

Superior Focus

March 2010

Association of Environmental Professionals - Superior California Chapter
www.superioraep.org

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2009 Scholarship Awards

- by Jennifer Parson

The Superior California Chapter of AEP has selected four Annual Student Scholarship Winners for 2009! The Chapter Scholarships Committee had a difficult time this year selecting from eleven exceptional student applicants. Applications were received from students in all manner of environmental programs including Environmental Science, Environmental Engineering, Toxicology, Ecology, Horticulture, Atmospheric Sciences, and Public Health. In the end, the committee decided to divide the \$2,000 scholarship in order to award four students \$500 each. And this year, all eleven applicants will receive a free one-year AEP Student Membership. This year's winners are:

- **Sarah Underwood** is currently pursuing a master's degree in Public Health (MPH) at UC Davis, focusing on an interdisciplinary approach to combating childhood obesity, global warming, and air pollution. She is currently developing a research project to study the walking and biking patterns of Sacramento and Davis students as part of the graduate student program "The Environmental Leaders Program", and is also developing an age-appropriate nutrition curriculum for the non-profit organization "Fresh Producers" as a volunteer.
- **Jennifer Tso** is currently working towards her undergraduate degree in Environmental Horticulture at UC Davis. She also works part-time at a local greenhouse and volunteers for the UC Davis Arboretum. Jennifer's main focus in her study is the urban heat island effect and how urban forestry can address this issue.
- **Renee Weems** is currently pursuing a M.S. in Avian Environmental Sciences at UC Davis. She holds a B.S. in the field of Wildlife, Fish, and Conservation Biology, and is focused on helping to preserve the environment for wildlife and their habitats. Renee is also a member and officer in the UC Davis Chapter of The Wildlife Society.
- **Sonia Revello** is currently working towards her undergraduate degree in Environmental Toxicology, with a focus aimed to researching the effects of pollutants in the ecosystem. Sonia has held several internships including working with the Ecotoxicology Lab and Genomics Lab at the Universidad Peruano Cayetano Heredia, and at the Aquatic Toxicology Lab at UC Davis.

Congratulations to our winners, and thank you to all of our applicants!

Save the Dates!

Members - please take a moment to consider these upcoming activities...

- For those not attending the AEP Annual Conference in Palm Springs, the 2010 Green California Summit and Expo will take place March 15 through 17 at the Sacramento Convention Center. Over 200 suppliers of green products and services and upwards of 6,000 attendees are expected. The Summit will feature keynote speakers, an educational program of full-day workshops, concurrent sessions, product showcases, and networking opportunities. March 15 is a pre-Summit day with in-depth full-day workshops and other special events. March 16 and 17 are the Summit and Expo dates. Group discounts available - AEP members can receive a 20 percent discount by entering "AEP" discount code when registering. For information and to register, go to: www.green-technology.org/gcsummit/ or call Eric Rennie at 626-577-5700.
- The March presentation of the Sacramento Sustainability Forum will be held as part of the Green California Summit and Expo (above), and will include a media panel from five leading regional organizations. The presentation will be held on March 17th at the Sacramento Convention Center, Room 103, from 2:00 to 4:00.
- On March 18th, the Valley Futures Forum presents Stacey Mortensen, Executive Director of the Altamont Commuter Express, who will be discussing the future passenger rail in the Central Valley. The presentation will be held from 5:00 to 6:45 on March 18th at the Great Valley Center in Modesto, and is certified for AICP Certification Maintenance points. The Valley Futures Forum is an educational series presented by the American Planning Association/Central Section, the Building Industry Association of Central California, the Congress for the New Urbanism, the Great Valley Center, and the Local Government Commission.
- National Association of Environmental Professionals! The annual NAEP Conference will be held in Atlanta from April 27th to 30th. Registration details [here](#). Note that the conference will be preceded by two full-day training courses, each fully certified for AICP CM points.
 - The first course is titled **Improving the NEPA Process**. Lamar Smith (FHWA) and Judith Lee (Environmental Planning Strategies, Inc.) will lead this one-day course for advanced professionals that will explore best practices, tools, and case studies for streamlining NEPA documentation and processes.
 - The second course is titled **Section 4(f), Section 106 & NEPA**. David Grachen (FHWA) and Joe Trnka (NHI and HDR) will lead this one-day course for advanced professionals that will look closely at integrating the Section 106 and Section 4(f) processes into NEPA compliance.

...and of course please don't forget to consider attending the Statewide AEP Conference - March 14 - 17 in Palm Springs. There's still time to register: see details at www.aep2010.com. And mark your calendar for AEP's Spring CEQA Series. This is the Advanced Workshop - scheduled for Friday, May 21st in Roseville, with 10 other workshops throughout the state during May 2010. Download this year's flyer from the State AEP website [here](#).

Project Profiles?

We are always looking for new ideas to make our newsletter better and more relevant to our members. Because of our project-focused line of work, we are considering the benefits of showcasing individual projects and their approaches to environmental regulations, including CEQA compliance. Do you have a project you would like to profile? If so, please contact the Newsletter Editor to discuss your ideas.

Director's Report

- by Trevor Macenski

With the beginning of a new decade comes the re-birth of our organization's identity and image. On both the State and local levels, many of our members and leaders have committed to improving our organization. The recent state board meetings have been spent developing a strategic plan for 2010 and reviewing action plans for the various committees. Important objectives of next year's strategic plan are to continue to expand member services, increased outreach to students, and early identification of emerging issues. One of the most important issues facing AEP and all members next year is whether or not to continue the organization's affiliation with the National Association of Environmental Professionals (NAEP). In 2005, the members of AEP voted to amend the organization's by-laws and affiliate with NAEP as its California Chapter, thus becoming the California Association of Environmental Professionals. The affiliation agreement with NAEP expires in 2010 and will require another vote of our members sometime late this year to renew. Because of concerns expressed by California AEP and other state chapters, a subcommittee of the NAEP board of directors developed a new affiliation agreement that is intended to strengthen the national/state chapter relationship. The most significant revision to the affiliation agreement is incorporation of the concept that all state chapter members must be an NAEP member, preferably in one of the established membership categories, or in the newly established "Affiliate Member" category. The proposed dues for the new Affiliate member category are intentionally very low (\$1 to \$5), using a sliding scale concept of increased dues over time to account for the increased value that NAEP plans provide over time (as NAEP improves its value and support to members).

Another significant goal for 2010 is the State's efforts to revise its image and website (see below).



As a chair on the State's website committee, we have identified the need for the State to develop both a new website and to develop an easily accessible electronic member database both to improve our members benefits. The website committee has identified the consulting firm iCreative to help the state develop a new website and membership platform. As part of the State's website contract, iCreative will also design a universal website template for each

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of the local AEP chapters. This will be one of the states step to present a unified image while allow each individual chapter to customize their own content and presentation. Along with the new website is the state's effort to address the constant changing world of technology, be it iPods and Webcast to iPhone and CEQA Apps, and AEP is taking the necessary steps to keep up with the times and attract a web focused membership generation. We are anticipating the completion of the new website before the beginning of this summer.

The 2010 AEP Conference in Palm Springs is fast approaching. It will be held March 14-17 at the Hotel Zoso, an exceptional 4-star boutique hotel in vibrant downtown Palm Springs. In addition to pre-conference workshops on Sunday, March 14, the conference will explore a diverse range of topics, with an emphasis on practical applications, including greenhouse gas emissions, the water/energy nexus, LEED/sustainability, CEQA/NEPA practice, legislative updates, case law updates, public participation, the latest in computer modeling and GIS tools, and regulatory permitting.

January Luncheon Kicks Off 2010 Programs Calendar

Upwards of 65 chapter members attended the January lunch program at the Embassy Suites (near Old Sacramento) to hear key updates about CEQA and the state legislature's environmental agenda. The efficient service provided by the Embassy Suites and our chapter's programs team allowed plenty of time to dive into the substantive content provided by our two speakers. Allan Lind, a lobbyist serving the state AEP organization and leading our Public Policy Program, discussed relevant legislation recently adopted and under consideration during the new legislative term. Allan highlighted several items, including the proposal to limit judicial review of some CEQA actions (see Legislative Update later in this newsletter). Allan also discussed the state budget and how negotiations over closing the budget gap have continued to threaten changes in how we go about our business (for example, the proposal to eliminate the Office of Planning and Research and divest its functions into other state organizations). For more information about Allan's work with the Legislative Review Committee, see [here](#).

Curtis Alling (Ascent Environmental) discussed the changes to the State CEQA Guidelines, recently adopted to address how climate change and greenhouse gas emissions should be considered during environmental review. Curtis discussed the administrative process, clarifying that while the changes are essentially complete, there are still a couple of layers of state administrative law review required prior to their being "official." Curtis then led the attendees through a line-by-line recap of the changes, providing insightful background information about how and why the changes came about (including AEP's participation in the process). The slides are available to download [here](#) (scroll up to January events).

Thanks to Allan and Curtis for a truly excellent and informative lunch hour, and to our programs team for kicking the new year off so well. Look forward to several more lunch presentations over the course of 2010, hitting hot topics such as alternative energy and regulatory trends.

Insider's Note: The Programs Chairs are always looking for new and better venues for our lunch programs, with varying degrees of success over the years (too loud, slow service, marginal food, and similar tribulations). We were very happy with the Embassy Suites near Old Sacramento, the venue for the January program, and are hoping to host more lunch programs there. If you have ideas for new venues to try out, please be sure to let us know!



Curtis Alling (Ascent Environmental) gets into the weeds of the new CEQA language.

Welcome to our New Members

- by Lisa Raffetto

The following are ALL NEW STUDENT MEMBERS to our Superior California Chapter! WOW!

Kristofer Robison	Ehsan Rasa	Sonia Revello
Crystal Huang	Francisco Albornoz	Brian Pope
Sarah Underwood	William LeBarge	Tan Hoang
Jennifer Jade Tso	Christine Kembikian	
Larissa Salaki	Renee Weems	

Not yet a member? Join the AEP Superior California Chapter of AEP and experience the benefits of the fellowship. Please email Lisa Raffetto, Vice President of Membership, at lr Raffetto@kleinfelder.com or check membership information on our website by clicking www.califaep.org/OnlineApplication to read about the benefits of membership and sign up using the form provided.

Hot Jobs!

Recent job postings at the Superior California website (see [here](#)) include the following.

- Six environmental planner positions, at varying levels, with URS in Sacramento, San Francisco, and San José.
- Several planner and biologist positions, at varying levels, with HDR in Sacramento and Irvine, plus a Marketing Manager position for HDR's FERM market sector.
- Biological permitting specialist in the San Francisco region to direct a portfolio of projects and staff (Sequence Staffing).
- Regional Biologist at Ducks Unlimited in Rancho Cordova.
- Project Manager with Enviroscientists, Inc. in Reno.

A Brief Legislative Review Report

- by Bruce Webb, Chapter Legislative Committee Representative

The state-wide Legislative Review Committee (LRC) met by conference call on February 18, 2010, and discussed the "oppose" letter which the LRC elected to prepare in response to bills recently before the legislature which would curtail judicial review for certain projects in an effort to stimulate job creation and the economy (ABx8 37, SBx8 42, SB 1010 and AB 1805: The "CEQA Litigation Protection Pilot Program of 2010"). This AEP letter was recently finalized and is included in this newsletter (see pages 6 - 8 of this newsletter).

The LRC is also reviewing a number of new bills which will grant certain limited exemptions to CEQA, once again to stimulate the economy. In general, AEP has opposed such limited scope "special interest" bills for a number of reasons. AEP's lobbyist Allan Lind has prepared a list of new bills which the LRC will be examining in detail in the coming months. If you would like a list of the bills with summaries of how they may affect CEQA please contact me (bwebb@dfg.ca.gov).

If members have any questions on these or any other LRC issues, please feel free to contact me.

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ASSOCIATION OF
ENVIRONMENTAL
PROFESSIONALS

February 24, 2010

The Honorable Lou Correa
State Capitol, Rooms 5052
Sacramento, CA 95814

The Honorable Charles Calderon
State Capitol, Room 2117
Sacramento, CA 95814

The Honorable Dave Cogdill
State Capitol, Room 305
Sacramento, CA 95814

The Honorable Brian Nestande
State Capitol, Room 4153
Sacramento, CA 95814

Regarding ABx8 37, SBx8 42, SB 1010 and AB 1805:
The "CEQA Litigation Protection Pilot Program of 2010"

Position: Oppose

Dear Senators Correa and Cogdill, and
Assembly Members Calderon and Nestande,


The Association of Environmental Professionals (AEP) must respectfully oppose your bills that would exempt the Environmental Impact Reports for up to 125 projects from judicial review.

These identical legislative measures would enact a program to require the Business, Housing and Transportation Agency (BT&H) to select up to 25 projects per year for the calendar years 2010 through 2014. These projects would be selected for their potential job creation and financial investment. The program further provides that a lead agency's decision to certify an Environmental Impact Report, or a mitigated negative declaration, prepared pursuant to the California Environmental Quality Act (CEQA) for such projects would be statutorily exempt from judicial review. AEP understands that the process by which the BT&H selects these projects would also be exempt from review by the courts. AEP further understands that the impetus for this proposed legislation is the perceived abuse of the litigation process *via* challenges under CEQA, and the concomitant delay and expense such abuses may cause.

AEP has consistently supported amendments to the CEQA Guidelines and statutes intended to: curb abuses of the CEQA process; encourage the early submission of comments on projects; encourage the early outreach and structured participation of citizens in development decisions; clarify and/or augment the powers of the judiciary to dispose of merit-less CEQA challenges; and expedite or "fast-track" judicial review of CEQA challenges.

AEP further supports greater opportunities for continuing education of the judiciary responsible for writs of administrative mandamus under CEQA. Providing such

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judges with objective and broad perspective regarding the dynamics behind CEQA lawsuits beyond the strict letter of the law may aid in further expediting CEQA decisions and/or discouraging abuses of the CEQA process.

AEP is a non-profit organization of California's environmental professionals. AEP members are involved in every stage of the evaluation, analysis, assessment, and litigation of projects subject to CEQA. For over thirty years, AEP has dedicated itself to improving the technical expertise and professional qualifications of its membership, as well as educating the public on the value of California's laws protecting the environment, managing our natural resources, and promoting responsible land use and urban growth. AEP's membership is broad and diverse, incorporating representatives from public agencies, the private sector and non-governmental organizations. AEP is keenly aware of the circumstances in which both the CEQA and judicial review processes suffer abuse because of the direct involvement of our members in the CEQA review process, as well as in the judicial review of CEQA documents.

AEP shares the Administration's frustration with the apparent abuses of the judicial process that hampers important, legitimately conceived, and properly vetted development projects. Certainly, some project opponents have abused the administrative review procedures and the availability of CEQA litigation to frustrate and delay the CEQA process, rather than constructively comment upon a proposed project's impacts on the environment. These opponents understand too well that delay and litigation costs can make the development of certain projects impossible.

AEP does not believe, however, that the proposed legislation is a viable solution to these abuses. It has been the organization's experience that the judiciary responsible for writs of administrative mandamus is, in large measure, knowledgeable and efficient at properly expediting CEQA lawsuits. California courts recognize that waiting until the last possible moment to substantiate issues of concern, while technically permissible, may in fact discredit unscrupulous litigants interested only in "sandbagging" a project for the purpose of obstruction and delay. As the California Supreme Court has noted: *"We cannot, of course, overemphasize our disapproval of the tactic of withholding objections...solely for the purpose of obstruction and delay... [Such tactics are a] game to be played by persons who...are chiefly interested in scuttling a particular project."*¹

AEP is concerned, however, that the cure proposed *via* ABx8 37, SBx8 42, SB 1010 and AB 1805 may be more harmful than the disease. AEP believes that exempting projects from judicial review is fraught with its own set of potential abuses and does not directly address the heart of the abuses of the CEQA process.

Curbing abuses of the judicial system, as well as striking a balance between the sometimes competing interests of governments in development projects with the rights of the citizens they govern present questions as old as this Country's founding documents. AEP believes that exempting certain projects from judicial review is

¹ *Citizens of Goleta Valley v. Santa Barbara Board Of Supervisors*, 52 Cal.3d 553, 568 (1990).

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inconsistent with the rights of California citizens to participate in, and challenge, the decisions of governmental agencies.

AEP is also concerned that the proposed legislation is not without its own potential for abuse as private beneficiaries of project development resort to tactics intended to corrupt the process for selecting projects entitled to judicial immunity. AEP questions whether the legitimacy of the process for selecting these projects may, in itself, also engender other forms of administrative appeals and lawsuits, thereby undermining the purpose of the proposed legislation. AEP cannot help questioning whether the proposed immunization of the project selection process from judicial review may also become the object of protracted judicial review, further muddying the waters for project approval. Considering the "law of unintended consequences," we are concerned that the proposed legislation may simply substitute a new set of grounds for administrative appeal and litigation for the current practices, thus failing to provide any appreciable streamlining or increased certainty for project stakeholders while also potentially running afoul of protections afforded by the United States and California constitutions.

As an alternative to the proposed legislation, AEP urges proponents of this legislation to: consider best management practices that have been shown to facilitate timely project review and unchallenged approval, including early outreach and structured participation of citizens in development decisions; further clarifying the powers of the judiciary to dispose of merit-less CEQA challenges; enable expedited judicial review of CEQA challenges for projects of critical statewide importance; continuing education of the judiciary responsible for CEQA review.

AEP would welcome the opportunity of working with the Legislature and the Administration toward solutions that embrace our mutual recognition that a healthy economy and a healthy environment are not mutually exclusive. Should you have any questions or need additional information regarding our comments, please do not hesitate to contact our lobbyist, Mr. Allan Lind, at 916-761-1373.

Sincerely,



C. Eugene Talmadge
President, Association of Environmental Professionals

Cc.: The Honorable Joe Simitian, Chair, Senate Committee on Environmental Quality
The Honorable Nancy Skinner, Chair, Assembly Committee on Natural Resources
Mr. John Moffatt, Governor's Office
Ms. Traci Stevens, Deputy Secretary, BT&H
Mr. Allan Lind, Allan Lind & Associates

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