

WEDNESDAY, JUNE 17, 2026

PERSPECTIVE | GUEST COLUMN

Providing environmental protection or merely performing it

California's environmental and land use laws have become so focused on process and litigation that they often fail to deliver the outcomes they were designed to achieve, including rebuilding communities after disasters, producing affordable housing and efficiently cleaning up environmental hazards.

By Nicholas Targ

California's environmental and land use laws are failing. They are failing not because their goals are wrong, but because the state has confused process with progress. The measuring stick of success should address outcomes, such as whether fire victims can quickly and safely return to their homes, whether affordable housing gets built and whether toxic exposure declines. But too frequently the metric of success is the extent of the process. The State needs processes that deliver outcomes.

The consequences of our current procedures are staggering.

A year after the Paradise fires only 3% of the destroyed homes had building permits. Only about one-in-three homes burned down in the 2018 Camp Fire have been rebuilt. Following the Palisades and Altadena fires, only one-in-five destroyed homes received a building permit, as of January 2026, leaving thousands of families unable to return to their community. Meanwhile, housing remains the single most frequent target of litigation under the California Environmental Quality Act (CEQA), with affordable, multi-family, infill projects bearing the heaviest litigation burden.

The dysfunction extends beyond housing. California's hazardous waste standards — more stringent than federal law and those of neighbor-



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ing states—have incentivized the shipment of more than 1.6 million tons of contaminated soil to the state's neighbors in Arizona and Utah, where cost of disposal is cheaper. The results for California? Higher cleanup costs, increased greenhouse gas and tailpipe emissions from long-haul trucking, greater transportation risk to communities along transportation routes, and equitable considerations — the very kinds of harm environmental law is supposed to address.

These outcomes share common roots: unwieldy government pro-

cesses, loosely defined decision-making criteria, inadequate agency staffing capacity and a process that rewards delay.

A law born of real injustice

The irony is that CEQA was born of genuine need. Then-Governor Ronald Reagan signed CEQA into law in September 1970 to address real abuses: communities of color divided by highways, sensitive habitats bulldozed, agencies captured by industry. For context, CEQA was passed just six years after 65% of

Californians voted to adopt Proposition 13, a voter initiative to nullify the Rumford Fair Housing Act (a law designed to prevent enforcement of racially restrictive covenants). It was also enacted at a cultural moment when trust in government was eroding with the escalation of the Vietnam War and the public's concern for the environment was growing — perhaps best captured in Marvin Gaye's 1971 anthem, "Mercy Mercy Me (The Ecology)", included on his landmark "What's Going On" album.

CEQA's focus on the environment was timely and needed. But over five decades, the law has been fashioned into a tool that too often serves purposes unrelated to environmental protection through litigation brought by competitors or through procedural requirements that generate cost without informing decisions. In both cases the law privileges the voices of the well-resourced, including those with no environmental stake in the outcome at all.

Meeting needs, more than talking about problems

The depth of California's allegiance to process frequently becomes clear in conversations with thoughtful, well-intentioned advocates. In meetings with leaders of environmental organizations, one hears a sincere emphasis on the importance of thorough administrative records, disappointment when the scope of agency analysis is narrowed and praise for the purifying effect of litigation (and litigation risks).

Certainly, these perspectives are sincere. But focus on the action, for example, how to produce quality housing in a timely manner and at an affordable price, and the cost or value of the process, rarely registers as an equivalent, urgent concern.

What legitimacy requires

A decision-making system has lost legitimacy when it unacceptably delays the most basic of necessities, when norms of equity are repeatedly breached, and when regulators forget that pressure applied in one place will find release in another, as in the case of relocated hazardous soils.

Legitimate environmental governance must address outcomes, not just process. At minimum, we should ask:

- Are voters getting what they need and expect? Californians have repeatedly supported housing production and environmental protection at the ballot box. Are those mandates being fulfilled in an efficient manner and at the expected level?
- Are programmatic goals being met with actual outcomes? Is housing actually being built at an acceptable rate? Are rents declining? Is decarbonization happening faster and more affordably? Are low-income residents being disproportionately and adversely affected by regulatory delays or costs?
- Does government have the capacity to deliver? Are the agencies

set up for success? Is there adequate staffing, training and management, have clear jurisdictional lines been established, is there predictability and accountability, is performance recognized?

- Are decisions grounded in science and sound judgment? Do they reflect accepted engineering, genuine risk, and focus on the project's purpose and direct impacts?

In 2021 alone, California lost more than a quarter of a million residents due to domestic outmigration. According to the Public Policy Institute of California, outmigration was concentrated among those with lower incomes and less education — people who “likely struggle with the state's high cost for housing, gas and other essentials.” When government is unresponsive to need and process trumps outcomes, the state is squeezed and people are pushed out.

Time to deliver

California's environmental and land use framework was built to protect people and places. Somewhere along the way, the process became the point. The state's politicians, agencies, and advocacy groups must reckon with a difficult truth: the

proof of the pudding is in the eating, and California has been serving up only half-portions.

It is time to measure success by what gets built, and whether housing is affordable to build so that it is affordable for people to buy or rent without government subsidy. Success must also be measured by what gets cleaned up, how quickly this happens, and whether the cleanup itself causes unintended consequences. Anything less is not environmental protection. It is performance, however well meaning.

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