



## CEAC Land Use Policy Committee

Wednesday, April 15, 2020|9:00 am - 10:30 am

Zoom Meeting – see page 2 for instructions

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### AGENDA

Chair – Trisha Tillotson, Nevada County  
Vice Chair – Stephanie Holloway, Placer County  
Vice Chair – Warren Lai, Contra Costa County

- 9:00 am I. **Welcome, Self- Introductions, and Opening Remarks**  
*Chair, Trisha Tillotson, Nevada County*
- 9:10 am II. **Rule 20A Program Update**  
Roundtable discussion including:
- Revised date to supply comments on CPUC Staff Proposal and Audit of PG&E are due by April 21, 2020
  - Sunset of Rule 20A projects
  - Allowing Safety and Fire related projects
  - Disadvantages for rural counties including requiring counties to be the lead on undergrounding projects
- 9:45 am III. **Vehicle Miles Travelled – Case Studies and Discussion on Implementation**  
*Vice Chair, Stephanie Holloway, Placer County*
- 10:10 am IV. **CEAC Legislative Priorities for FY 2020/2021**  
*Chair, Trisha Tillotson, Nevada County*  
Attachment One: Legislative Proposal Action Request Form  
Attachment Two: Legislative Proposal Worksheet  
Attachment Three: Excerpts from CEAC Priorities and Policies
- 10:20 am V. **Focus of Land Use Policy Committee Discussion**  
Discuss if utility issues should be included in future Land Use Policy Committee discussions. If yes, recommendation will be taken to CEAC Board of Directors  
*Vice Chair, Stephanie Holloway, Placer County*  
*Vice Chair, Warren Lai, Contra Costa County*
- 10:30 am IV. **Other Items & Adjournment**



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Zoom Meeting instructions:

Topic: CEAC Land Use Policy Committee Meeting

Time: Apr 15, 2020 09:00 AM Pacific Time (US and Canada)

Join Zoom Meeting

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Meeting ID: 182 971 994

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## ATTACHMENTS

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Attachment One..... Legislative Proposal Action Request Form

Attachment Two..... Legislative Proposal Worksheet

Attachment Three..... Excerpts from CEAC Priorities and Policies

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**Attachment One**  
Legislative Proposal Action Request Form



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**Attachment Two**  
Legislative Proposal Worksheet



# California State Association of Counties

## LEGISLATIVE PROPOSAL WORKSHEET

### I. SUMMARY

Due to increasing risks of wildfire, modify the Streets and Highway Code to clarify that Caltrans may issue encroachment permits on any State highway or freeway for emergency access where access is limited in moderate, high and very high Fire Hazard Severity Zones (as determined by CAL FIRE) and development of an intersection or interchange is not planned.

### II. BACKGROUND INFORMATION

#### A. Problem

- (1) The County of Nevada has requested two emergency access gates in an isolated but populated area off State Route 20 in Nevada County on behalf of CAL FIRE. Caltrans has denied the encroachment permit and appeal based on their Project Development and Procedures Manual (PDPM, available at <https://dot.ca.gov/programs/design/manual-project-development-procedures-manual-pdpm>) Chapter 17 which "prohibits planned emergency access for existing, new, or expanded developments adjacent to the right-of-way" on freeways and the expressway system. CAL FIRE and local fire agencies are adamant that access to the requested location could be critical to the safety of 43 vulnerable communities in the area that are in High and Very High Fire Hazard Severity Zones. While the PDPM actually allows fences to be breached by emergency responders if necessary, this would be time prohibitive in the event of a wildfire where removal of the fence and k-rail currently in place would take at least 60 minutes for resources such as heavy equipment to be brought to the site to remove the k-rail, cut the fence and grade in a path to adjacent roadways. In this rural area of our county, we do not have the funds available to construct a \$20 million dollar interchange, as Caltrans has suggested, and are instead asking to construct a \$5,000 gate for use by emergency responders during a major wildfire event.
- (2) This proposal would address a problem of statewide significance with the risk of wildfire being at an all-time high throughout California. Currently, there are other counties that have emergency access gates along highways but if they were to ask for them today, Caltrans would deny their requests based on their PDPM. With moderate, high and very high Fire Hazard Severity Zones (map available online at <https://osfm.fire.ca.gov/divisions/wildfire-planning-engineering/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/>) being traversed by State highways and freeways, the need for emergency access to areas otherwise inaccessible during a wildfire is paramount to the safety of our citizens and emergency responders.
- (3) Litigation is unknown for the specific issue of emergency access gates on state highways/freeways.
- (4) Nevada County's Ponderosa West Grass Valley Defense Zone Project discusses the specific concerns the proposed emergency access gates would address. The project website contains additional information at <https://osfm.fire.ca.gov/divisions/wildfire-planning-engineering/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/>. In addition, Nevada County's Community Wildfire Protection Plan, Nevada County's Wildfire Preparedness Action Plan at <https://www.mynevadacounty.com/DocumentCenter/View/28048/6-11-2019-2019-Wildfire-Preparedness-Plan?bidId=> provide additional documentation to the need to improve ingress and egress during an emergency.

#### B. Interested Parties

- (1) The following are directly concerned with Nevada County's specific issue: County of Nevada, CAL FIRE, Penn Valley Fire Protection District, Nevada County Consolidated Fire District, Nevada County Coalition of Firewise Communities. FHWA, Cal STA and other counties are interested in the outcome of any change to the Streets and Highway Code.
- (2) Trisha Tillotson, Director of Public Works ([trisha.tillotson@co.nevada.ca.us](mailto:trisha.tillotson@co.nevada.ca.us)), Supervisor Hoek ([Sue.Hoek@co.nevada.ca.us](mailto:Sue.Hoek@co.nevada.ca.us)) and CEO Alison Lehman ([Alison.Lehman@co.nevada.ca.us](mailto:Alison.Lehman@co.nevada.ca.us)) would

be sources of information for the County of Nevada. CAL FIRE Unit Chief Estes (530-889-0111) and Nevada County Consolidated Fire District Chief Turner (530-265-4431) would be sources of information regarding fire danger in the area of the proposed gates.

- (3) Caltrans has opposed the idea of allowing an emergency access gate at a location that is not a permanent road. The latest concerns were verbalized in a phone conference with Cal STA where they stated liability concerns with the use of such a gate.
- (4) If the Streets and Highways Code is amended as proposed, other counties and fire agencies throughout California will be able to construct emergency access gates along highways and freeways.

### III. PROPOSAL

#### A. Existing Law

- (1) Currently the Streets and Highway Code Division 1. State Highways, Chapter 3. The Care and Protection of State Highways, Article 2. Permit Provisions, Part 670 (a) does not specifically allow for emergency access gates along highways and freeways.
- (2) Unknown case law history.
- (3) With the Streets and Highway Code not specifically allowing emergency access gates, Caltrans will not modify their Project Development and Procedures Manual to allow any gate along a highway or freeway. With increased risks associated with wildfire, there is a need to allow emergency access gates on highways/freeways.

#### B. Suggested Legislation

- (1) Amend the Streets and Highway Code Division 1. State Highways, Chapter 3. The Care and Protection of State Highways, Article 2. Permit Provisions, Part 670 (a) to include part (6) as follows:  
**STREETS AND HIGHWAYS CODE – SHC**  
DIVISION 1. STATE HIGHWAYS [50 - 897] (*Division 1 enacted by Stats. 1935, Ch. 29.*)  
**CHAPTER 3. The Care and Protection of State Highways [660 - 759.3]** (*Chapter 3 enacted by Stats. 1935, Ch. 29.*)  
**ARTICLE 2. Permit Provisions [670 - 695]** (*Article 2 enacted by Stats. 1935, Ch. 29.*)  
670.(a) The department may issue written permits, as provided in this chapter, authorizing the permittee to do any of the following acts:  
  - (6) Construct emergency access gates on any state highway, freeway or expressway where access is limited in moderate, high and very high Fire Hazard Severity Zones as determined by CAL FIRE and development of an intersection or interchange is not planned.
- (2) Similar provisions are made in this section of the Streets and Highway Code for opening, excavations, general encroachments, signs, vegetation management, and for installing/removing tire chains.
- (3) With these proposed changes, any county where an emergency access gate on a state highway or freeway may help save lives during a wildfire and where public road connections do not exist and are not planned, will likely apply for an encroachment permit for such a gate.

#### C. Fiscal Impact

- (1) Cost impacts to County's who elect to construct emergency access gates, would include the cost of the gate and future maintenance costs.
- (2) Other persons or organizations, public or private, should not be impacted fiscally by this proposal.

#### D. History

- (1) No legislation background that we are aware of.
- (2) Judicial or executive branch resolution is not an advisable option.

**E. Public Policy**

- (1) The County of Nevada Board of Supervisors has made reducing the risks of wildfire as a top priority over recent years. In addition, the reduction of wildfire risks is a top priority for many California agencies including CAL FIRE and Cal OES, not to mention the Federal Emergency Management Agency.
- (2) Public policy for reducing the risk of wildfire could be assisted across jurisdictions with the implementation of this proposal.

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**Attachment Three**  
Excerpts from CEAC Priorities and Policies

## **ATTACHMENT 3: Excerpt 2019-20 legislative priorities and policy & administrative guidelines**

### **Land Use - 2019-2020 CEAC Legislative Priorities**

1. **Ensure Adequate Funding for Infrastructure Impacted by Development.** AB 879 (Grayson, 2017) requires the Department of Housing and Community to study how to reduce fees imposed on new development pursuant to the Mitigation Fee Act and publish a report in 2019. Support proposals which promote housing development by adequately funding infrastructure, but oppose measures that arbitrarily limit fees or other exactions necessary to support county infrastructure, facilities, or services required by new development.
2. **Fund Infill Infrastructure.** Support funding sources for infrastructure related to infill projects that fall under applicable streamlining, including the Affordable Housing and Sustainable Communities grant program, as well as other proposals to fund infill infrastructure in tandem with affordable housing development, including proposals for a bond measure.

### **Land Use - 2019-2020 CEAC Policy and Administrative Guidelines**

1. Expand current SB 375 CEQA streamlining for specified infill projects to all infrastructure necessary to support that development.
2. Support funding sources for infrastructure related to infill projects that fall under the CEQA streamlining in SB 375.
3. CEQA Streamlining – Infrastructure for Infill Housing. Support CEQA streamlining for infrastructure necessary to support infill development.
4. Support guidelines for the Affordable Housing and Sustainable Communities grant program, and other programs funded with cap and trade auction proceeds, that ensure that counties are well-positioned to take advantage of these funding opportunities.