

# AG Scrutinizes Plan’s Approach to GHG Mitigation

*Criticism of Santa Clarita Valley plan suggests Harris will follow Brown’s lead*

BY JOSH STEPHENS

**IN 2007**, THEN-ATTORNEY GENERAL JERRY BROWN established a new paradigm for planning in California. With his settlement in a lawsuit against San Bernardino County (see *CP&DR* Vol. 22, No. 7, June 2007 [1]), he clearly signaled that cities, counties, and county subregions would have to account for, and attempt to mitigate, greenhouse gas emissions in their general plans under the California Environmental Quality Act and AB 32. In fact, Brown went so far as to vow to sue any city that failed to account for its greenhouse gas emissions.

Last month, Brown’s newly installed successor Kamala Harris, issued a sharp critique of regional plan in the Santa Clarita Valley in north Los Angeles County – indicating that she will be carrying on this legacy.

Commenting on an environmental impact report circulated by Los Angeles County planners, Harris says that the draft – which was revised and re-circulated late last year – insufficiently addresses many issues, including greenhouse gas mitigation. Planners say that her approach, though in keeping with CEQA, could end up stifling the collaborative planning efforts that will be necessary to implement the Sustainable Communities

Strategies that SB 375 calls for.

The “One Valley, One Vision” (OVOV) plan will govern the next generation of growth both in the City of Santa Clarita and in the surrounding unincorporated areas of Los Angeles County. Founded in 1987 in the rugged hills north of the City of Los Angeles, Santa Clarita has grown to 176,000 residents both through build-out and voracious annexation of heavily-developed surrounding areas. The area, which consisted of barren hillsides 30 years ago, is expected to gain 90,000 dwelling units – an increase of 230 percent – by 2035, according to projections by the Southern California Association of Governments.

These projections have inspired an effort that planners say is unique in California regional planning. As its name implies, OVOV is actually two plans in one: a general plan update for the City of Santa Clarita and an area plan update for the surrounding county territory. Planners from the city and county are drawing up separate documents and conducting separate environmental impacts reports, but otherwise they are coordinating and collaborating in an attempt to manage growth in the entire area.

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## insight

WILLIAM FULTON

*Passions have been stirring ever since passage of Prop. 13*

## Redevelopment Debate Caps Off 33 Years of Discontent

SINCE JANUARY, we have witnessed the unusual spectacle of elected local officials throughout the state expressing intense and emotional anger and frustration about the possible end to redevelopment – and no reaction at all from anybody else.

Nothing from the people in blighted neighborhoods, who supposedly benefit from better housing and more jobs and more retail choices.

Nor from the environmentalists who are always calling for more infill development.

Nor even from the supposed fat-cat beneficiaries of the redevelopment system: the developers themselves.

What’s going on? Why are local officials bleeding all over the sidewalk, as it were, while everybody else just sidesteps and walks on?

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## LAND USE FEATURES PROMINENTLY IN REPUBLICANS' 'LIST OF DEMANDS'

**GOV. JERRY BROWN** entered office three months ago with a vow to close the state's \$26 billion budget gap as pragmatically as possible. What started out as an exercise in accounting has now risen to high political drama, most recently with the issuance of a 'list of demands' from state Republican lawmakers.


Not a single Republican member of the state Senate or Assembly has yet agreed to vote to put Brown's package of tax extensions on an upcoming statewide ballot. Doing so requires a 2/3 majority in both houses. Friday, GOP leaders told Brown what they want from him if they are to even consider supporting his tax plan. It's a long list, written roughly enough to suggest that perhaps it was not thought out thoroughly and is instead a document of opportunity. The GOP may, indeed, be throwing suggestions against the wall to see which ones stick. Not surprisingly, the list includes plenty of demands related to land use.

Some highlights:

**CEQA Reform:** Reform of the California Environmental Quality Act has been long sought by many who contend that it unduly burdens the development process. In fact, the GOP has often opposed CEQA outright, thus perhaps complicating their demand that it be reformed.

- Limit the amount of attorney's fees that a losing side would be liable for, and try to limit the size of overall awards.
- A lead agency not be required to respond to a comment after the closure of public comment period.
- Facilitate the development of urban infill projects.
- GHG emissions should be considered less-than-significant as long as a project is using best management practices; zero emissions not necessary.

**Enterprise Zones:** Republicans consider the elimination of Enterprise Zones to be a "permanent tax increase" that is, presumably, unlawful because it is not being subjected to a popular vote.

**Mello-Roos:** The GOP seeks a "fix" in response to the recent decision in *Azusa Land Parnters v. Dept. of Industrial Relations* (see *CP&DR Legal Digest* Vol. 26, No. 2, Jan. 2011 [  ]), which requires all projects in a Mello-Roos district to pay prevailing wages.

**Williamson Act:** Restore the Williamson Act subventions, to help landowners protect farmland and open space, for at least four years.

**THE CITY OF TEMECULA** is hoping to reach an agreement with the Pechanga Band of Luiseño Indians, who operates the Pechanga Casino, to pay for impacts on municipal services and infrastructure. Presently, the two parties have gone to court to try to find a resolution. This month, a federal judge in Los Angeles will determine if the trial can go forward, or if the tribe has sovereign immunity, exempting it from the lawsuit. Previously, the State of California had also been named as a plaintiff in the lawsuit, along with the City of Temecula, but the Attorney General's office has asked that the state's status as a "real part of interest" be withdrawn. A prior agreement between the state and the tribe mandates that the parties first attempt to settle disputes outside of court.

**THE LIVERMORE CITY COUNCIL** unanimously approved a plan to annex the Lawrence Livermore and Sandia California national laboratories. The ultimate decision on changing the city boundaries is now in the hands of the Alameda County Local Agency Formation Commission, which will consider the change in May. The land that the laboratories sit on is federally owned, and so the city would not be eligible to reap property or sales tax revenues from the land – two common reasons that cities annex property. The reason the city sited centers on a long-range strategic plan to bring green transportation jobs to the East Bay, called the Green Advanced Transportation Excellence Innovation Hub. The initiative would hope to generate a billion dollars in economic activity and create a center of innovation on par with Silicon Valley. By annexing the two labs, Livermore would be able to negotiate community mitigation benefits as development ramps up to help pay for infrastructure improvements.

**WITH THE RECESSION** undercutting its revenue streams, the city of Santa Paula in Ventura County is considering new development that could feed city coffers. The Ventura County Local Agency Formation Commission has approved the city's request to annex the site of a 536-acre development dubbed East Area 1. Property owner Limoneira wants to build 1,500 residential units as well as industrial and commercial

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**LIKE MANY CALIFORNIA CITIES** afraid of losing their redevelopment agencies' assets, San Jose sought to transfer some of its CRA's resources to city-controlled entities. In early March, this transfer, however, brought on the ire of the County of Santa Clara, to which the San Jose CRA owed over \$60 million – funds that would help pay for critical social welfare services. Consequently, the county's attorneys filed a lawsuit challenging the city's attempt to sequester redevelopment funds. But before the case went to trial, a Superior Court judge

approved a settlement. The terms of the settlement include: cash payments of \$26.5 million from the city to the county by May 15, 2011; transfer of the city-owned former city hall property to the county; and payment of the balance of the debt plus interest from 2014 to 2018. County Board of Supervisors President Dave Cortese called the agreement a "real breakthrough." The property in question – appraised at \$10 million – is contiguous with existing county government facilities, thus making it a logical fit for the county to take on.



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space on the site. The attendant fees and property taxes could help the city close a \$1.8 million budget gap that some thought might force the city to enter bankruptcy proceedings. Environmental groups have raised a number of important concerns about the potential impact of the project. In particular, environmental groups want the development put on hold until 2015, when the Army Corps of Engineers and the Ventura Watershed Protection District will finish a much-needed widening of Santa Paula Creek. Houses built adjacent to the creek could exacerbate flood risks, because of the increased runoff caused by paved surfaces; the Environmental Defense Center of Santa Barbara has called for further scrutiny of the projects impacts on the stream. The developer has agreed to pay \$350,000 per year to help keep the creek clear of debris to help reduce the risk of flooding.

**THE LONG BEACH PLANNING COMMISSION** has been holding hearings to study the potential for future development in the city’s downtown. The plan seeks to streamline approvals for developments in certain designated areas. This transformation of downtown Long Beach would be achieved by: removing potential environmental approvals; allowing for increased density in one square mile; approving thousands of new residential units and two million square feet of commercial space; and adding 3,200 more hotel rooms. Critics have viewed the proposals as too developer friendly and not focused on the needs of the existing residents. Specifically, the Legal Aid Foundation has expressed concerns that the plan could displace low-income residents with expensive new housing. In response, the City Council has approved an extension of the public comment period to allow the Legal Aid Fund to conduct a study on those potential impacts. With a \$100,000 grant from the California Endowment, the Legal Aid Fund will consider how these proposed changes would impact housing, and consider an alternative option that would incentivize more affordable housing.

**CALIFORNIA HAS JOINED** five other states in asking the U.S. Supreme Court for the legal authority to sue power companies in Federal Court to stop them from emitting greenhouse gases. While the states are trying to support Obama’s effort to curb global warming pollution, the Obama administration has aligned with the energy companies in this instance, albeit for different reasons. Specifically, the President thinks that the executive branch – namely the EPA – and Congress should hold this regulatory power, as opposed to the courts. The EPA is set to issue such regulations in spring 2012 – per a Supreme Court mandate – but it is facing opposition from Republican members of the House who want to strip the agency of that authority. The case brought by California seeks to have

the courts order electricity utilities to reduce carbon emissions by 3% for ten years. While none of the 174 plants in question is located in California, the state says that the global warming pollution adversely affects its water supply and air quality. And because this is a matter of commerce across state lines, the six appellant states argue, the Supreme Court should grant the states standing.

**IN ONE OF ITS** higher-profile recent deals, the L.A. Community Redevelopment Agency has approved the sale of a 20-acre parcel of land that was slated to be redeveloped into a green tech industry hub. The price tag is \$15.4 million, equal to the amount that LA/CRA borrowed to purchase the land. On the buying end is developer Genton Property Group, which was picked by LA/CRA because of the group’s commitment to realizing LA/CRA’s vision for the parcel. The sale was prompted in part by Governor Brown’s plan to eliminate redevelopment agencies, and because the L.A. CRA would have had to pay off its loans on the land by May 1. In the past several years, LA/CRA’s attempts to bring in an anchor tenant have fallen flat. The Los Angeles City Council touted plan to bring Italian light rail vehicle manufacturer AnsaldoBreda, which later fell apart – in part because the company had problems delivering trains to Metro on budget and to specification. Genton is apparently in discussion with several manufacturers that are candidates to take up a residency in its proposed \$90 million, 500,000 square foot facility. Approvals for the development will likely take an additional two years.

**CITRUS GROVES ONCE** ubiquitously donned post cards of Los Angeles and were a key to its agricultural

industry. But today, they’re an increasingly rare feature of the San Gabriel valley, as suburban development has spread in all directions. Those growers that are left are seeking out innovative ways to keep their businesses intact. One such plan, championed by the Inland Orange Conservancy, would help connect local citrus groves directly with local buyers. One such buyer, Bon Appetit, provides sustainable cafeteria services for the University of Redlands through its Food to Fork program. Another model connects growers to families via an annual subscription service that provides a set amount of fruit. For instance, \$75 a year would supply a family with two bags of oranges throughout the naval orange season.

**THE PALO ALTO** Planning and Transportation Commission has voted, 6-1, to approve a zoning change of for proposed mixed-use “downtown gateway” project. The change – to a “planned community” zoning designation – paves the way for the 64-foot project that would otherwise be too tall for its location. The project would fulfill a couple different goals for the city, including increasing density around transit hubs, which in this case is a Caltrain station in the heart of Palo Alto. The project would also come with a public garden, low-income housing, a ground-level café, and electric vehicle charging stations. So far, community members planning commissioners are concerned that the proposal includes too much office space and not enough housing. In light of these concerns, the developer will resubmit an application to the planning commission that contains more community benefits. The City Council and Architectural Review Board will also have to sign off on the proposal before it can go forward. ■



# legal digest

## Fifth District Judge Refuses to Grant EIR Severance

Ruling on project at CSU-Fresno rejects common practice of partial EIR certification

BY WILLIAM W. ABBOTT

AN APPELLATE COURT has directed a trial court to set aside all of a project's approval because portions of an environmental impact report were found to be inadequate.

The Fifth District Court of Appeal declined to follow the practice of allowing severance of project approvals unaffected by the California Environmental Quality Act (CEQA) violation. Instead, the court required that the project approval be set aside in its entirety once the CEQA violation was shown.

The disputed project involved land owned by the California State University, Fresno. The university had leased the property to an associated university foundation, which ground-leased the property to developer Kashian Enterprises for a 45-acre mixed-use project adjacent to the school's basketball arena. The CSU Fresno Board of Trustees certified an EIR and approved the project, called Campus Pointe, in 2007.

The owner of a Clovis shopping mall located three miles away filed a lawsuit alleging that the EIR was inadequate and that Trustee Moctesuma Esparza had a conflict of interest because he held a sub-sublease for the cinema portion of the development project. Although Esparza resigned from the board during the project approval process, Fresno County Superior Court Judge Jeffrey Hamilton in 2009 determined a conflict of interest existed and voided the sub-sublease between Kashian and Esparza. Hamilton also concluded that the EIR's analysis of water supply, traffic and parking, and air quality was inadequate. The plaintiff appealed because Hamilton's determination did not halt the entire project.

The first CEQA question for the Fifth District concerned the obligation of the trial court to issue a writ of mandate following the entry of judgment. Hamilton had entered a judgment in favor of the project opponent, but he did not



Most of the housing portion of Campus Pointe, a 45-acre mixed-use project located adjacent to the CSU-Fresno basketball arena, has already been constructed. The retail and office components remain unbuilt.

issue a writ, which ordinarily would specify what the Board of Trustees must do to satisfy CEQA. On this procedural issue, the appellate court held that Public Resources Code § 21168.9 makes the issuance of the writ mandatory.

The appellate court's most significant holding, though, has to do with what CEQA practitioners refer to as severance. Under this approach, if the trial court finds that an element of the CEQA document must be redone, the court may sever one portion of the project from the portion tainted by the invalid CEQA and allow the untainted portion to proceed. While many practitioners believe that such an approach is allowed by the California Supreme Court and appellate courts, as well by as the CEQA statute and CEQA Guidelines, the Fifth District disagreed.

"The statutes and CEQA Guidelines provide for the certification of an EIR when it is complete, and the concept of completeness is not compatible with partial certification. In short, an EIR is either complete or its not," Justice Betty Dawson wrote for the unanimous three-judge panel.

"[T]he trial court's determination that the final EIR was inadequate in certain respects requires an order directing the Board of Trustees to set aside its certification of the final EIR as well as its approval of the project," Dawson wrote.

If this decision remains undisturbed, the issue of severance in CEQA cases will likely have to be resolved by the California Supreme Court.

As for Campus Pointe itself, most of the housing portion has already been constructed. The retail and office components remain unbuilt. ■

➤ The Case:

*LandValue 77, LLC v. Board of Trustees of the California State University*, No. F058451, 2011 DJDAR 3937, 2011 Cal. App. Unpub. LEXIS 1312. Filed February 23, 2011. Ordered published in part March 16, 2011.

➤ The Lawyers:

For LandValue 77: David Douglas Doyle, Doyle & Schallert, (559) 227-2600.

For the Board of Trustees: Ethan P. Schulman, Crowell & Moring, (415) 986-2800.

For developer Kashian Enterprises: Harriet Steiner, Best, Best & Krieger, (916) 325-4000.

# Court Upholds L.A. County Marijuana Restrictions

## Unpermitted dispensary fails to get ordinance invalidated

BY CORI BADGLEY

A MEDICAL MARIJUANA DISPENSARY has lost its fight to invalidate a Los Angeles County ordinance regulating dispensaries and to overturn an injunction shutting down the operation.

This is just the latest skirmish in the battle over medical marijuana dispensaries that has raged throughout much of California. The Legislature adopted the Medical Marijuana Program Act in 2003 as a follow-up to the Compassionate Use Act, which was approved by voters seven years earlier. The 2003 law permits marijuana collectives and cooperative cultivating projects.

In light of this law, medical marijuana dispensaries began cropping up throughout counties and cities, often taking advantage of jurisdictions that had no zoning or permit scheme in place for such establishments (which previously had been illegal). In reaction to these dispensaries and the 2003 law, many counties and cities, including Los Angeles County, began establishing medical marijuana dispensary ordinances.

Adopted in 2006, the Los Angeles County ordinance required that dispensaries in the unincorporated territory obtain a conditional use permit and business license. The ordinance prohibited dispensaries within 1,000 feet of "schools, playgrounds, parks, libraries, places of religious worship, child care facilities, and youth facilities." Dispensaries were permitted

in the C-1 commercial zone as long as they met the above requirements.

Based on its ordinance, the county brought a nuisance action in Superior Court against an the Alternative Medicinal Collective of Covina, and its owner/operator, Martin Hill, who failed to apply for, or receive, the necessary permit. The trial court granted a preliminary injunction preventing the dispensary for operating unless it complied with the ordinance. The dispensary appealed.

In an attempt to overcome the preliminary injunction, the dispensary launched a barrage of arguments against the ordinance and the county's actions in enforcing the ordinance. The dispensary argued: (1) The ordinance was preempted by state law; (2) The ordinance was inconsistent with state law both on its face and as applied to Alternative Medicinal Collective; and (3) The ordinance was unconstitutional because it violated the Equal Protection Clause.

As to the first two arguments, the dispensary faced an uphill battle because of prior case law and the recent enactment of Health and Safety Code § 11362.768. In 2009, the Court of Appeal, Second Appellate District, decided that the Medical Marijuana Program Act did not preempt local government from regulating medical marijuana dispensaries. (*City of Claremont v. Kruse*, (2009) 177 Cal.App.4th 1153; see *CP&DR Legal Digest*, October 1, 2009 [↗]). In 2010, the Legislature approved Health and Safety Code § 11362.768, which states, "Nothing in this section shall prohibit a [county] from adopting ordinances or policies that further re-

strict the location or establishment of a medical marijuana ... dispensary ... ."

Based on the Claremont decision, the new law and the 2003 Medical Marijuana Program Act, the appellate court found that the act in no way preempted the ordinance, and that the county properly regulated the dispensaries within its jurisdiction.

The appellate court also found that the dispensary's equal protection argument had no merit. Alternative Medicinal Collective argued that because the dispensaries were not allowed to operate in the same zones as pharmacies, the ordinance violated the Equal Protection Clause. However, the court ruled the county had a rational basis for finding that dispensaries pose different risks from pharmacies and should therefore be regulated differently.

Finding in favor of the county on all arguments, the appellate court upheld the preliminary injunction. It is likely that the county will go on to win its nuisance action, resulting in the dispensary's closure. That closure could be permanent, as the county in December 2010 banned medical marijuana dispensaries in all of unincorporated Los Angeles County. The court did not rule on the new ordinance, which is under separate legal attack. ■

► The Case:

*County of Los Angeles v. Hill*, No. B216532, 2011 DJDAR 2345. Filed February 10, 2011.

► The Lawyers:

For the county: Sari J. Steel, county counsel's office, (213) 974-1853.

For Hill: J. David Nick, (415) 552-4444.

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# Sunset Beach Suit Clouds Future of 'Island' Annexations

*Beach community wants prenuptial agreement before being annexed to Huntington Beach*

BY JOSH STEPHENS

**THE MALIBU POLICEMAN**'s immortal warning "Keep out of my beach community!" in the 1998 leisure-sport epic *The Big Lebowski* could just as easily have been uttered last autumn by certain residents of Orange County's unincorporated community of Sunset Beach. In this case, though, they would not be shouting at The Dude but rather at the entire City of Huntington Beach.

Instead, a group of Sunset Beach residents are suing the City of Huntington Beach for, they say, unfairly imposing a 5% Users Utility Tax on them.

Last year residents of Sunset Beach, which has roughly 1,100 residents, commissioned an incorporation study that ultimately demonstrated a lack of viability, according to the Orange County Local Agency Formation Commission. Instead, because of Orange County's aggressive pursuit of so-called "small island" annexations, Sunset Beach was slated to be subsumed by Huntington Beach late last year. That decision was met with mixed reviews in the fiercely independent community.

"Some people thought that the study justified becoming our own city," said Mike Van Voorhis, president of the Sunset Beach Community Association. "There are others, me included, (who) looked at the study to become a city (and decided) it made more sense to become part of Huntington Beach."

Small island annexations are supposed to proceed without much fuss and without a popular vote. But the lawsuit suggests that a potential contradiction in state law could – in the absence of a clear court ruling on the Sunset Beach case – complicate countless other small island annexations throughout California.

"The Sunset Beach situation has the capacity to have statewide implications," said Huntington Beach City Attorney Jennifer McGrath.

This merger will take place against the backdrop of a lawsuit that has exposed a potentially troubling conflict between the Knox-Cortese-Hertzberg Local Government Reorganization Act of 2000 – the law that governs annexations and local agency formations – and Proposition 218, the 1996 ballot measure that requires voter approval for most local tax increases.

In 2000 Knox-Cortese-Hertzberg was updated to include a Section 56375.3, a provision for the streamlined annexation of unincorporated islands of less than 150 acres. The law gives LAFCOs the discretion to ap-

prove, but not to deny, island annexations without protest or popular votes. The provision was designed to do away with small islands in order to promote efficient governance.

For the most part, these annexations take place smoothly, as the law intended.

"There's been a lot of island annexations that have occurred over the last few years with this provision in the law," said Bill Chiat, executive director of the California Association of Local Agency Formation Commissions. "In almost all cases they're done collaboratively. LAFCOs'



Sandwiched between Los Alamitos Bay and the Pacific Ocean, Sunset Beach is not literally an island. Since its founding 107 years ago, to the 1960s (photos above) to today, the community remains an independent haven of beach bums and dive bars.

commissions and cities rarely want to do an annexation where the residents aren't at least neutral if not supportive."

Sunset Beach is not literally an island, but it comes fairly close, occupying a thin spit of coastline with Los Alamitos Bay on one side and the Pacific on the other. It's also adjacent to the Naval Weapons Station in Seal Beach. In the 107 years since its founding as a railroad depot, Sunset Beach has attempted to remain a place of houseboats, dive bars and flip-flops while its larger, richer neighbor has gamely marketed itself as "Surf City, USA."

This marriage of beach bum and trophy wife comes about as a result of Orange County LAFCO's assignment of the 134-acre community to Huntington Beach's sphere of influence in 2009. Sunset Beach is one of

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# >>>> Lawsuit Decries Levying of Utility Tax Without Consent

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26 remaining small islands in the county that are being eyed for annexation. The Huntington Beach City Council began annexation proceedings in August of 2010. In January a court issued a preliminary injunction against the annexation, which has yet to be recorded by LAFCO.

A group of Sunset Beach residents called the Citizen's Association of Sunset Beach filed a suit Dec. 9, claiming that a 5% Utility User Tax that is charged throughout Huntington Beach violates Prop. 218. The suit originally challenged the annexation in its entirety but, following a January ruling that stayed the annexation, the suit is now limited to the utilities tax but is not challenging the annexation.

Plaintiffs have argued that the imposition of the tax violates their right to consent to the tax under Prop. 218. City officials contend that it is not a new tax per se but rather the expansion of city boundaries, which thus applies an existing tax to new residents. City Councilmember Keith Bohr, who was mayor when the council approved the annexation, said that Huntington Beach's 5% UTT is actually the lowest such tax among all the options that Sunset Beach faced. Annexation by Seal Beach, to the north, would have likely resulted in a higher tax, and the community's own incorporation study estimated that utilities taxes would have to be as high as 10%.

The City Council had initially not intended to levy the utilities tax but, acting on advice from McGrath, determined in November that existing Huntington Beach residents might sue if Sunset Beach was exempted from the tax. In any event, they say that the tax was not an issue during the discussions leading up to the approval of annexation and that they did not expect Prop. 218 to force their hand.

"When we sat down with them initially, they gave us 14 points that were really important to them and we agreed on 13 of the 14 points. This utility tax came up later after that," said Joe Carchio, mayor of Huntington Beach. "We were hopeful that we not going to tax them. We didn't realize – at least I didn't realize – that Prop. 218 would come into play."

City Attorney McGrath contends that Prop. 218 does not, and should not, come into play because the tax is not "new" as such. Instead, she argues that it is an existing tax being levied on new taxpayers. LAFCO's annexation study projects that Huntington Beach would net roughly \$600,000 annually on just over \$1 million in tax revenues collected in Sunset Beach; Sunset Beach's portion of the UTT would amount to roughly \$200,000.

"These are taxes that residents of Huntington Beach pay," said McGrath. "By LAFCO's decision to annex that unincorporated area into the City of Huntington Beach they will be merely paying the same taxes as would any other resident of the city."

If the UTT was not imposed until a citywide vote took place – which would not be until 2012, according to the city's current election calendar – then Huntington Beach would be forced to withhold some services from the residents of the untaxed area. If it did not, then, McGrath said, the city could face a lawsuit from existing residents who would likely see Sunset Beach as getting a free ride.

"Obviously the citizens of Huntington Beach don't want to subsidize the citizens of Sunset Beach," said McGrath. McGrath said that she is

confident in her position in part because the 2000 update of Cortese-Knox-Herzberg came after the passage of Prop. 218, meaning that legislators have implicitly addressed any issue that Prop. 218 would raise.

"The Legislature is presumed to know what the law is when they're creating new legislation, so an inconsistency would have been remedied if it was needed," said McGrath.

Opposing counsel says that Prop. 218 requires that the consent of the annexed residents must take precedence or else the annexation should not take place.

"If you get a vote for purposes of annexation, that is sufficient to satisfy your right to a vote under 218," said plaintiff's attorney John McCarron, of law firm Stern, Van Vleck, and McCarron. "In the standard annexation, your vote (to annex) kind of qualifies as both and the constitution is satisfied. Here, that's not the case."

While the suit has been a headache for Huntington Beach, it could foreshadow further complications for countless future island annexations around the state.

Fresno County LAFCO has already faced a similar issue. In 2009 the City of Fresno was set to annex and impose its city utilities tax on 49 acres, comprising a relatively upscale residential neighborhood through the islands annexation law. That annexation was suspended when the Howard Jarvis Taxpayers Association threatened a lawsuit.

The city then sued LAFCO for suspending the annexation on the grounds that it was treating the Jarvis letter as a "protest" and thus violating Knox-Cortese-Hertzberg.

That case settled with an unpublished opinion.

"Courts have never settled the question as to whether or not a protest proceeding satisfies the requirements of Proposition 218," said attorney Kenneth J. Price, of Baker, Manock & Jensen, which represented Fresno LAFCO. "This is really a two-part analysis: the first question is, is there this conflict between the statute and 218? And even if there were a protest, does the protest satisfy the requirements of 218?"

Thus, the relationship between small island annexations and Prop. 218 remains very much an open question. This apparently intractable conflict in Sunset Beach will likely lead to a precedent-setting ruling if and when the suit goes to trial in August.

"I expect the question will continue to be raised as annexations occur in the future and there is some kind of assessment that comes with the annexation that people will be concerned if their costs increase," said Chiat.

If a court was to find in favor of the plaintiffs in Sunset Beach, the ruling could undermine the small islands annexation provision in Knox-Cortese.

"The whole point of an island annexation is to fast-track simple, small annexations," said Price. "And if a 218 proceeding is imposed that's exactly like a protest proceeding. It's going to slow down the process."

Cities could, of course, agree not to impose contestable taxes, but doing so would, according to McGrath, eliminate cities' incentive for annexing islands in the first place.

"They encourage this type of annexation so that counties are basically

The relationship between small island annexations and Prop. 218 remains very much an open question.

This conflict in Sunset Beach will likely lead to a precedent-setting ruling if and when the suit goes to trial in August.

## >>>> Prop. 218 Puts Huntington Beach in Bind Over Tax

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getting out of the business of running cities. They designed it this way,” said McGrath. “If the city can’t collect the taxes, there’s no incentive for the city to take it on.”

Many opponents of the lawsuit feel that it amounts more to an expression of civic pride than of genuine concerns over governance.

“There is a legitimate legal issue that needs to be determined, but I believe that the people who have this lawsuit simply are trying to find a way to crush the annexation,” said Voorhis. Representatives of the Citizen’s Association of Sunset Beach were not available for comment before press time.

Huntington Beach officials insist that the Sunset Beach faithful have nothing to worry about.

“In the long run, [Sunset Beach residents will be] much happier that they’re going to be part of Huntington Beach and still maintain that small-town flavor in that their name is still there,” said Carchio. “We’re not going to go in there and start bulldozing properties and start putting up large hotels.” ■

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## >>>> Sta. Clarita Plan: Uncommon City-County Collaboration

– CONTINUED FROM PAGE 1

“The city is very unique because it’s surrounded by unincorporated territory and the city has grown and annexed territory over the years so there was a real interest in joint planning,” said Mitch Glaser, supervising regional planner with the Los Angeles County Department of Regional Planning.

In an age when regional planning is coming to the fore because of SB 375, officials say that this sort of collaboration will become increasingly necessary.

“As (the Southern California Association of Governments) is dealing with developing the first sustainable communities strategy in order to reduce greenhouse gases and vehicle miles travelled in the region, we’re actually very supportive of the types of policies that are going into that plan,” said Mark Butala, manager of comprehensive planning at SCAG. “The cooperation that we’re seeing...is a model, on a smaller scale, of where we expect the region to go as we move forward in this more integrated planning approach.”

Both portions of the OVOV plan involve heavy doses of smart growth principles. The City of Santa Clarita is increasing density on its transit corridors, envisioning the repurposing of retail strips, and promoting mixed-use development – all in a city that promotes itself as a quintessential suburb of single-family homes. Meanwhile, the county is down-zoning some of the more remote developable land while up-zoning land adjacent to major arteries. The plans also call for intensive development around the valley’s three Metrolink commuter rail stations.

All of this, planners say, is a recipe for sustainability.

“We are supportive of the fact that county unincorporated area is willing to downzone considerably in some areas and the city is taking on additional density in a strategic way in their transit corridors,” said Butala.

The attorney general’s office, however, contends that the harmony that has developed between city and county does not excuse what it considers to be an insufficient environmental review. The attorney general’s office’s letter, signed by Senior Attorney Susan Durbin on Harris’ behalf, calls into question both the plan and some of the methodology present in the

re-circulated draft environmental impact report (DEIR). The letter was directed only at the county’s portion of OVOV; her office did not raise concerns about the city’s portion. Durbin was one of Jerry Brown’s key aides on greenhouse gas emissions when Brown was Attorney General.

The letter criticizes the plan’s projected increase in ground-level pollution as well as in greenhouse gas emissions from increased car trips. The letter notes, “rather than proposing land use changes that reduce the need to drive in the Valley, the OVOV Plan will result in a 120 percent increase in existing driving trips,” for a total of 3 million additional annual miles. Most damningly, the letter hones in on the DEIR’s admission that the increase in car trips far outstrips the projected increase in population.

The letter criticizes the plan for relying on vague mitigation measures, such as increased use of transit, without offering any assurances that the mitigation measures will be feasible. And the attorney general’s office was disappointed in what it considered a lack of information on certain key points.

For example, our concern about full disclosure of housing development that has already received entitlements arose because the revised EIR seems less informative on this point than the original EIR,” wrote a spokesperson for the Department of Justice in an email. (The spokesperson requested that neither he nor staff attorneys be identified by name; this article presents those comments as official representations of department’s views.)

Environmental groups are also wary of the plan. Though it is separated from the perennially smoggy San Fernando Valley by the Santa Susana Mountains, the Santa Clarita Valley emits plenty of its own pollution, which is then trapped by the mountains that surround it on all sides. They say that concerns such as Harris’ are well founded.

“The Santa Clarita Valley...suffers from some of the most intractable air pollution and ozone problems in the region,” said Damon Nagami, staff attorney with the Natural Resources Defense Council. We see this as a battleground and a place where we’re glad to see the attorney general

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# >>>> AG Criticizes Plan Regardless of Regional GHG Strategies

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stepping in and taking a strong stance that GHG emissions need to be properly analyzed and fully mitigated for.”

County planners say that they would like to be able to mitigate more of the impacts from dispersed development, but their hands are tied by several factors. While it may seem that greenfield development on the urban fringe is a thing of the past, thanks to the recession and current planning trends, in the Santa Clarita Valley is, to an extent, stuck in the 1980s.

County planners are working with SCAG’s population projections as well as the Regional Housing Needs Assessment, both of which compel them to accommodate a certain number of units. As well, tens of thousands of undeveloped units are already entitled and therefore exempt from OVOV, no matter how much those developments might clash with OVOV’s goals. Glaser said that SCAG projects an increase of 61,000 dwelling units in the unincorporated area, but 33,500 percent of that growth has already been approved (and not yet built). This leaves only 45 percent of potential new development under the plan’s jurisdiction, and the county is reluctant to constrict development further.

“The total amount of growth that’s provided for under OVOV would accommodate all of what’s being proposed by SCAG,” said Paul Brotzman, Santa Clarita’s director of community development.

But in accommodating that growth, the plan – especially the county’s portion – is constrained.

“We’re a very large jurisdiction that has a large area that has not been developed. There has to be some sort of development potential,” said Glaser. “We’re not in a position where we can go out and designate all remaining land as permanent open space.”

County planners say that the attorney general’s office did not fully appreciate these constraints. The attorney general’s letter, however, says that that DEIR falls short by not identifying the location of the approved units.

More importantly, though the attorney general may be within her rights to consider CEQA litigation against the plan, CEQA’s narrow concerns for individual plans does not take into account region-wide efforts to combat greenhouse gases.

The North County Subregion is only one of several subregions in Los Angeles County, which is, in turn, only one piece of the five-county SCAG region. Because the Sustainable Communities Strategies that are now under development take a regional approach to reducing vehicle miles traveled and GHG emissions, planners say that to single out one plan like OVOV – which, they say, is intended to complement the region’s SCS – ignores the benefits that will accrue to the county as a whole and thereby support the goals of SB 375.

“Our modeling and analysis has shown that by increasing growth and densities strategically in parts of our region, while showing some localized adverse impacts, can have some potentially very positive impacts at the greater regional scale,” said Butala.

The attorney general’s office confirmed that they did not contact

SCAG before submitting their letter to the county. They were, however, “generally aware of the development of the Sustainable Community Strategy while we were preparing our comments,” according to the Department of Justice spokesperson.

Regardless of the substance of Harris’ letter, officials working on the OVOV plan say they were taken aback by the way that she delivered it. The attorney general’s office not only sent the letter directly to the L.A. County Planning Department but also issued a press release that broadly publicized her concerns.

“I do think that part of the reason why this was publicized is that it’s absolutely a message to all other local jurisdictions that this administration

is going to be looking at this just as much as Mr. Brown’s administration did,” said Glaser. In airing her concerns about OVOV, Harris’ office may be sending a message to other planning agencies to indicate in no uncertain terms that she is serious about enforcing greenhouse gas regulations.

“I think that cities and counties should be on notice that the old tricks just aren’t going to fly any more,” said Nagami, of the NRDC.

The Department of Justice spokesperson wrote that the office will be keeping a close watch on cities’ and counties’ plan updates.

“The AG will evaluate on a case-by-case basis whether, when, and where litigation is the best option to fulfill our office’s statutory responsibility to enforce CEQA,” wrote the department spokesperson. “Cities and counties should perform their duties under the planning laws and under CEQA because that is their job and their duty to their residents, not because the AG might sue them.”

Though Los Angeles County faces the relatively immediate threat of a lawsuit if it does not satisfy the attorney general’s office, planners hope that this sort of dispute becomes less common as considerations for greenhouse gas emissions become common practice.

“I think there’s a learning curve, but there was (one) with the basic disclosure and evaluation and mitigation of all sorts of environmental impacts four years ago when CEQA was young in the early 1970s,” said John Buse, senior attorney with the Center for Biological Diversity. “Once that becomes more routine I don’t think it’s going to be any more difficult than looking at any other air quality impacts, for example.” ■

## ► Contacts & Resources:

One Valley, One Vision Plan  
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“I do think that part of the reason why this was publicized is that it’s absolutely a message to all other local jurisdictions that this administration is going to be looking at [GHG enforcement] just as much as Mr. Brown’s administration did.”

— MITCH GLASER,

L.A. COUNTY DEPARTMENT OF REGIONAL PLANNING

## >>>> Prop. 22 Gave Governor Few Options But to Kill RDA

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The answer is a long one but not surprising. What we are witnessing is the last act in an emotional drama that began 33 years ago, when the people of California, in their wisdom, approved Proposition 13 – which severed the connection between local property taxes and local spending by giving the state the power to decide who gets how much of the property tax.

No matter whether Howard Jarvis and the other authors of Proposition 13 meant to do this, the effect was to downgrade cities and counties from partners in governing to just another special interest group feeding at the trough in Sacramento.

Way back when, cities responded to this uncomfortable situation with three very understandable responses.

First, they became masters of the Prop 13 workaround – the most significant of which was redevelopment, which allowed them to unilaterally capture a greater share of the property tax. They were often able to use this tax increment to create projects in redevelopment areas that generated sales tax or bed tax that could go into their general fund. (Ironically, Proposition 13 was originally viewed as the end of redevelopment in California because it cut so much tax increment for then-existing projects.)

Second, they decided that if they were going to be a special interest group in Sacramento, they'd be as good a special interest group as they could be. The League of California Cities' rise as a lobbying force dates from this period.

And third, they seethed—with anger and resentment and humiliation—that they had been put in the position of having to politick in Sacramento just like everybody else. They found themselves considering that all of their carefully crafted efforts could be overpowered by a couple of carefully placed TV ads from the California Teachers Association featuring schoolchildren. Such a campaign has usually been good enough to trump all lobbying by cities (and counties, for that matter).

And then... our local government leaders lived with this seething resentment and this basic conflict inside them for more than 30 years.

Until January, when the governor found a very skillful way to call the question on redevelopment in spite of Proposition 22, which passed last November.

Proposition 22, of course, was designed to protect redevelopment revenue (as well as

other local government revenue) by making it unconstitutional for the state to shift those funds away from redevelopment agencies “directly or indirectly.”

The cities didn't think the state could balance the budget without taking more redevelopment money. After all, redevelopment funds have doubled in less than a decade, while state general fund revenues have declined. But at least Proposition 22 gave them more power in the eternal struggle over what money remained.

No matter whether Howard Jarvis and the other authors of Prop. 13 meant to do this, the effect was to downgrade cities and counties from partners in governing to just another special interest group feeding at the trough in Sacramento.

It was clear that the League of California Cities and the California Redevelopment Association expected to deal with this latest situation the same way they had dealt with every other attack on redevelopment over the past 35 years: They were prepared to up yardage in order to maintain possession of the ball. For the first half of that time – from the late '70s to the early '90s – they gave up power: on the definition of blight, the requirement to set aside money for affordable housing, and the like. For the second half – a time of chronic budget problems for the state – they gave up money.

The League and the CRA were clearly prepared to do this again, except the governor surprised them. He didn't want yardage. He wanted to call the game. To him, it was the only way around Proposition 22.

Can you imagine what it's like to carry all this conflict around inside you for 33 years? And then think you've finally won with Proposition 22? And then you get outfoxed by the governor – who, by the way, used to be a mayor and used redevelopment very effectively? And then discover that no one else cares and no one else comes to your defense?

No wonder there's been so much yelling and bleeding on the floor since January.

And no wonder the League and the CRA decided that the best strategy was simply to stonewall – to insist that they were going to hold their ground and not make a deal, until it was almost too late. It's an emotionally satisfying approach.

But it hasn't worked. Redevelopment isn't gone yet – at least not as of this writing – but it's doubtful that it will survive in anything like its current form. It may go away completely, or it be cut far more deeply than anyone previously imagined, or it may morph into something very different.

So as California assesses what redevelopment might be in the future, it's probably a good idea to step back and remember what it is and what it is not.

First, it is not a job creation or economic development program, as the League and the CRA have insisted all year. In fact, whenever they have fallen back on the jobs/economic development argument – which is every time redevelopment is under attack – I've worried that it's just opening the whole system up for attack. Surely, sooner or later somebody in this town is going to say, “If we are going to spend \$6 billion on economic development, would we do it this way?” (Meanwhile, certain rivals to redevelopment remind us that spending on education can also lead to economic development.)

What redevelopment is designed to do – and what it does well – is facilitate public infrastructure investment and private real estate development in particular geographical locations.

The need for that job has not gone away. In fact, with AB 32 and SB 375 in place, that job is probably more important than ever.

But one of the oldest lessons in construction is, don't confuse the job you are doing with the tool you are using. And that's what cities are doing right now.

Cities have used redevelopment so long for so many things – understandably, because what other options have they had? – that they have confused the job with the tool. Yes, infill development needs to proceed. Yes, tax-increment financing helps do that. But other cities around the country and around the world somehow get this done every day without TIF – or with limited access to it. In California, we are about to remember – for the first time in a long time – what it's like to bring an entire toolbox to the job of repairing our cities. ■

## Is the NBA the New RDA?

**LOTS GOING ON** in Sacramento these days.

Basketball fans around the country know that the NBA's Kings desperately want to flee to Anaheim. The capital's aging arena and small market won't cut it for the financially strapped owners, the Maloof brothers. The City of Sacramento has been trying to build a new arena for years – most likely as the centerpiece of a massive redevelopment [↖] of downtown rail yards. That project appears to be falling through, so for the past few months the city, led by former NBA star-turned-mayor Kevin Johnson, has been trying to convince the team to stay.

These attempts are appearing increasingly fruitless. Last week, officials in Anaheim announced plans to raise \$75 million to renovate the Honda Center and give the Kings some seed money. The Maloofs have also, reportedly, staked a claim to the name “Anaheim Royals.”

So there's that. Meanwhile, followers of California politics may be aware that state lawmakers have been musing over a budget. No big deal there.

Oddly, these two negotiations have something in common. No, Dems and GOP lawmakers are not going to settle the budget over a game of shirts-and-skins at the vacant Power Balance Pavilion (nee Arco Arena). Instead, among other tactics, the City of Sacramento is invoking the California Environmental Quality Act as grounds to block the team's move.

As it happens, CEQA reform is including a (nearly unintelligible) list of demands [↖] that GOP lawmakers want the Dems to concede to, in exchange for approval of Gov. Jerry Brown's tax plan. Presumably, Republicans want to loosen CEQA's rules. The City of Sacramento wants to do just the opposite, at least as far as the Kings are concerned.

According to an article [↖] in this morning's Sacramento Bee, Assistant City Manager John Dangberg is arguing that the departure of the Kings would harm Sacramento's economy and therefore lead to blight. Not only would Power Balance Pavilion go largely dark but, presumably, so would many local businesses that depend on the spillover effects that come from an NBA team. The Bee article notes that this line of argument has been used to oppose big-box stores like Walmart, on the grounds that they drive out local businesses.

I find the Walmart argument appealing, at least aesthetically, if not legally. I'm no so convinced that it applies to a basketball team.

As much as I'd like the Kings to stay right where they are – I don't think that the Los Angeles area needs two NBA teams (three, if you count the Clippers) – I have to call Dangberg's bluff. Holding a team responsi-

ble for the physical health of a city is a bit beyond the pale. On those grounds, Sacramento cigar stores might as well sue Arnold Schwarzenegger for moving back to Los Angeles.

Certainly cities have reason to promote local businesses and reap the external benefits. But accommodating a team is a voluntary exercise. CEQA surely cannot obligate the Kings to spread their largesse to any particular city, no matter how integral to the community they have become. Moreover, cities have countless ways to combat blight. The success of a bar or sporting goods store cannot rest solely on the shoulders of the Kings.

The row over the Kings stems from the outrageous emphasis that cities have placed on major-league teams and the even more outrageous sums of money that cities have spent to attract and keep them. Sacramento probably considers the Kings an investment. But here's a newsflash to Sacramento and every other city that has built a stadium or agreed to sweetheart deals: sometimes investments go sour (especially when they involve sports franchises). You win some, you lose some.

While it's easy to look at a scorecard and see which team wins, analyzing urban development strategies isn't so straightforward, as we've found in another recent, and related, debate. [↖] In fact, one of Sacramento's more outlandish arguments perfectly underscores the ambiguities surrounding Gov. Jerry Brown's proposal to eliminate redevelopment. [↖]

The city claims that moving the team to Anaheim will create blight in Sacramento. Fine. But what about blight in Anaheim? It stands to reason that Anaheim's built environment will benefit from the Kings' presence. Therefore, we're looking at a zero-sum game.

It's the very same zero-sum game that skeptics of redevelopment have been crowing about the past few weeks. There's simply no way to prove that a benefit in one local area is not offset by a detriment in another local area – or vice-versa. For Sacramento officials to overlook Anaheim's windfall is just as disingenuous as it is for supporters of redevelopment to overlook the possibility that development would still occur in the absence of RDA support.

Maybe, though, Sacramento is on to something. Regardless of whether the Kings should be shackled by CEQA, if pro basketball is so good at fighting blight, then California might not need redevelopment agencies at all. It just needs a 400-team basketball league.

– JOSH STEPHENS | MARCH 29, 2011 ■

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## PPIC Urges Water Governance Overhaul

CALIFORNIA IS ON THE VERGE of “five major, protracted water crises” and must change its system of governance to address the urgent situation, according to “Managing California’s Water,” a comprehensive examination of the subject recently produced by the Public Policy Institute of California.

The report recommends creating a Department of Water Management that is headed by an appointed director whose term overlaps different governors’ administrations. This department, which could have cabinet-level status, would house a “public trust advocate” to ensure water is put toward reasonable uses and, for the first time, would have significant groundwater oversight.

The report also recommends:

- Establishing a water independent system operator (like the state’s ISO for electricity) to serve as a clearinghouse for water transfers
- Assigning control of the State Water Project to a new public utility, which would be run by the ISO board of directors
- Creating nine “regional stewardship authorities” that would be like the existing regional water quality control boards but with new responsibilities for water supply, flood management and ecosystem management
- Expanding the role of the Department of Fish and Game

“Our starting point on this is that we have not been successful in aquatic ecosystem management,” said Ellen Hanak, a senior fellow at PPIC and one of eight report co-authors. “So much of this is done at the local level. Our suggestion is to scale up and be more comprehensive.”

California’s current system for managing water is anything but systematic. It’s an extraordinarily decentralized system that, according to PPIC, “has often resulted in uncoordinated, fragmented water and land use decisions that contribute to chronic groundwater overdraft, impairment of watersheds by a wide range of pollutants, ineffective ecosystem management, and rapid development in poorly protected floodplains. Similar coordination failures among state and federal agencies have led to inefficiencies in reservoir operations, ecosystem management and water marketing, among others.” (The full report is available on the PPIC website. [↗])

Although the report does not get into details, the authors clearly see a need to better link land use planning decisions and water decisions, especially with regard to floodplain management.

The five crises that the PPIC sees as “virtually guaranteed” unless reform is implemented are:

- Extinction and decline of native species.
- Catastrophic floods
- Water scarcity
- Deteriorating water quality
- Decline of the Sacramento-San Joaquin Delta.

The PPIC authors would beef up the Department of Fish and Game, which they say does not exercise all of its legal authority. The recommendation is to return the appointed Fish and Game Commission to its original role of overseeing fish and hunting, and making the department a more vigorous research and management entity. The agency would work closely with the new Department of Water Management and federal agencies to establish flow standards for the environment. The regional author-

ities and local entities would then figure out how to meet those standards, Hanak said. If a region did not perform adequately, state agencies would swing their regulatory hammer.

The recommendation to give the new Department of Water Management some control of groundwater is potentially the most controversial recommendation. However, the move would help get California past the legally established – but scientifically fictitious – notion that groundwater and surface water are separate things.

The report urges better use of markets to improve water efficiency. As Hanak explained, “If you accept that we’re not going to be increasing water supplies, and that supplies might actually decrease because of changing climate conditions, and you consider population growth and environmental demands, there’s going to be less slush in the system. There has got to be more efficiency.”

This is where the new water ISO would come in, serving as a clearinghouse to arrange arm’s-length transactions between sellers and buyers. “Our water market has really stagnated,” Hanak observed.

Creating a new public utility to manage the State Water Project (SWP) is not an entirely new concept. As Hanak said, “There’s an emerging consensus that something has to happen with the State Water Project.”

Currently, the Department of Water Resources runs the SWP. During most years, the SWP diverts 2 million to 3 million acre-feet of water from the Delta to Southern California cities and Central Valley farmers. However, a lack of resources has harmed the existing department’s ability to manage the system. In addition, the PPIC identified a conflict between the department’s role as a major holder of water rights, and its role for statewide water management.

Some SWP contractors have said they should take over the system, but neither the PPIC nor the Little Hoover Commission – which reached many similar conclusions last year – endorse that approach. The PPIC recommendation is based on the idea of managing water as a public commodity, which the PPIC describes as “balancing the public benefits of water and its value as an economic input.” Only a disinterested entity could strike that balance.

Reaction to the 450-page report has mostly centered on resource management recommendations (such as managing species at the ecosystem level rather than species-by-species) proposals for new fees, and on whether the PPIC was too hard or too soft on agriculture. The Association of California Water Agencies issued an entirely noncommittal response. There’s been little comment on the governance proposals, although former Natural Resources Secretary Lester Snow noted that the difficulty of a reorganization is often inverse to its effectiveness. That’s a fair enough point.

Still, the reorganization strikes me crucial. I don’t know whether PPIC’s proposal is the right one. I do know that, like most aspects of California government, our current water management system evolved piecemeal over a long time period and often based on court rulings. No one starting from scratch would recommend our fragmented system, which frequently works against itself and is ill-suited to a state where water demand is rapidly outstripping supply.

– PAUL SHIGLEY | MARCH 28, 2011 ■

