environs

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Dow Legislation

On January 19, Dow Chemical Company gave up its long battle for approval of a petrochemical complex in Solono County. Assemblyman Dan Boatwright on the same day introduced Assembly Resolution (ACR 9).

ACR 9 alleged a need to stimulate substantial growth and investment expansion in order to meet the state's projected employment demands. It stated "a complicated maze of bureaucratic procedures requiring a multitude of permits prior to the approval of industrial plant projects" has given California an anti-growth, anti-development reputation. This reputation was said to discourage businesses from locating or expanding within the state.

The resolution then cited Dow's battle as a "classic example" of a firm's attempt to navigate the bureaucratic maze, and said agencies should "proceed with all due haste to review the Dow permit applications and **arrive at a favorable decision** expeditiously." (emphasis added)

ACR 9 indicates that for Boatwright, the Dow project assumed symbolic importance far beyond its contribution to the state's economy. He is not alone. In the past 90 days Governor Brown's office and the legislature have focused on the conclusions to be drawn from "the Dow experience." There has been a near-blizzard of legislation proposals designed to address some aspect of "the Dow problem."

Two major assumptions underlie these conclusions and legislation. First, the sheer number of permits required and the time and money required to obtain them strangled the Dow project. Dow needed to secure 65 permits from 19 local, state, and federal agencies. After 2 years and $3 million spent in the application process, Dow obtained 4. Facing the prospect of further expenditures it is assumed Dow withdrew in frustration.

One of the few legislators who questions this assumption is Sen. John Dunlap. While conceding the amount of red tape played a part in the pullout, he points out that Dow was only 70 days away from receiving a decision from state agencies, and could have waited that much longer. He says "I think Dow anticipated an adverse decision...and withdrew..."

The second assumption underlying the gubernatorial and legislative responses to Dow is that Dow was only one of a number of companies which have decided to leave or forego expansion within the state due to environmental policies and regulations. Those who accept this assumption admit that Dow is the only company so far to publicly blame environmental factors for its business decision. But they point out that it is bad business practice to burn bridges by making public criticisms. Additionally, they claim that in private conversation or correspondence companies have indicated a cause-and-effect relationship between environmental policy and business decisions.

Concern about the effect of environmental regulation on California's business climate is not new. Last fall, California Manufacturers Association president Bob Monagan pointed out that the state's air and water quality standards were more stringent than federal standards. He said this was a deterrent to attracting new job sources in the manufacturing and processing sector of the economy, which he claimed was the key sector for creating employment. He asserted that government employment can expand only so far and that service employment is dependent on the number of manufacturing/processing jobs.

What is new is that the concern is being expressed by the governor and others in a position to act on the concern, and this is rapidly being translated into legislative proposals.

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pending legislation:

Air Pollution

AJR 12 (Calvo) - Requests Congress to investigate the equality with which the Environmental Protection Agency (EPA) enforces national air quality standards. The resolution acknowledges unequal enforcement penalizes those states which have complied with the law by giving non-complying states an economic advantage. It requests the EPA to enforce the Clean Air Act with equal stringency in all states. Sent to the Resources, Land Use and Energy Committee.

CEQA

AB 1262 (Dannemeyer) - Would prohibit a public agency from determining not to approve a proposed project on the basis of the California Environmental Quality Act (CEQA), unless the grounds for such determination are within the scope of the regulatory authority of the agency.

AB 900 (Boatwright) - Provides that no public agency shall be required to approve or disapprove a project solely on the basis of an EIR. It also eliminates the requirement that an agency state its reasons for determining various environmental effects not significant. Would require an economic impact statement for projects above a specified size. Assigned to the Committee on Resources, Land Use, and Energy.

Energy

AB 1316 (McAlister) - Existing law requires the State Energy Commission to establish minimum standards of operating efficiency for new electrical appliances. One year after the adoption of the standards, a manufacturer is barred from selling appliances that do not meet the standards. This bill prohibits the Energy Commission from making any standard effective earlier than one year after its adoption, and allows the sale of non-complying appliances until one year after the effective date.

AB 985 (Kapiloff) - Requires the geothermal study task force (created by Chapter 985 of the Statutes of 1976) to submit a report covering all aspects of the development of geothermal resources of the state by December 31, 1977. Sent to the Committee on Resources, Land Use, and Energy.

SB 459 (Alquist) - Requires the Energy Commission to adopt regulations by July 1, 1978, prescribing standards for the insulation of residential structures. The bill would prohibit the sale of a residential building which does not meet the insulation standards.

Pesticides

AB 1307 (Torres) - Will require a physician who believes a patient is suffering from pesticide poisoning to make a report to the local health officer within 24 hours. The health officer will immediately notify the county agricultural commissioner. The failure of a physician to comply with this law will be labelled unprofessional conduct.

Solid Waste Management

AB 860 (Lockyer) - Makes findings that it is in the public interest to encourage expansion of recycling programs by providing grants to recycling centers and encouraging state and local agencies to aid and advise such centers. Assigned to the Committee on Resources, Land Use, and Energy.

Water

AB 775 (Perino) and **AB 826** (Young) - Substantially identical bills which require the installation of water meters on the water facility or system of every water user. The Perino bill contains an urgency clause and would take effect immediately. Both bills were sent to the Committee on Water.

AJR 14 (Lehman) - Requests the President and Congress to continue to fund the Auburn Dam for the 1977-78 fiscal year. Referred to the Committee on Water.

Marcia Todhunter

Case note

The California Supreme Court established two major land use policies last winter when it handed down its opinion in **Associated Home Builders of the Greater Eastbay, Inc. v. City of Livermore**, - -Cal. 3d- -, 557 P.2d 473, 135 Cal. Rptr. 41 (1976). First, it held that land use ordinances may be enacted by initiative in general law cities. Second, it said that local ordinances which have a significant impact outside the municipal boundaries must promote the general welfare of the region that they affect.

The Livermore ordinance was enacted in 1972 as a possible solution to the problems created by the excessive issuance of building permits. The initiative provided that no further residential permits would be granted until local educational, sewage disposal and water supply facilities met certain standards.

Land use regulation by initiative was first declared invalid in *Hurst v. City of Burlingame* (1929). The California Supreme Court ruled that the statutory requirements for zoning ordinances applied not only to city council enactments but to initiatives as well. Since initiatives were adopted without a prior hearing, they were held to violate the state Zoning Act. In dictum, *Hurst* also suggested that lack of notice and hearing violated constitutional due process requirements.

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viewpoint:

PROFESSOR HARRISON C. DUNNING

"...I'm going to establish a water commission to review the California water law to come up with some better way to allocate and use this scarce resource. The law we have now is archaic. It has disincentives to careful water conservation."

Edmund G. Brown, Jr.
December 31, 1976

Shortly after this December announcement, a small staff was appointed to begin work for the Water Rights Commission. The staff director is Professor Harrison C. Dunning of King Hall, who has taken a one year leave from UC Davis.

Professor Dunning, in your opinion, why was the commission created now?

"California has an extraordinarily complicated water rights system and there has not been any comprehensive review of this system since 1913. In 1913, the Water Commission Act was passed. It followed a two year study by the Conservation Commission. The Water Commission Act, which was approved by the people in a referendum in 1914, initiated a permit system for surface water appropriations. Now, a lot of water has gone under the bridge, so to speak, since 1913. There have been major developments in the case law and many new problems have arisen.

"There has been, in recent years, a comprehensive review of water **quality** legislation. That review led to the Porter-Cologne Water Quality Control Act in 1969. But there has not been a similarly comprehensive review of California water **rights** law.

"This past fall, the chairman of the State Water Resources Control Board, John Bryson, decided that the time was right and initiated a proposal that there be a comprehensive review of the water rights problem. He proposed that the work be done by an independent commission made up mainly of people outside state government. It would be a commission that would report directly to the governor and not to the Water Resources Control Board."

What are you and others on the Commission's staff doing?

"We're doing the background work.

"The people at the State Water Resources Control Board had suggested that three topics be examined: 'groundwater rights,' 'riparian rights' and 'minimum instream flows.'

"When I started in January, it seemed to me that since this was a unique opportunity to have a comprehensive review, there were certain other matters which should be reviewed at the same time. The 'prior appropriation system' which is a system for surface water rights and which represents the state's main involvement in water rights currently...is one. 'Water conservation' also seemed particularly important, given the drought, and all the emphasis being placed on conservation. And a

third...topic is 'water rights transfers.' Among many people there is a strong belief that we could make our existing developed water supply go much further if we had a better system for transferring water rights from one person to another. So three more topics were added to the original list of three. These are all matters over which California's legislature has substantial control, as opposed to other troublesome matters such as the Indian and other "reserved" water rights which exist under federal law."

Professor Dunning, what do you view the function of the staff as being?

"We view our job as defining the issues and, when approriate, suggesting various options.

"We do have important sources to draw on. It's not a matter of creating options out of our heads. The National Water Commission was a federal study group which existed from 1969 to 1973. They published a whole series of studies, including a series of very detailed legal studies.

"The final report of the National Water Commission contains a series of detailed recommendations to the states. We are trying to take those recommendations very seriously and work with them as being among the possible options for resolving problems which California has."

How far will the speculative solutions recommended by the staff go?

"It's not a matter of starting from scratch, certainly. You've got all the existing vested rights. Even leaving aside the vested rights, I don't think there's any expectation that we should start with a completely blank piece of paper and work from there constructing some theoretically optimal water rights system. On the other hand, I think there's very little point to having a comprehensive review like this if it's just a matter of fiddling with this minor provision or that minor provision. I'd say it's someplace in between."

Bill Cunningham

Geothermal Energy

The annual Environmental Law Moot Court Competition sponsored by the Environmental Law Society took place at UC Davis Law School between April 11-23. This year's moot court problem dealt with issues in the development of an increasingly important natural resource - geothermal energy.

The facts of the case dealt with a private developer wanting to explore geothermal resources in a rural inland area of the state. He sought certification of a particular site from the State Energy Resources Conservation and Development Commission to install several exploratory test wells.

The crux of the problem is that authority to certify thermal power plant sites under the Energy Resources Conservation and Development Act (Public Resources Code §25000 et seq.) is unclear: jurisdiction seems to extend only to approval of a site for the purpose of constructing a power generating facility and not to the drilling of test wells. Instead, Public Resources Code §3700 et seq. grants jurisdiction over drilling of geothermal wells to the State Division of Oil and Gas, which currently administers such certification. Thus, the issues raised by the facts of the problem turn on the question of whether the authority of the Energy Commission under the Energy Act can or should be interpreted to include exploratory drilling as well as geothermal power plant construction.

In an effort to determine the Energy Commission's interpretation of the scope of its authority under the Energy Act, the author, Christy Bliss, contacted staff members in the Commission's Environmental and Siting Divisions. Her discussion with staff members focused on the following questions: (1) What was the nature of the legislative intent behind the enactment of the Energy Act? (2) Does the Commission possess the authority to preempt state environmental quality standards? (3) What is the nature of the Commission's authority over the development of geothermal energy?

Bliss first spoke to Ellen Worcester, an urban planner in the Environmental Office of the Energy Commission, about the legislative intent behind the Act. Ms. Worcester said that she understood the legislative intent as an "organizational effort" designed to take into account both environmental and energy needs in a process that was "procedurally and administratively manageable."

Ms. Worcester described the authority of the Energy Commission as extending **only** to siting of electrical generating power plants and not geothermal ones. Worcester said site approval of electrical plants is a two-stage process. The first stage includes the filing of a Notice of Intent (NOI) in which the applicant proposes three alternative sites. During an 18-month period after the NOI is filed, the Energy Commission evaluates the three sites in terms of environmental effects and state energy needs. The second stage is the application for final certification of one of the three proposed sites for plant construction.

According to Ron Nichols, an Energy Commission staff member assigned to the Licensing Office of the Siting Division, there is an "unbelievable controversy" over the legislative intent behind the Energy Act. He personally thinks the Act was an attempt (1) to eliminate the fragmentation of the power plant review process so that one agency would have authority over all stages of development and production and (2) to allay the fear of the proliferation of nuclear power plants.

In relation to the Commission's power to preempt state environmental quality standards, Ms. Worcester said that the Energy Commission is required to give weight to CEQA in the sections of the Energy Act which refer to the need to analyze environmental factors in energy related decision-making and in the provision which mandates the development of statewide energy demand forecasts. The energy demand forecasts are developed pursuant §25309(b) of the Act and are based on a consideration of energy and environmental priorities.

Ms. Worcester explained that the Commission may certify a project which is in noncompliance with state environmental quality standards if the development of that project is determined to be a matter of public convenience and necessity.

Mr. Nichols mentioned an additional factor requiring the Energy Commission's compliance with state environmental quality standards. He said that the Commission must comply with state air and water quality discharge requirements since these regulations are "essentially an extension of federal law and the Commission can't preempt federal law."

When asked about the relationship between the Energy Act and CEQA, Nichols responded that, although the two acts are not incompatible, they are hard to resolve together because there is an inherent danger of duplication of efforts in the impact analysis during the NOI and certification stages. He explained that the NOI process involves a more in-depth impact evaluation than is required in an environmental impact report (EIR) prepared during the certification process.

In commenting on the Energy Commission's authority over geothermal resource development, Ms. Worcester stated that construction of geothermal power plants is clearly within the Energy Commission's jurisdiction, but it is uncertain whether the Commission's authority extends to geothermal test wells.

The comments offered by Ms. Worcester and Mr. Nichols indicate that currently the Energy Commission's authority is limited to certification of power plant sites and facilities. Their comments also point to ways in which the Commission's "preemptive" authority is circumscribed by the Energy Act's mandates to develop energy demand forecasts and to comply with state and federal environmental quality standards. According to Worcester and Nichols, geothermal test drilling is currently under the jurisdiction of the Division of Oil and Gas. However, their comments seem to imply that in order to pursue the Legislature's intent to promote a coordinated power plant review process, the Commission's jurisdiction should extend to the drilling of geothermal test wells.

Christy Bliss

Recycling Beverage Containers

A bill designed to encourage the recycling and reuse of beverage containers is currently making its way through the California legislative process and, should it fail, an alternative is already waiting in the wings. Senate Bill 4, introduced by State Senators Omar Rains, Peter Behr, and John Dunlap, would require deposits on all beverage containers sold in California beginning January 1, 1978.

Environmental Damage

Nonreturnable beer and soft drink containers pose several serious environmental and energy problems for the state. Perhaps the most obvious is litter. Throwaway containers constitute about one-fourth of the roadside litter which costs California $21.5 million annually to clean up. The experience of Oregon's mandatory deposit legislation, which is substantially similar to SB 4, indicates a decrease of 75-80% in litter attributable to beverage containers.

Over ten million nonreturnable beverage containers are sold daily in California, and of these only 2% of the bottles, 3% of the steel cans, and 20% of the aluminum cans are recycled. The result is a tremendous consumption of resources - - 6.2 million tons of glass, two million tons of steel, and half a million tons of aluminum annually.

Manufacture of beverage containers from raw materials also consumes a large amount of energy resources. Distribution of beverages in throwaway glass bottles requires 4.25 times as much energy as refillable bottles. Aluminum can production is even more energy intensive and accounts for approximately 1% of all industrial use of electricity.

Senate Bill 4

SB 4 would require a minumum refund value of two cents on all non-refillable containers (steel or aluminum cans) and five cents on all refillable containers of beverages sold in California. The purpose of the bill is to encourage consumers to treat all beverage containers as they now do deposit bottles - - that is, to return them to stores to reclaim the deposit, thus keeping the materials in the stream of production.

As of this writing, SB 4 has been approved by the Senate Natural Resources and Wildlife Committee. In order to reach a floor vote in each house of the legislature, it must be approved by five more committees: the Resources, Land Use and Energy Committee in the Assembly, and the Finance and the Revenue and Taxation Committees of both houses.

There are several likely sources of opposition to the bill's passage. Foremost among them is labor. Use of refillable containers will cause a decline in sales by can and bottle manufacturers. This will result in at least dislocation if not an actual decrease in the number of jobs. Even if a laborer at a glass or can plant is not laid off, s/he is likely to be displaced to a lower-paying job in a bottle-washing plant. Such dislocation could affect as many as 7-9,000 people in California.

The entire beverage-distribution industry also opposes the bill. In addition to the labor problem, container manufacturers fear a loss in sales, and bottlers and distributors fear increased handling costs. Finally, many retail outlets do not wish to handle large numbers of returned containers.

Alternative

The successful passage of SB 4 is quite doubtful, judging from its past record: essentially identical bottle bills have been vetoed by the legislature four times, most recently in 1976. In response, Richard Gertman, Graduate Student Assistant at the Solid Waste Management Board, has drafted an alternative bill which seeks to mitigate some of the opposition to SB 4. Gertman's bill departs from SB 4 in two major respects. First, rather than stressing refillable bottles as SB 4 does, the alternative bill merely requires manufacturers to recycle the container materials.

Concededly this reduces the energy savings accomplished by simply refilling bottles. However, it does achieve the objectives of conservation of natural resources and reduction of litter. Moreover, mandatory recycling of materials need not result in a reduction of containers manufactured, thus minimizing the effect on the labor market.

Secondly, the alternative bill would require distributors to establish redemption centers for the return of used containers. This provision would eliminate one source of opposition, since retail outlets would not be involved in handling containers.

Distributors may also find this provision attractive. They oppose refillables in part because of a handling problem: in order to maneuver full and empty containers out of and into trucks at each retail outlet, part of each truck must be empty at all times.

From an environmentalist's standpoint, the alternative bill is clearly inferior to SB 4, primarily because it emphasizes recycling rather than reuse of containers and consumes more energy resources. Even Gertman, the former director of the Davis Resource Awareness Committee, views it as a compromise, but he feels it is better than nothing. Gertman says, "SB 4 is a better bill than mine. It's just that mine's more of a political reality than that."

Whether or not this increased awareness will produce results in California remains to be seen. However, if SB 4 fails, one might expect to see a compromise measure introduced - - one designed to accommodate both environmental and labor/production concerns.

Elliott Gilberg

CEQA Update

The California Environmental Quality Act (CEQA) delineates explicit policy goals and guidelines for protection of the environment in California. (California Public Resources Code, Section 21000 et. seq.) In particular, it requires state and local agencies to evaluate carefully the environmental impacts of proposed projects before granting approval of such projects. 1976 legislative amendments to CEQA are as follows:

21002: Public agencies should not approve projects as proposed if there are feasible mitigation measures available which would substantially lessen the significant environmental effects. However, if other factors make such mitigation of alternatives unfeasible, projects may be approved.

21082.1 seemingly clarifies the lead agency's responsibility for preparing the environmental impact report (EIR). An EIR or a negative declaration must be prepared by, or under contract to, a public agency. Developers may still submit data "in any format," which the public agency may include "in whole or in part" in the EIR or negative declaration.

This amendment does not significantly differ from Cal. Adm. Code 15061(b), which permits the developer to prepare the draft EIR as long as the public agency makes an independent analysis and evaluation of it. The purpose of 21082.1 may simply be to demonstrate the legislature's agreement with 15061(b), which was prepared by the Office of Research and Planning. However, the amendment may also be a stronger statement from the legislature that public agencies cannot delegate their responsibility for preparing the final EIR.

21002.1 defines the general responsibilities of local agencies. When functioning as a lead agency, local agencies shall consider all the effects of a project. When functioning as a responsible agency, local agencies shall only consider the effects of those activities of the project which it is required by law to approve or carry out.

21092 requires public agencies to provide public notice of the preparation of an EIR or negative declaration within a reasonable period prior to final adoption by the agency of either of the documents.

21151.5 attempts to reduce delays in the EIR process by authorizing local agencies to establish time limits for the preparation of EIRs and negative declarations. The limits are not to exceed one year, and the period is measured from the time the applicant's request for project approval is received by the local agency.

Howard Carsman

Case note

(continued from page 2)

This dictum was disapproved in 1974, however, when the court upheld an initiative enacted by San Diego voters. Since San Diego is a charter city, the state zoning law did not apply. But the court held there was no constitutional violation where a landowner failed to receive prior notice and hearing because a zoning ordinance was enacted by initiative.

The *Livermore* court, then, dealt with the statutory holding of *Hurst*: Zoning Act procedural requirements apply to land use regulations adopted by the initiative process. *Livermore* said they do not. The procedure set forth in Government Code sections 65853 through 65857 (...notice and hearing before the planning commission and legislative body) refers only to action by those bodies. The Legislature never intended for the zoning law to apply to zoning initiatives, the court asserted. Furthermore, the right of initiative is a constitutional right; it could not be limited or restricted by statute. *Hurst* was overruled.

Livermore is also important because it requires local government to consider the impact that local ordinances may have on regional needs. California courts formerly approved zoning laws unless they failed to bear a real or substantial relationship to the general welfare. In most cases, the ordinances were presumed valid.

But these earlier decisions largely dealt with regulations that had little if any impact outside the municipality. The Livermore ordinance, on the other hand, might have a significant impact on the region. The court said that the analysis in such instances must begin with a determination of whose welfare is at stake. An ordinance represents a constitutional exercise of police power only when it promotes the welfare of the region it affects.

The opinion seems to suggest a move away from the deference traditionally accorded legislative zoning decisions. The court refused to go so far as to apply the strict scrutiny test which several states used in cases of exclusionary zoning, but it required more than minimal scrutiny. "Judicial deference," it said, "is not judicial abdication."

Trial courts henceforth are to analyze regional impact in three steps:

1)determine the probable effect and duration of the restriction;

2) identify the competing interests affected by the restriction;

3) determine if the ordinance, in light of its probable effect, represents a reasonable accommodation of the competing interests.

Although the court accepted the presumptive validity of zoning ordinances, it also recognized that the presumption is refutable by a showing that the ordinance does not further the general welfare of the region it impacts. Significantly, the court remanded the case for further evidence on this issue. The validity and significance of the asserted interests must be demonstrated...so that the court may determine whether the...ordinance attempts a reasonable accommodation of those interests." No longer does general welfare simply mean local welfare.

Dee Hartzog

Solar Clothes Dryer

The City of Davis Planning Commission has recommended the city adopt a proposed "solar clothes dryer ordinance" as an energy conservation measure. The purpose of the ordinance is to encourage the use of clotheslines in place of clothes dryers currently powered by natural gas and electricity.

The draft ordinance states: 'It shall be unlawful and a nullity to establish any private covenant or restriction which prohibits the use of a solar clothes dryer in any residental zone."

There are both legal and aesthetic barriers to permitting the wide use of solar clothes dryers. At present, many housing developments prohibit the use of clotheslines. As noted by Davis City Attorney William L. Owen, "It is questionable whether existing recorded covenants and restrictions can be 'nullified' by this ordinance."

Owen also acknowledges "both the state and federal constitutions prohibit laws which 'impair the obligations of contracts'...(except) where such impairment is necessary to preserve public health, safety and welfare."

Proponents of the recommended ordinance emphasize the multiple savings anticipated from the use of solar clothes dryers.

The proposed ordinance was reviewed by the Davis City Attorney, the Community Development Department, the Design Review Commission, and the Davis Planning Commission. It was discussed at a public hearing on March 15, 1977, and is currently pending before the Davis City Council.

Kathi Beaumont

literature review:

The March 1977 issue of the *Sierra Club Bulletin*, on page 12, presents an analysis of the breeder reactor program in "Breeder Reactors, the Biggest Nuclear Gamble." Although the immediate dangers of plutonium use have been mooted to some extent by President Carter's statement of a non-breeder policy, this is an effective articulation of the issues involved. On page 27 of the same issue, "California: Last Chance for Mineral King?" recaps the history of litigation to preserve the area, the effects of pollution, and the status of attempts to transfer Mineral King to the National Park system.

For those interested in solar power, Kurt Hohenemser reviews a thesis by researchers at Washington University in "A Community Solar and Wind Energy System," *Environment* March 1977, p.3. Also, "Careless Kepone" on page 30 describes the release of kepone insecticide along the Virginia-Maryland coast and the resulting environmental damage and legal problems.

The recurrent battle between jobs and environment emerges once again in "The Town Dilemma" on page 6 of the same issue. The town of Bloomington, Indiana, is struggling to decide the fate of an existing Westinghouse plant. The plant employs many local people but also discharges PCB's and has an adverse effect on air and water quality.

The National Wildlife Federation *Conservation Report* discusses the impact of mandatory container deposit legislation in "On Beverage Containers and Energy Conservation" on page 98 of the February 25 issue.

Elliott Gilberg

Dow Legislation

(continued from page 1)

The most important bill proposed in response to the Dow pullout is **AB 884**. It is strongly endorsed by the governor and is sponsored by Assembly Speaker Leo McCarthy.

The bill aims to eliminate delays associated with the permit process, by establishing time limits for project review. The lead agency will have 45 days to decide whether an Environmental Impact Report (EIR) is needed. If so, other agencies which base their decision to grant a permit on information contained within the EIR will have 45 days to specify the information they will need to receive in the EIR.

The lead agency will have one year in which to complete action on the project, and all permit-granting agencies will have six months in which to complete their actions. If agencies fail to adhere to these time limits, permits will be granted automatically.

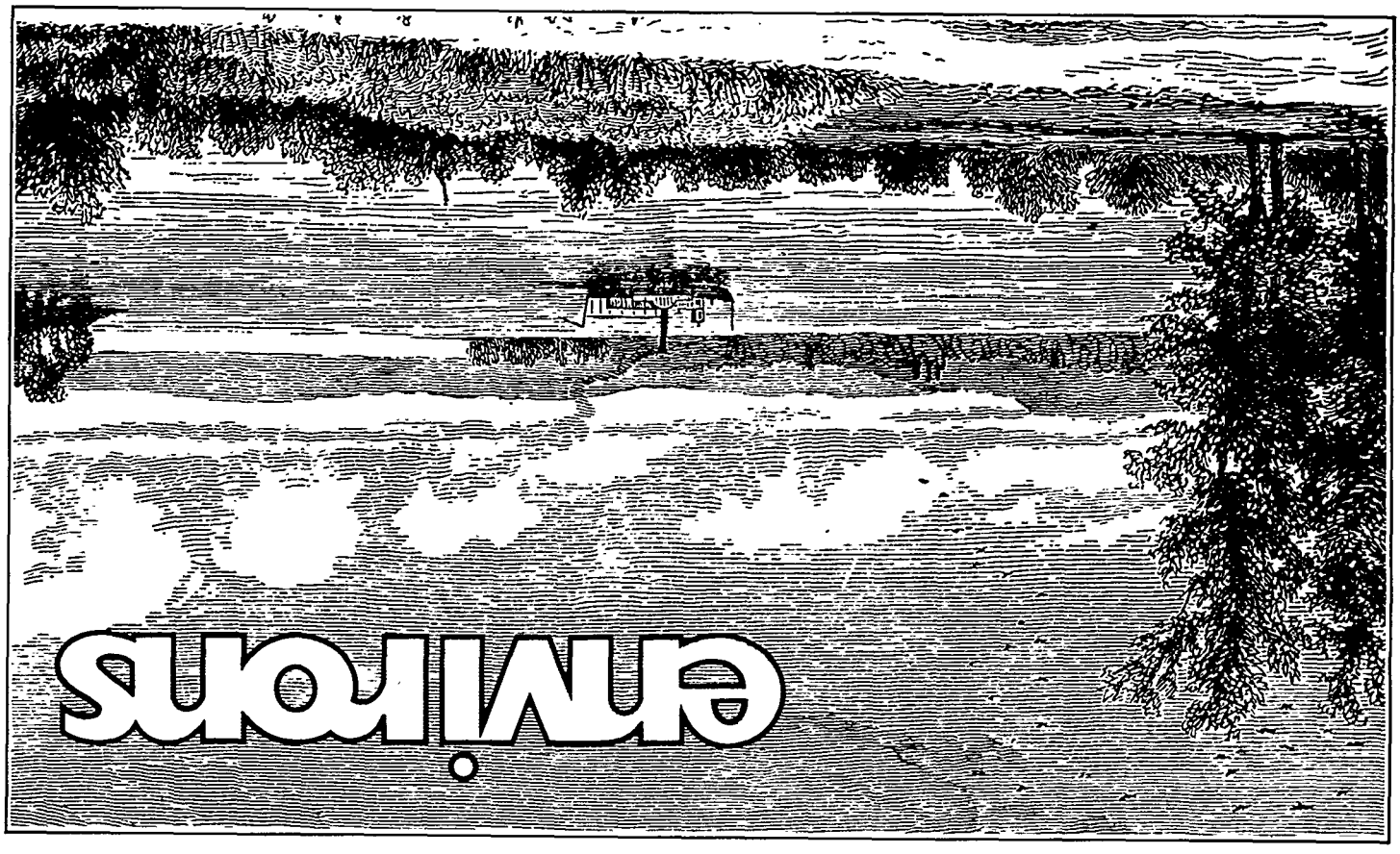
AB 884 represents Gov. Brown's major initiative in the area of the permit process. Another initiative of considerable importance is expected later this spring: a bill to create a system of "regional industrial siting agencies."

The principal function of the agencies would be to draw up "regional industrial location plans," designed to be much more specific than current land use plans. The plans would not include every business entity, but would include every facility which, like Dow, is "of regional significance."

The plans would indicate the types of industry allowed in each location and the annual amount of construction permitted in the region. The agencies would operate under guidelines promulgated by OPR, and regional plans would be evaluated by it. Once a plan was approved by OPR, no development inconsistent with that plan would be allowed.

The measures discussed above represent only the initial responses to Dow's withdrawal. It is likely that the flow of Dow-spawned bills will not end soon. This article has focused on proposals which are direct results of concern over Dow's experience and its effect on California's business climate. It is impossible to estimate the impact the Dow controversy will have on the fate of environmental bills which seemingly have nothing to do with Dow.

Chris Elms



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