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## REFORMING CALIFORNIA'S ENERGY POLICIES

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The roots of California's environmental regulations can be traced back to 1884. That's the year a federal judge ordered miners to stop using water cannons to batter the Sierra hillsides to separate gold from the soil and rock, but also left behind a broken and ugly landscape.

The process, called hydraulic mining, had devastating effects. The water-sediment slurry it produced was flushed into rivers and streams, causing a surge that bruised and grated everything in its way. Property rights were violated downstream when the gravel, sand and other debris buried farms, and towns were flooded when collected sediment rendered waterways too shallow. Rivers and streams became unnavigable, and the environmental impacts were appalling, as fish-rich waters were contaminated and large chunks of mountainsides were scoured away.

California environmental laws and regulations have since gone from legitimate restrictions protecting property rights and heading off ecological ruin to overbearing edicts that have consumed businesses in the state and dragged down the economy. The worst of them, maybe even the worst in the entire country, is the California Environmental Quality Act, known to both those who wield it like a club and those who are its victims as CEQA.

Passed in 1970 just months after the federal Environmental Protection Agency was created, and signed by then-Gov. Ronald Reagan, the stated aim of the law was simply to require "state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible," according to the California Natural Resources Agency.

But the law has, as laws will, become an unbearable yoke. A Pacific Research Institute report noted that "the general policy of CEQA" now "constitutes a broad endorsement of the primacy of the environment over all other values."

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Simply put, CEQA is one of the biggest hurdles developers and business owners face. Michael Haley, one-time president of a Napa Valley taxpayers group, said a few years ago in the Napa Valley Register that “everyone who works on CEQA plans know that it is mostly a pile of paperwork that does little to help the environment.”

“Every project that comes up for development is immediately hamstrung by CEQA regulations,” said Haley. “Something as simple as planting two new acres in a vineyard, something that is supposed to be easily allowable in Napa County, can involve literally books and books of descriptions of possible impacts and mitigations.”

It’s not unheard of for projects to be delayed or even abandoned because developers can’t afford the legal costs of the CEQA lawsuits they have to deal with.

CEQA has not only become a weapon of abuse for radical environmentalists, it’s become an effective tool for unions, too. They flood projects with lawsuits over environmental issues then drop the suits when developers surrender to their labor contract demands, which typically means more union workers on the job. This “greenmail” of course drives up cost of development.

Having trouble with CEQA is not unique to Republicans and conservatives. Jennifer Hernandez, a Democrat, California League of Conservation Voters board member, environmental attorney and partner at Holland & Knight, considers the law to be a drain on California. She says that litigation abuse based on the law has undermined “the state’s environmental, climate, social equity and economic priorities.”

“I believe that ending CEQA litigation abuse is the most cost-effective way to restore the state’s middle-class job base, make housing more affordable, ensure that taxpayer funds on critical infrastructure needs like transportation are spent on projects instead of endless process,” Hernandez wrote in The Planning Report, “and improve the future of the nearly 9 million Californians living in poverty.”

Hernandez offers some points for reform, but maybe the worst part of this whole CEQA saga is that there is no hard – or even halfhearted – charge to repeal or at least extensively overhaul it.

Yes, some vague comments have been made about modifying the law. Brown said four years ago that “CEQA reform is the Lord’s work,” and various lawmakers, many of them Democrats, have since then talked around the edges of change. More recently, Democratic Assemblyman Kevin McCarty has introduced a bill that would speed the process on some building projects.

But there’s no real enthusiasm for reform, probably because there is so much resistance to it from entrenched interests, from environmental groups, to unions, to businesses that want to place hurdles in front of their competitors. Political opposition shouldn’t stop lawmakers from doing the right thing, though, especially when California’s future is at stake.

