



## Legislative Activities

AEP has a lobbyist and active Legislative Committee which closely tracks and responds to proposed CEQA legislation in order to influence the pending legislation in a positive and meaningful manner. Current summaries and analysis of the bills are published regularly in the Environmental Assessor and on AEP's website.

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### What's New

Topic Papers - The first five topic papers are now available.

CEQA Case Law Database - Now available, with roughly 550 CEQA cases searchable by CEQA topic.

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## CEQA Topic Papers

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Paper	Status	Last Updated
<a href="#">1. What is CEQA?</a>	Available	3/23/2016
<a href="#">2. Exemptions</a>	Available	3/23/2016
<a href="#">3. Project Description</a>	Available	3/23/2016
<a href="#">4. Thresholds of Significance</a>	Available	3/23/2016
<a href="#">5. Lead Agency, Responsible Agencies and Trustee Agencies</a>	Available	3/23/2016
Administrative Record	In Process	-
Alternatives	In Process	-
CEQA Triggers	In Process	-
Environmental Setting and Baseline	In Process	-
Impact Analysis	In Process	-
Mitigation Measures	In Process	-
Project Purpose and Objectives	In Process	-
Public Involvement	In Process	-
Approaches to Tiering	In the Future	-
Climate Change and Greenhouse Gas Analyses	In the Future	-



## CEQA Portal Topic Paper

### Thresholds of Significance

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#### What Is a Threshold of Significance?

CEQA requires a Lead Agency to determine the significance of all environmental impacts (California Public Resources Code [PRC] Section 21082.2; State CEQA Guidelines Section 15064). A *threshold of significance* for a given environmental impact defines the level of effect above which the Lead Agency will consider impacts to be significant, and below which it will consider impacts to be less than significant. Thresholds of significance may be defined either as quantitative or qualitative standards, or sets of criteria, whichever is most applicable to each specific type of environmental impact. For example, quantitative criteria are often applied to traffic, air quality, and noise impacts, while aesthetics impacts are typically evaluated using qualitative thresholds.

Lead Agencies have discretion to formulate their own significance thresholds. Setting thresholds requires the Lead Agency to make a policy judgment about how to distinguish significant impacts from less-than-significant impacts.

Lead Agencies can set thresholds on a project-by-project basis, or they can informally or formally adopt thresholds to be consistently applied to all projects. For the Lead Agency, having clearly established thresholds promotes predictability and consistency (over time and across reviewers) in the environmental review process, can bolster the defensibility of significance determinations in the Agency's documents, and can focus the analysis on impacts expected to be significant rather than impacts that are simply controversial. However, CEQA does not require that a Lead Agency use the same significance threshold for different CEQA documents.

The determination by a Lead Agency of whether a project may have a significant effect on the environment calls for careful judgment, based to the extent possible, on scientific and factual data. Thus, establishing a single threshold of significance, while desirable in most instances, may not be possible for every environmental impact, because the significance of an activity may vary with the setting. For example, a given level of impact that is not significant in an urban area may be significant in a rural area (e.g., noise or aesthetics).

Lead Agencies may not arbitrarily establish thresholds to either create or avoid significant impacts. Thresholds must be backed by *substantial evidence*, which is defined in the CEQA statute to mean "facts, reasonable assumptions predicated on facts, and expert opinion



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- Noise
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- Project Description and Segmentation
- School Impacts
- Standing
- Statute of Limitations
- Supplemental Review
- Thresholds of Significance**
- Tiering
- Transportation and Safety
- Urban Decay
- Use of Previous Analyses/Supplemental Review ▼

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Thresholds of Significance

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Case Date	Title	Court	Citation	Decision	Case Summaries
12/17/2015	<a href="#">California Building Industry Association v. Bay Area Air Quality Management District</a> Topics: Air Quality, Environmental Effects of a Project, Thresholds of Significance	CA Supreme Court	62 Cal.4th 369	None	None
3/2/2015	<a href="#">Berkeley Hillside Preservation v. City of Berkeley</a> Topics: Exemptions, Thresholds of Significance	CA Supreme Court	60 Cal.4th 1086	None	<a href="#">Berkeley Hillside Preservation v. City of Berkeley (March 2, 2015) 60 Cal.4th 1086.pdf</a>
1/30/2014	<a href="#">Lotus v. Department of Transportation</a> Topics: Environmental Effects of a Project, Mitigation Measures, Thresholds of Significance	CA 1st District	223 Cal.App.4th 645	None	<a href="#">Lotus v. Department of Transportation (Jan. 30, 2014) 223 Cal.App.4th 645.pdf</a>
8/19/2013	<a href="#">Friends of Oroville v. City of Oroville</a> Topics: Climate Change and GHG, Thresholds of Significance	CA 3rd District	219 Cal.App.4th 832	None	<a href="#">Friends of Oroville v. City of Oroville (Sept. 18, 2013) 219 Cal.App.4th 832.pdf</a>
1/10/2013	<a href="#">Save Cuyama Valley v. County of Santa Barbara</a> Topics: Thresholds of Significance	CA 2nd District	213 Cal.App.4th 1059	None	<a href="#">Save Cuyama Valley v. Santa Barbara County (Feb. 8, 2013) 213 Cal.App.4th 1059.pdf</a>
10/28/2002	<a href="#">Communities for a Better Environment v.</a>	CA 3rd	103	None	<a href="#">Communities for a Better Environment v. California Resources</a>



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12/17/2015	<a href="#">California Building Industry Association v. Bay Area Air Quality Management District</a> Topics: Air Quality, Environmental Effects of a Project, Thresholds of Significance	CA Supreme Court	62 Cal.4th 369	None	None
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1/10/2013	<a href="#">Save Cuyama Valley v. County of Santa Barbara</a> Topics: Thresholds of Significance	CA 2nd District	213 Cal.App.4th 1059	None	<a href="#">Save Cuyama Valley v. Santa Barbara County (Feb. 8, 2013) 213 Cal.App.4th 1059.pdf</a>
10/28/2002	<a href="#">Communities for a Better Environment v. Natural Resources Agency</a> Topics: Environmental Effects of a Project, Exemption Significance, Tiering	CA 3rd District	103 Cal.App.4th 98	None	<a href="#">Communities for a Better Environment v. California Resources Agency (2002) 103 Cal.App.4th 98.pdf</a>
11/3/1999	<a href="#">County of Amador v. El Dorado County Water Agency</a> Topics: Alternatives, Baseline, Exemptions, Mitigation Measures, Thresholds of Significance	CA 3rd District	76 Cal.App.4th 931	None	<a href="#">County of Amador v. El Dorado County Water Agency (1999) 76 Cal.App.4th 931.pdf</a>
9/30/1999	<a href="#">Fairbank v. City of Mill Valley</a> Topics: Exemptions, Thresholds of Significance	CA 1st District	75 Cal.App.4th 1243	None	<a href="#">Fairbank v. City of Mill Valley, Sept. 30, 1999, 75 Cal.App.4th 1243.pdf</a>
1/28/1999	<a href="#">Fairview Neighbors v. County of Ventura</a> Topics: Air Quality, Environmental Effects of a Project, Mitigation Measures, Thresholds of Significance	CA 2nd District	70 Cal.App.4th 238	None	<a href="#">Fairview Neighbors v. County of Ventura, Feb. 24, 1999, 70 Cal.App.4th 238.pdf</a>
8/15/1997	<a href="#">Galante Vineyards v. Monterey Peninsula Water Management District</a>	CA 6th District	60 Cal.App.4th	None	<a href="#">Galante Vineyards v. Monterey Peninsula Water Management District (1997) 60 Cal.App.4th 1109.pdf</a>

 NOTE: This case was disapproved by CA Supreme Court in 80 Cal.4th 1086



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7/17/2015	<a href="#">Paulek v. Western Riverside County Regional Conservation Authority</a> Topics: Exemptions, Standing	CA 4th District	237 Cal.App.4th 1005	None	<a href="#">Paulek v. Western Riverside County Regional Conservation Authority (As modified July 17, 2015) __ Cal.App.4th __.pdf</a>
6/12/2015	<a href="#">City of Irvine v. County of Orange</a> Topics: Agricultural Impacts and Mitigation, Environmental Effects of a Project, Supplemental Review	CA 4th District	238 Cal.App.4th 526	None	<a href="#">City of Irvine v. County of Orange (July 6, 2015) __ Cal.App.4th __.pdf</a>
5/20/2015	<a href="#">Banning Ranch Conservancy v. City of Newport Beach</a> Topics: Compliance with Other Laws	 CA 4th District	236 Cal.App.4th 1341	None	<a href="#">Banning Ranch Conservancy v. City of Newport Beach (May 20, 2015) 236 Cal.App.4th 1341.pdf</a>
1/29/2015	<a href="#">CREED 21 v. City of San Diego</a> Topics: Baseline, Exemptions	CA 4th District	234 Cal.App.4th 488	None	<a href="#">CREED-21 v. City of San Diego (Feb. 18, 2015) 234 Cal. App.4th 488.pdf</a>
11/24/2014	<a href="#">Cleveland National Forest Foundation v. San Diego</a>	CA 4th	231 Cal.App.4th	None	<a href="#">Cleveland National Forest Foundation v. San Diego Association</a>

## Beverly Hills Unified School District v. Los Angeles County Metropolitan Transportation Authority

**Case Date:** 10/22/2015

**Court:** CA 2nd District

**Citation:** 241 Cal.App.4th 627

**Case Notes:** None

**Topics:**

- Air Quality
- Environmental Effects of a Project
- Noticing

**Decision:**

None on file

**Summaries:**

[Beverly Hills Unified School District v. Los Angeles County Metropolitan Transportation Authority \(Oct. 22, 2015\) \\_\\_ Cal.App.4th \\_\\_.pdf](#)

*Beverly Hills Unified School District v. Los Angeles County Metropolitan Transportation Authority* (Oct. 22, 2015) \_\_ Cal.App.4th \_\_

The Authority certified an EIR/EIS in May 2012 for the Westside Subway Extension Project extending the Purple Line subway to the westside of Los Angeles. The proposed subway extension includes seven new stations and would travel beneath Beverly Hills High School en route to the proposed Constellation station. During the CEQA process and public hearings on the project the school district and city of Beverly Hills objected to tunneling under the high school. After circulation of the draft EIR/EIS the Authority released the results of its Tunneling Safety Report. The report concluded that tunneling could be conducted safely (in light of concerns over natural gas and a fault zone) and would not affect the use of the high school. The Authority also conducted a study to locate the Santa Monica fault zone prior to certifying the final EIR/EIS. Both of these reports were reviewed by the Authority's Metro Tunnel Advisory Panel and Independent Review Panel. The panels largely concurred in the conclusions of the studies and recommended selection of the Constellation station over other alternatives. The Final EIR/EIS reflected that recommendation.

The city and school district sued, alleging that the project's EIR/EIS should have been recirculated due to the addition of significant new information after circulation of the draft EIR/EIS and that the air quality analysis failed to consider localized air pollution and public health impacts. The city and school district also alleged that the Authority failed to follow proper administrative procedure under the Public Utilities Code in its handling of the hearings on the project (because that is not a CEQA issue, this summary will not discuss is further). The trial court denied those claims and the plaintiffs appealed.

The Court of Appeal upheld the lower court's decision. The city and school district argued that the tunnel and fault reports prepared after circulation of the draft EIR/EIS reversed that document's analysis regarding a potential Santa Monica station in favor of the Constellation station and therefore should be considered significant new information requiring recirculation. The Court disagreed. Under the law, the Authority's decision not to recirculate is "given substantial deference and is presumed to be correct," placing the burden on the plaintiff to show that no substantial evidence supported that decision.

Substantial evidence supported the decision not to recirculate. The draft EIR/EIS discussed alternative station locations, tunnel safety, and the general location of faults. In the Court's opinion, the new information merely confirmed the location of the Santa Monica fault, provided better information for selection of the Constellation station over the Santa Monica alternative, and "did nothing to change the potential environmental impacts of the Project, other than to *eliminate* a potential source of seismic hazard" (emphasis in original).

The city and school district argued that the final EIR/EIS reported significant new air quality impacts not recognized in the draft. The Court found that the air quality addendum adopted by the Authority did not change the air quality conclusions reached in the draft EIR/EIS, but instead added more detail about construction timing and impacts.

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