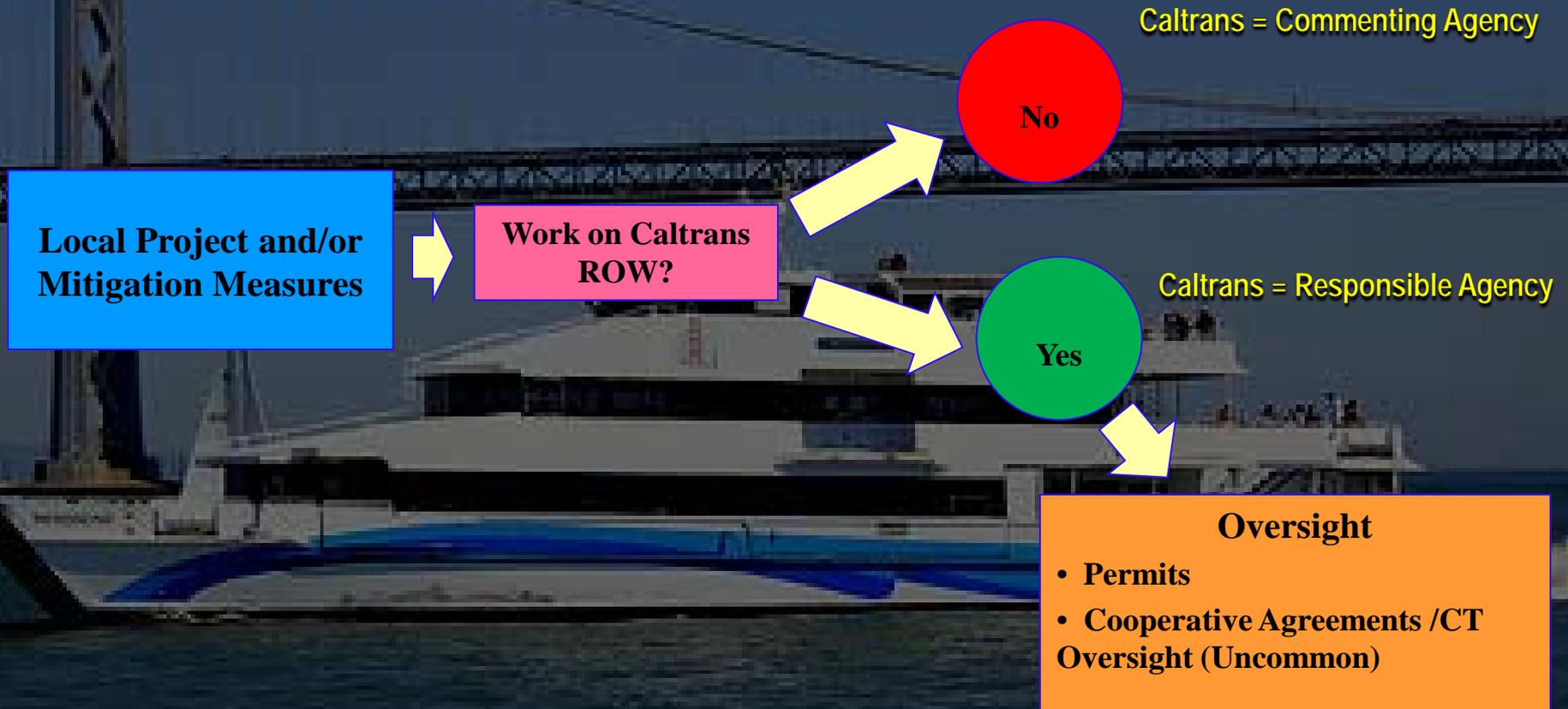
Example: Commenting on traffic generation or distribution for projects removed from the SHS.

Other Agency Roles in CEQA

Trustee Agency: A state agency having jurisdiction by law over natural resources which are held in trust for the people of the State of California.

CEQA

The 2 Hats of Caltrans When Both Fit



CEQA

“Realms” of Environmental Impacts

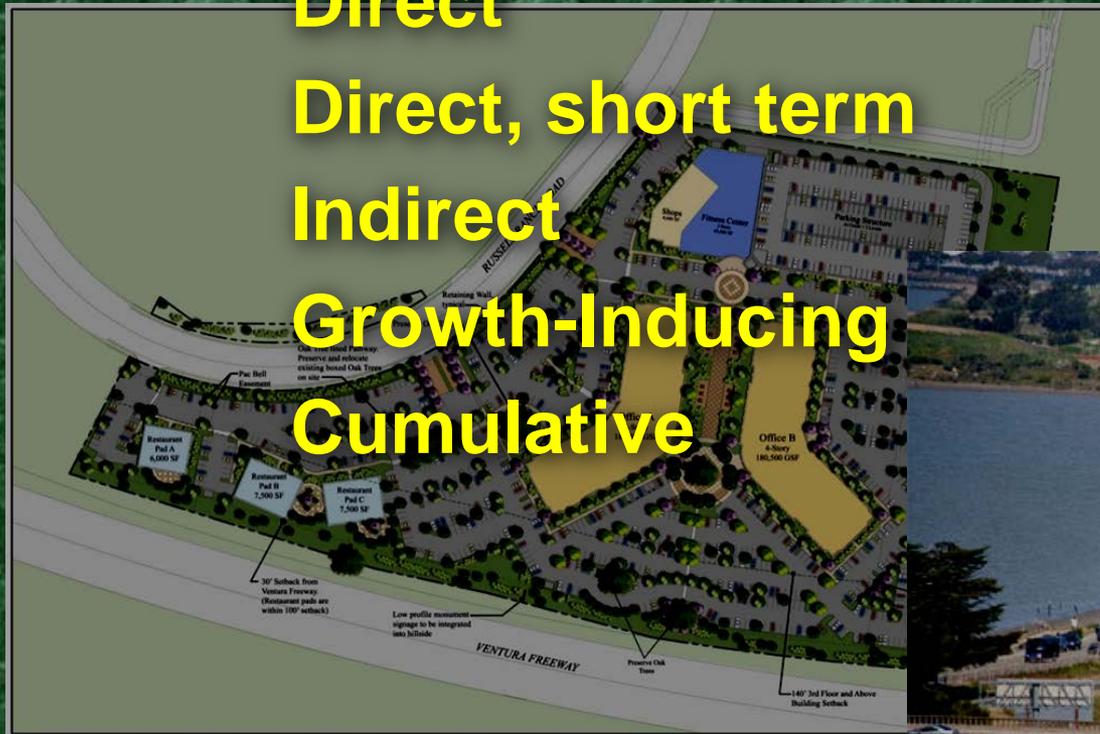
Direct

Direct, short term

Indirect

Growth-Inducing

Cumulative



NEPA

National Environmental Policy Act

Projects involving Federal agency discretionary actions

- Land trust acquisitions or deregulation
- Construction or development projects
- Approval of certain policies, programs or agreements
- Federally funded projects

NEPA

National Environmental Policy Act

42 USC Sec. 4321 -70

Establishes a process to ensure agency consultation and full disclosure of environmental consequences of agency decision making.

NEPA Guidelines

Each Federal agency has its own NEPA Guidelines

NEPA

NEPA Document

Notice of Intent (NOI)

Environmental Assessment (EA)

Environmental Impact Statement (EIS)

Record of Decision (ROD)

Finding of No Significant Impact (FONSI)

Categorical Exclusion (CatEx, CE)

CEQA Document

Notice of Preparation (NOP)

Initial Study (IS)

Environmental Impact Report (EIR)

Notice of Determination (NOD)

Negative Declaration (NegDec)

Categorical Exemption (CatEx, CE)

NEPA

Key Differences between NEPA and CEQA

NEPA requires an equal level of analysis across a “reasonable range” of alternatives.

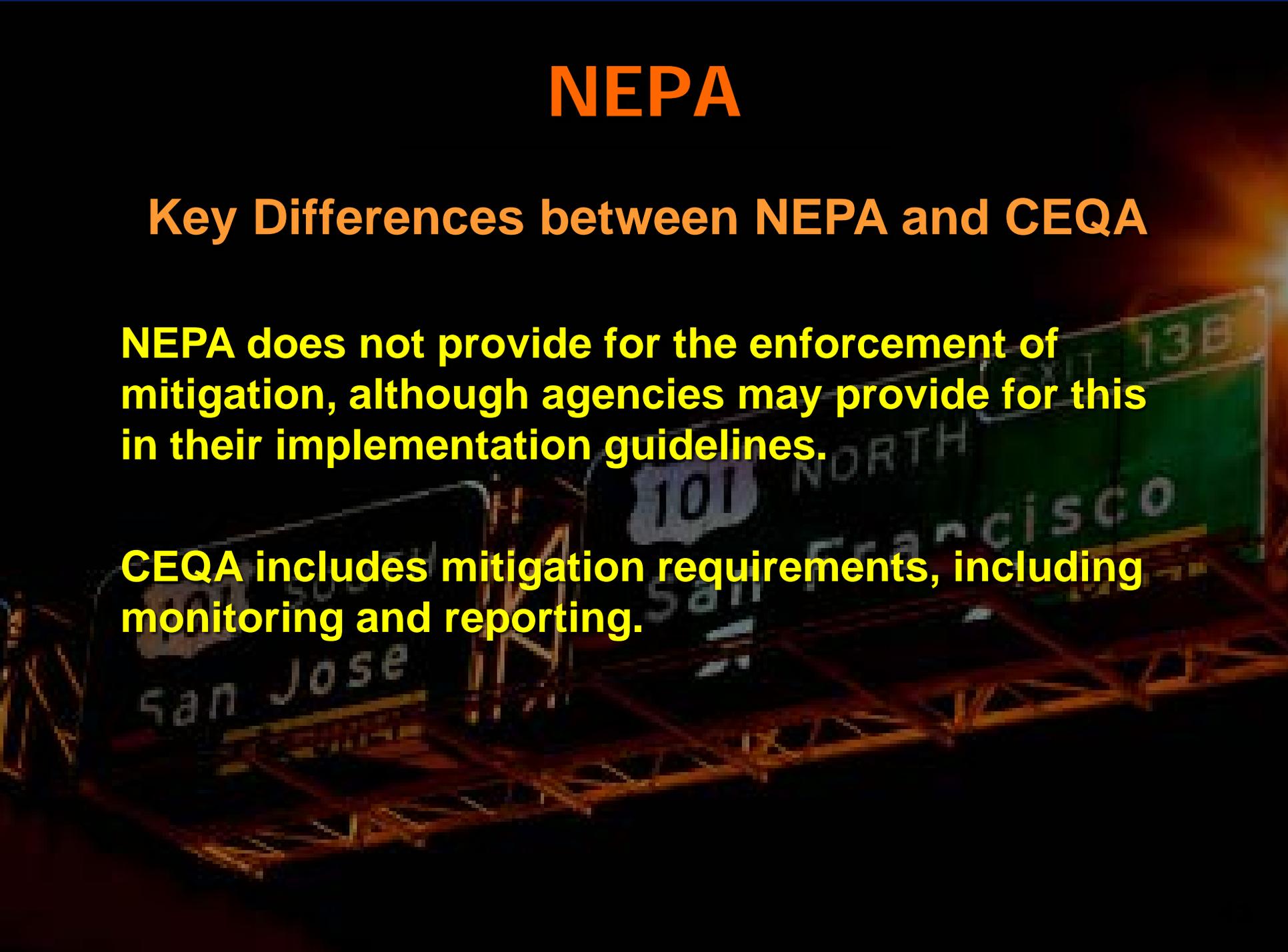
In CEQA, the range of alternatives should be limited to those that would attain most of the basic objectives of a proposed project, would be feasible, and would avoid or substantially lessen any of the significant adverse effects of the project.

NEPA

Key Differences between NEPA and CEQA

NEPA does not provide for the enforcement of mitigation, although agencies may provide for this in their implementation guidelines.

CEQA includes mitigation requirements, including monitoring and reporting.



NEPA

Important fact of both NEPA and CEQA

Neither adds any authority to any agency, but empowers any citizen or group to litigate

Litigation must be based on error in NEPA or CEQA process, including substantial evidence in analysis

Questions?



The LD-IGR Process

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The LD-IGR Process

WHAT WE DO What is an LD-IGR Project?

CEQA/NEPA Environmental Documents

- From OPR-State Clearinghouse or the Agency
- Formal Notices and Impact Assessments

Non-CEQA/NEPA Local Development Documents

- Preliminary Tentative Maps, Feasibility Studies
- Concept Plans, Draft Project Proposals, Traffic Studies, Conditional Use Permit Applications, Mitigation and Monitoring Plans



Appendix C
Document Transmittal
SCH # 2011064006

Project Location: County of Stanislaus, California
City: Modesto, CA 95814
Project Name: Central Valley Flood Protection
Project Number: 2011064006
Project Date: 10/16/10
Project Type: Urban Growth
Project Category: Urban Growth
Project Subcategory: Urban Growth
Project Phase: Final Documents

Document Type: CEQA NEPA Other
 Final Documents
 Final Documents
 Other

Lead Agency: Stanislaus County
Project Location: Collins Dr and Highway 99
County: Stanislaus
City: Modesto
Project Number: 2011064006
Project Date: 10/16/10
Project Type: Urban Growth
Project Category: Urban Growth
Project Subcategory: Urban Growth
Project Phase: Final Documents

Development Type: Residential Commercial Industrial Educational Institutional Other
Project Name: Collins Dr and Highway 99
Project Location: Collins Dr and Highway 99
Project Number: 2011064006
Project Date: 10/16/10
Project Type: Urban Growth
Project Category: Urban Growth
Project Subcategory: Urban Growth
Project Phase: Final Documents

Project Description: Collins Dr and Highway 99
Project Location: Collins Dr and Highway 99
Project Number: 2011064006
Project Date: 10/16/10
Project Type: Urban Growth
Project Category: Urban Growth
Project Subcategory: Urban Growth
Project Phase: Final Documents

Project Sent to the following State Agencies

Project Sent to the following State Agencies	State Consumer Services
<input checked="" type="checkbox"/> Resources	<input type="checkbox"/> Cal EPA
<input checked="" type="checkbox"/> Railroads & Waterways	<input type="checkbox"/> ARB - Airport Projects
<input checked="" type="checkbox"/> Coastal Comm	<input type="checkbox"/> ARB - Transportation Projects
<input checked="" type="checkbox"/> California River Bd	<input type="checkbox"/> ARB - Major Industrial Projects
<input checked="" type="checkbox"/> Conservation	<input type="checkbox"/> SWRCB - Div. Fisheries Assist.
<input checked="" type="checkbox"/> Fish & Game # 3	<input type="checkbox"/> SWRCB - Div. Quality
<input checked="" type="checkbox"/> Delta Protection Comm	<input type="checkbox"/> SWRCB - Div. Rights
<input checked="" type="checkbox"/> Cal Fire	<input checked="" type="checkbox"/> Reg. WQCB # 4
<input checked="" type="checkbox"/> Historic Preservation	<input checked="" type="checkbox"/> Trans. Safety C&T
<input checked="" type="checkbox"/> Parks & Rec	<input checked="" type="checkbox"/> Youth/Adult Corrections
<input checked="" type="checkbox"/> Central Valley Flood Prot.	<input type="checkbox"/> Corrections
<input checked="" type="checkbox"/> Bay Area & Dev Comm	<input type="checkbox"/> Independent Comm
<input checked="" type="checkbox"/> DWR	<input type="checkbox"/> Energy Commission
<input checked="" type="checkbox"/> Cal EMA	<input type="checkbox"/> NARC
<input checked="" type="checkbox"/> Resources, Recycling and Recovery	<input checked="" type="checkbox"/> Public Utilities Comm
<input checked="" type="checkbox"/> Bus Trans Mass	<input checked="" type="checkbox"/> State Lands Comm
<input checked="" type="checkbox"/> Aeronautics	<input checked="" type="checkbox"/> Tobacco & Plan Agency
<input checked="" type="checkbox"/> CUP	<input type="checkbox"/> Conservancy
<input checked="" type="checkbox"/> Caltrans # 4	<input type="checkbox"/> Other: _____
<input checked="" type="checkbox"/> Trans Planning	
<input checked="" type="checkbox"/> Housing & Com Dev	
<input checked="" type="checkbox"/> Food & Agriculture	
<input checked="" type="checkbox"/> Public Health	

State Clearinghouse Contact: (916) 445-0613
State Review Begins: 10-8-2011
SCH COMPLIANCE: 7-9-2011

Please note State Clearinghouse Number (SCH#) on all comments
SCH#: 2011064006
Lead Agency: Stanislaus County
Please forward late comments directly to the
ACQ/MD/ACD: 2140
(Resources: 6/11)

The LD-IGR Process

Functional Review Areas

Project Management

Traffic Safety

Electrical Design and Operations (Signal Ops)

Highway Operations

Design

Landscape Architecture

Hydraulics

Right of Way

System Planning including Bicycle Coordination

Forecasting

Community Planning and Pedestrian Coordination

Environmental Planning (Including Biology and Cultural Resources)

The LD-IGR Process

Substance of Comment Letter by CEQA Document Type

NOP – Define scope of Traffic Impact Study

Admin Draft EIR – Review prior to public Draft EIR

Draft EIR – Technical review of studies, requests for inclusion of additional information or the application of appropriate standards or measures in determining significance, assessment of mitigation adequacy

Final EIR – Verification that comments on Draft were incorporated and response is adequate

NOD – None or reiteration

The LD-IGR Process

Some Tools of Engagement

- Agency Consultation
- Correspondence
- HQ Consultation
- Scoping Meetings
- Governor's Office Issue Memo (GOIM)

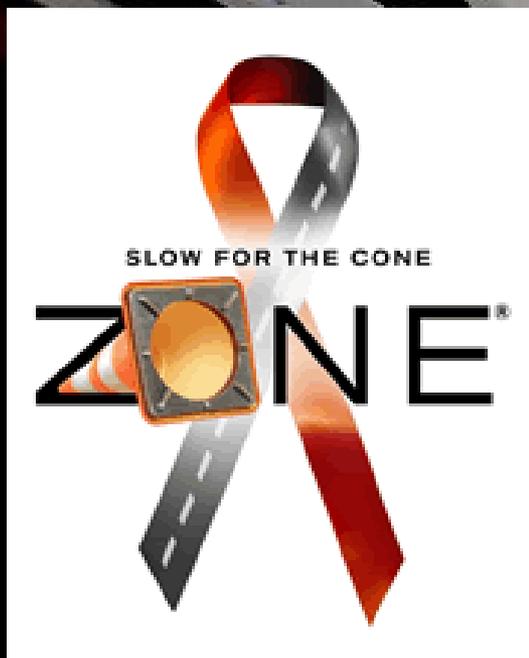
The LD-IGR Process

Transportation Planning Agencies receive special consideration under CEQA

Caltrans scoping meeting

- Projects affecting state highways
- Scoping meeting - 30 days after request
- Address issues

Questions?



$$L = \frac{V}{3600}d$$

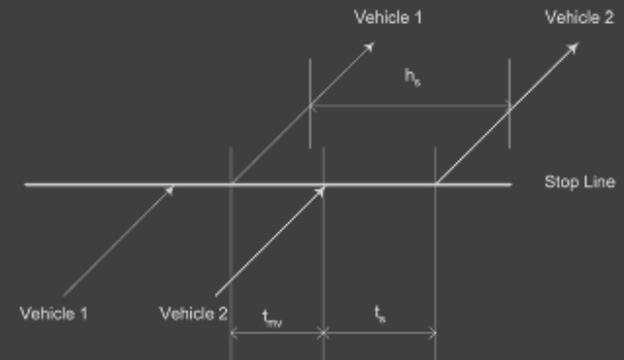
$$c = \frac{3600}{h_s} = \frac{3600}{t_s + t_{mv}}$$

$$L_{95\%} = 1.3L + 2.1\sqrt{L} + \frac{L}{L + 4.6} \quad L_{95\%} = 900T \left[\frac{V}{c} - 1 + \sqrt{\left(\frac{V}{c} - 1\right)^2 + \frac{\left(\frac{3600}{c}\right)\left(\frac{V}{c}\right)}{150T}} \right] \frac{c}{3600}$$

$$L_{95\%} = 225 \left[\frac{V}{c} - 1 + \sqrt{\left(\frac{V}{c} - 1\right)^2 + \frac{\left(\frac{3600}{c}\right)\left(\frac{V}{c}\right)}{450T}} \right] \frac{c}{3600}$$

LD-IGR Exercise

$$MAPE = \frac{1}{n} \sum_{i=1}^n \frac{|L_{mi} - L_{fi}|}{L_{fi}}$$



$$d = \frac{3600}{c} + 900T \left[\frac{V}{c} - 1 + \sqrt{\left(\frac{V}{c} - 1\right)^2 + \frac{\left(\frac{3600}{c}\right)\left(\frac{V}{c}\right)}{450T}} \right] + 5$$

$$MAE = \frac{1}{n} \sum_{i=1}^n |L_{mi} - L_{fi}| \quad 55$$

LD-IGR Exercise

At-A-Glance Diagnostic:

Examine the Facebook Campus Project, and using the additional information provided discuss the following in your table groups:

What information do you need?

Who Reviews?

What will you say to the Lead Agency?

Please designate a table spokesperson to present what your table came up with, and why.

FACEBOOK @ MENLO PARK

1501 WILLOW ROAD | 312 & 313 CONNECTIVITY CENTER
MENLO PARK, CALIFORNIA



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