



COUNTY ENGINEERS ASSOCIATION OF CALIFORNIA  
2011 ANNUAL REPORT



# 2011 CEAC'S PURPOSE

The County Engineers Association of California (CEAC), formed in 1914, is comprised of county engineers, public works directors, county road commissioners, and professional personnel throughout California's 58 counties. Its purpose is "To advance county engineering and management by providing a forum for the exchange of ideas and information aimed at improving service to the public."

Furthermore, the objective of CEAC is "To accomplish the advancement of engineering methods and ethical practice through networking efforts of all 58 counties in the state." Through discussion, interchange, and dissemination of engineering and administrative data/ideas, the organization shall strive to affect "maximum efficiency and modernization in engineering and administrative units of local government."

Throughout CEAC's history, it has maintained a close relationship with the California State Association of Counties (CSAC) to lend support in policy development and advocacy efforts, thus benefiting counties and their ability to serve their citizens.





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# MESSAGE FROM THE 98TH PRESIDENT OF THE COUNTY ENGINEERS ASSOCIATION OF CALIFORNIA

I want to thank the County Engineers Association of California for allowing me to serve as your President in 2011. I continue to be impressed by the quality of our organization. That quality is the people. It is the staff, the membership, the CLODS, the Affiliates and yes, the CHICS. CEAC is a synergistic group with the energy and commitment to make a difference. As President, I was able to see this first hand in the willingness of our members to serve on committees, to engage on specific issues and to act as a resource to the legislative staff at CSAC. It is also evident in the activity of the regions. Regional meetings are an excellent forum for sharing information and learning from each other in addressing the challenges we face as county engineers.

2011 was another interesting budget year. As the country, our state and our counties continue to weather this difficult economic period, and it seems to be a time of hunkering down and protecting what we have. Even in this environment we had a major success in March with the much needed fix to the Transportation Tax Swap. Counties' transportation revenues have essentially been restored back to when we had full funding of Prop 42 and HUTA. With more certainty in funding levels we can get back to the good practice of planning for efficient maintenance of our road network. Once again, we owe huge thanks to our CSAC staff who fought the good fight on our behalf and made sure that the message of need for these vital transportation resources was heard by the Legislature and the Governor.

It was helpful that in February 2011, the first update of our *California Local Streets and Roads Statewide Need Assessment Report* (Report) was released. The report showed a trend downward in our pavement conditions statewide and emphasized a need for more funding to adequately maintain our local road network. The report has proven to be a valuable tool and continues to be a priority for CEAC. I look forward to the results of a similar effort for a *Statewide Flood Control Needs Assessment* being done in partnership with the Department of Water Resources.

I have a lot of people to thank for the support I have had this past year. I will start with the CLODS for giving me the opportunity. Thinking back to fall of 2008 when MIKE WALFORD came and asked me to be an officer of CEAC, I was surprised and honored and also touched that the Public Works Director who hired me at Contra Costa County was the one to extend the offer on behalf of the CLODS. I want to thank the entire membership with a shout out to the CEAC Officers who have been great to work with, the Committee Chairs who make our meetings relevant, informative and productive and the Regional Directors who carry on the business of CEAC beyond our conferences. I want to also thank our Affiliates who do so much for the organization with their sponsorship and their participation.

We could not do all we do in CEAC without the relationship we have with CSAC. The legislative team of DEANN BAKER, KAREN KEENE, KIANA BUSS and CARA MARTINSON works hard on our behalf every day. They support and staff our committees. They are strong and effective advocates and keep us informed on important budget and legislative issues at the state and national level. The breadth of the issues they work on and the expertise and knowledge they have developed in our policy areas is truly impressive. I want to recognize and thank PATTI HUGHES for the work she does. Patti makes it look easy, but it takes a lot of hard work to put together a successful conference and Patti is a master. And MERRIN GERETY! I cannot say enough about how great she is for CEAC and what a tremendous job of support she has provided me during my term as President. I could not have done this without her. Thank you, Merrin!

This is a special organization, one of purpose and camaraderie. I look forward to continued involvement in CEAC, in 2012 as Past-President and in the years to come. ●

JULIE BUEREN, Public Works Director  
Department of Public Works  
Contra Costa County

## REFLECTING ON 2011



The year began with the inauguration of EDMUND “JERRY” BROWN, JR. as Governor of the State of California for a second time. The Governor inherited a budget with a combined deficit of \$26.4 billion. He immediately went to work on tackling this “beast” and one of his primary goals involved county government. Governor Brown campaigned on a platform of returning fiscal responsibility and authority to the local level. On January 4, 2011, within mere days of his taking office, the Governor sat down with CSAC’s Officers and senior staff to discuss the budget problem and his ideas to realign government programs to the local level to the tune of \$6 billion. Work on realignment of public safety and social services programs continues at the time of this writing, but the budget passed in 2011 did make significant changes in realigning critical public safety and other social services to county government. We were promised constitutional protections for these realigned programs guaranteeing revenue streams to ensure adequate service delivery. Unfortunately, that goal was never met as a two-thirds vote of the Legislature was required and never achieved. The constitutional protection of a dedicated revenue stream remains CSAC’s top priority and ongoing discussions and negotiations continue with a ballot measure the likely vehicle to accomplish this critical objective.

As a part of budget negotiations, CSAC also dedicated significant resources and time to implementing a fix for the transportation tax swap resulting from the passage of Propositions 22 and 26 in the fall of 2010. As explained further in this report, we were successful in achieving a two-thirds vote of the Legislature to validate the swap and secure transportation funding into the future. While we have struggled to provide certainty in transportation revenues since the passage of Proposition 42 in 2002, with this validation and the passage of Proposition 22 in November of 2010 we should see a more stable future for a significant portion of transportation revenues that counties and the State rely upon today.

With respect to legislation dealing with county road commissioner authority, public contract retention, and regulatory streamlining we have a mix of results that you will find as you read through the policy sections of this report.

This year was also a busy year on the regulatory front. The State Water Resources Control Board is actively considering no less than three storm water permit updates as well as a Wetland Area Protection Policy and Dredge and Fill Regulations. As noted in the following report, flood control and water resource management continue to be an active and challenging policy area, with many factors at play, including pending decisions regarding the Delta; state and local budget pressures; and, several significant federal regulatory proposals. On all these matters, CSAC drew upon the expertise of the CEAC membership and in particular the members of the CEAC Flood Control and Water Resources Committee.

Finally, CSAC staff was successful in warding off some of the more negative legislative proposals related to solid waste management including AB 1178, a measure related to the importation of solid waste, as well as effective in assuring the passage of several proposals related to recycling.

The following report provides an accounting of the legislative, regulatory and administrative work performed by CSAC staff on behalf of CEAC. It clearly demonstrates, that despite many challenges, both organizations are stronger and more effective because of our longstanding relationship. ●

# 2011 TRANSPORTATION



## ■ STATE BUDGET: Validating the 2010 Transportation Tax Swap

The transportation tax swap (tax swap) was a package of legislation initially passed by the Legislature in March 2010. It repealed the sales tax on gasoline (formerly Prop. 42) and replaced it with a 17.3-cent increase in the gasoline excise tax (Highway Users Tax Account or HUTA) and a 1.75 percent increase in the sales tax on diesel, which corresponded to the amount of revenue the sales tax on gasoline was generating at the time the legislation was passed. The value of the tax swap was estimated at \$2.4 billion in 2010 and we were successful in protecting the expected growth that the sales tax on gas would have generated in future years. This should provide a steady revenue stream for state highways, local streets and roads, and transit into the future.

The gas tax swap provided two key benefits: (1) It severed a significant source of transportation revenue from the State General Fund, where it remained at risk thus providing greater certainty; and (2) It also provided ongoing General Fund relief to the tune of nearly \$1 billion a year by paying the transportation related bond debt service.

Unfortunately in November 2010, with the passage of Prop. 26 which expanded the kinds of taxes and fees that require a two-thirds vote of the Legislature, the validity of the tax swap was called into question. Additionally, Prop. 22 limited the use of HUTA funds for bond debt and general fund relief as agreed to in the swap. Therefore, in order to avoid the potential for future litigation on the legality of the tax swap and risk losing transportation funds, CSAC and a broad coalition of transportation stakeholders called for the Legislature to re-validate the replacement taxes with a two-thirds vote as well as implement a Prop. 22 fix.

The coalition was successful in earning the Governor's support for the revalidation effort and it was included as a part of the FY 2011-12 January Budget proposal. The Legislature and Governor took action on revalidating the swap at the end of March to secure this critical transportation funding.

## Transportation Tax Swap and HUTA Deferral Clean-Up

CSAC also sponsored two technical fixes in the FY 2011-12 budget related to the transportation tax swap and HUTA deferrals. First, CSAC was successful in getting a one-year extension on the use-it-or-lose-it requirement to spend Prop. 1B Local Streets and Roads (LSR) funds to ensure counties would not lose those funds. Second, CSAC drafted a fix to clarify that the new HUTA was treated the same as the existing HUTA with respect to project eligibility, maintenance of effort, and use-it-or-lost-it requirements to prevent problems during audits by the State Controller's Office.

## Proposition 1B – Local Streets and Roads Account

The State Controller's Office continued Proposition 1B – Local Streets and Roads Account (LSR) payments to counties without interruption in 2011. With the exception of one payment to one county remaining, all four appropriations have been made in full.

## ■ STATE LEGISLATION: CSAC Sponsored Legislation

### AB 147 (Dickinson) – Traffic Impact Mitigation Fees

AB 147, authored by Assembly Member ROGER DICKINSON and sponsored by CSAC, allows counties to use transportation impact mitigation fees levied under the Subdivision Map Act for transit, bicycle, and pedestrian facilities. Under existing law, these funds can only be used for improvements to bridges and major thoroughfares. While the California Building Industry Association indicated concerns at the beginning of the legislative year, CSAC staff successfully negotiated amendments to the measure to alleviate their concerns. We are pleased to report that Governor Brown signed AB 147 into law on September 6th.

# 2011



## **AB 931 (Dickinson) – CEQA Exemption for Affordable Infill Housing Development**

Assembly Member ROGER DICKINSON also introduced on CSAC's behalf a measure to amend the existing statutory criteria for counties to qualify for an exemption from the California Environmental Quality Act (CEQA) for affordable infill housing projects. Existing CEQA exemptions for affordable infill housing development in unincorporated areas are too narrow to be useful. Although initial meetings seem to indicate a willingness by the environmental community to work with us, their position became more rigid and threatened to reduce even existing law. While conversations continue with interested stakeholders to pursue CEQA streamlining for infill projects, due to opposition from the environmental community, the bill does not contain the changes approved by the CSAC Board. CSAC staff will remain engaged in this ongoing debate.

## **■ STATE LEGISLATION: CEAC High Priority Bills**

### **Assembly Bill 720 (Hall) – Road Commissioner Authority (Chapter No. 683, Statutes of 2011)**

AB 720, by Assembly Member ISADORE HALL, is similar to AB 1409 by Speaker Perez from 2009, which, as introduced, would have severely limited a county's ability to perform work on county highways in a timely, efficient, and cost-effective manner by eliminating long-standing county road commissioner authority for counties under the California Uniform Construction Cost Accounting Act (Act). County road commissioner authority provides significant flexibility for counties to utilize county work forces for a variety of critical safety and other road related work. After another long year of lengthy negotiations with the author and sponsors (the Construction Industry Force Account Council), CSAC was effective in developing amendments to remove our concerns with the measure and to the satisfaction of this association.

Specifically, AB 720 limits the ability of certain counties to perform new road construction and road reconstruction by force account pursuant to road commissioner authority. Specifically, the bill:

- Takes effect January 1, 2013
- Applies to counties under the California Uniform Construction Cost Accounting Act (Act)
- Exempts counties with a population less than 50,000 (including those under the Act)
- Preserves the ability to perform emergency work and road maintenance by force account by road commissioner authority
- Limits the total amount of new road construction and road reconstruction that can be performed by force account by road commissioner authority to thirty-percent of the total value of all work performed by force account less maintenance. In other words, counties can perform new road construction and road reconstruction by force account by road commissioner authority up to thirty-percent of the total annual value of force account less maintenance.
  - To determine this limit, the measure relies on the State Controller's *Annual Street and Road Report*. Specifically, counties report on force account activities under three major categories:
    - Undistributed Engineering & Administration
    - Construction & Rights of Way
    - Maintenance
  - To calculate the total value annual value of force account less maintenance, a county needs to add up all force account work reported under the "Undistributed Engineering & Administration" and "Construction & Rights of Way" categories. A county can perform new road construction and road reconstruction by force account pursuant to road commissioner up to thirty-percent of this value.





- Excludes force account work necessary to facilitate private contracts (i.e. design, engineering, inspection, testing, etc). Currently, the *Annual Streets and Roads Report* does not require counties to differentiate between force account work to facilitate capital projects and the actual construction of projects with force account. We are working with the sponsors and the Controller's Office to make the necessary changes to the reporting to ensure counties are not restricted in force account work to facilitate capital projects.
- Requires counties to track force account work utilizing force account by road commissioner authority for new road construction and road reconstruction. The letter also points out the need to accomplish this change before the bill takes effect.
- Authorizes counties to perform new road construction and road reconstruction by force account once exceeding the thirty-percent threshold, but only pursuant to the Act. Therefore, counties can continue new road construction and road reconstruction projects under \$45,000 without limitation.

Again, while the new requirements pursuant to AB 720 might affect the way some counties build public works projects, negotiating this agreement was a success for CEAC. All previous versions of the measure were significantly more detrimental to the ability of county public works departments to provide critical infrastructure projects across the state.

### **SB 293 (Padilla) – Retention on Public Works Contracts (Chapter No. 700, Statutes of 2011)**

SB 293, by Senator ALEX PADILLA, limits retention to five-percent on public works projects. CSAC was strongly opposed to the measure, consistent with our opposition to this legislative proposal which has been included in eight previous measures over the past fifteen years. While the previous attempts to pass this proposal were stalled in the Legislature or vetoed by the acting Governor, Governor Brown signed the measure into law on October 9th. Unfortunately, with such strong private sector support, staff believed it was only a matter of time before the bill was successful.

The new cap on retention will take effect on January 1, 2012. CSAC encourages all counties to keep track of projects where the new five percent retention is problematic and doesn't provide counties with the proper tools to ensure the on time and on budget delivery of public works projects. Please let CSAC staff know of any such problems so we can document issues and build a case against the five-percent retention requirement should it become a high priority issue in the future.

### **■ TRANSPORTATION FUNDING: Local & Statewide Needs Assessment**

#### **California Statewide Local Streets and Roads Needs Assessment Report – 2010 Update**

In 2009, CSAC and the League of California Cities (League) released the results of the first ever comprehensive *California Statewide Local Streets and Roads Needs Assessment*. The report was used to educate the public and key policy and decision-makers at the local, state, and federal levels and to advocate against, and avoid significant cuts to local transportation funding over a number of state budget cycles. In early 2011, we released the first biennial update of the report. As predicted in the 2009 report, the statewide average pavement condition index (PCI) deteriorated in that short time period, placing the system in an "at risk" category. In addition, the 2010 update found that the funding shortfall considering all existing revenues grew from \$72 billion to \$78.9 billion over the next 10 years.

CSAC will continue to support this effort as the findings and data are invaluable to our advocacy efforts on behalf of transportation funding for counties. In this regard, CSAC was successful in getting California's regional transportation planning agencies to commit to paying for half of the necessary funding for two more two-year updates through 2014. The other half of the necessary funding will be provided by individual contributions from counties and cities.



# 2011



## **Statewide Transportation Needs Assessment Report**

When CSAC presented the results of the 2009 Local Streets and Roads Needs Assessment to the California Department of Transportation (Caltrans) and the California Transportation Commission (CTC), the report was so well received that the CTC directed staff to develop a similar report for all modes of transportation in California. CSAC participated in a two year-long effort to develop the report which is to be finalized in the fall of 2011. Similar to the goals of the local report, transportation stakeholders and advocates for streets and roads, highways, transit, ports and aviation will use the results for educating policy makers and seek additional state and federal transportation funding to address the identified needs. It is the intent of the CTC to update the report every two years further supporting our efforts for the update of the local road report.

## **■ LAND USE/TRANSPORTATION LINKAGES**

### **SB 375 Implementation – Developing Sustainable Communities Strategies**

CSAC staff monitored the progress of the development of the first Sustainable Communities Strategies (SCS) per SB 375. The SCS is the regional integrated land use, housing, and transportation plan that incorporates how a region plans to reduce greenhouse gas emissions. The San Diego Council of Governments (SANDAG) adopted the first ever SCS on October 28, 2011. While SANDAG's SCS appears to meet all statutory requirements under SB 375, the plan has come under criticism from environmental groups, and the Governor's Office of Planning and Research and the State Attorney General's Office weighed in with suggested improvements to the plan. CSAC staff continues to monitor the conversation around the implementation of SB 375 and remains watchful of attempts to provide state authority over accepting or rejecting SCSs, similar to the authority granted to the California Housing and Community Development Department over housing elements. This was the original intent of the sponsors of SB 375 back in 2008 when we negotiated a compromise approach to the plan development process giving local governments' greater flexibility over the appropriate means to achieve the greenhouse gas reduction targets in a given region.

### **Strategic Growth Council**

Under new leadership with the change in the Governor's Office, the Strategic Growth Council (SGC) spent a majority of their time in 2011 outreaching to stakeholders on a host of issues, and perhaps most importantly, on the subject of the SGC's role into the future. While the SGC's main focus in its first year was the development of guidelines for and implementation of bond funded grant programs, the emphasis this year was much broader. The SGC worked to provide local governments with information and data, such as the development of the Funding Wizard, a searchable database for sustainability focused grants. As a part of their stakeholder outreach efforts, the SGC convened a number of meetings which CSAC participated in to assess the needs of local and regional governments and to target those needs with the development of useful resources. Recognizing that local governments are more than mere stakeholders in the development of sustainable communities, that we are the State's partners, CSAC is advocating that the SGC create a local government advisory group so that county, city, and regional input is better incorporated into the SGC's work plan. CSAC will continue to advocate for a more meaningful and structured role in future SGC conversations. ●



## **A**DDRESSING DISADVANTAGED COMMUNITIES

### **Senate Bill 244 (Wolk) – Disadvantaged Communities (Chapter 513, Statutes of 2011)**

SB 244, by Senator LOIS WOLK, as introduced, would have imposed a very expensive new mandate on counties and cities to amend their General Plans with an extraordinary amount of detail regarding not only disadvantaged communities but also “fringe communities” which are not required to meet any disadvantaged criteria. It also would have required cities and counties to identify ways to mitigate a very broad and un-prioritized list of services in these communities without funds for either the planning requirements or to improve the services and infrastructure. This measure is very similar to SB 1174 by Senator Wolk from 2010.

After another year of lengthy negotiations with the author and sponsors, CSAC was able to reach a compromise proposal that achieves some of the original goals of the measure and also considers local fiscal and staff resources necessary to meet new planning mandates. CSAC has maintained support, in principle, for the goal of this measure—which is aimed at addressing substandard conditions and infrastructure deficiencies in disadvantaged unincorporated communities.

Further, numerous counties continue to struggle with how to address infrastructure deficiencies within these communities that are often times left behind when nearby land is annexed to cities for economic development purposes. The bill takes a first step in trying to identify deficiencies and plan for potential funding opportunities to address them.

The Governor signed the measure into law on October 7th. Understanding the importance of this issue, CSAC will continue to work on issues related to disadvantaged communities in future years. ●

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REACH A COMPROMISE PROPOSAL  
THAT ACHIEVES SOME OF THE  
ORIGINAL GOALS OF THE MEASURE  
AND ALSO CONSIDERS LOCAL FISCAL  
AND STAFF RESOURCES NECESSARY  
TO MEET NEW PLANNING MANDATES.





# FLOOD CONTROL AND WATER RESOURCES MANAGEMENT



Unlike previous years where water issues dominated the legislative agenda, this year's efforts with respect to flood control and water resources management were focused almost entirely on regulatory issues. Much of 2011 has been spent on implementing flood control legislation, passed as part of a larger flood protection package in 2007 and work on storm water and wetlands issues at the State Water Resources Control Board.

## **SB 5 Implementation**

With deadlines looming, counties within the Central Valley requested CSAC's assistance in coordinating and participating in discussions between county public works officials and the Department of Water Resources (DWR) regarding the implementation of SB 5 (Chapter 364, Statutes of 2007). This bill was one of a six-bill flood protection package signed into law in 2007. Viewed as the linchpin, SB 5, requires the State to adopt a Central Valley Flood Protection Plan by 2012, and establishes certain flood protection requirements for certain local land-use decisions consistent with the Central Valley Protection Plan. Counties (and cities) within the Central Valley have expressed several valid concerns with DWR's preliminary plans and process for implementing SB 5. In response to these concerns, CSAC and the League of California Cities jointly submitted to DWR recommendations for suggested changes to SB 5. While DWR staff agrees that certain components of SB 5 need statutory clarification, they have yet to share their plans for moving forward with clean-up legislation. CSAC fully expects that the discussions surrounding SB 5 implementation will continue well into next year.

## **■ STATE REGULATION: Municipal Separate Storm Water System (MS4) Permit**

The State Water Resources Control Board (Water Board) is in the process of updating a number of permits that impact county government, including the Small Municipal Separate Storm Water System (MS4) Permit. The proposed permit applies to additional entities than the previous version and substantially expands the scope of the previous permit. CSAC has joined forces with a coalition of cities and counties concerned about the draft permit, and teamed up to advocate for a more flexible, measured approach. CSAC staff has participated in numerous meetings with members of the coalition and attended meetings with the Water Board and the Governor's office on this issue. In addition, staff prepared a detailed comment letter on the proposed regulations, requesting the Board to conduct a comprehensive cost benefit analysis of the proposed regulation.

Also worth noting is the informational hearing that was held in October by the Senate Select Committee on California Job Creation and Retention on the MS4 Permit and the proposed Industrial Storm Water General Permit. For this hearing, CSAC joined forces with the Regional Council of Rural Counties (RCRC) and the League of California Cities in communicating local governments' concerns with the permits' overly prescriptive requirements and associated costs. According to Water Board staff, the MS4 Permit will be substantially modified prior to its re-release to address many of the concerns expressed by the impacted entities.

## **The Industrial Storm Water General Permit**

CSAC staff has also been active in lobbying the Water Board on their update of the Industrial Storm Water General Permit (IGP). Counties are in the somewhat unique position of viewing storm water regulation from two perspectives—first, as enforcers of local water quality objectives and, secondly, as regulated dischargers. Thus, we have been engaged on both the MS4 Municipal permit update as well as the IGP. Like the MS4 Permit, the proposed IGP update proves to be more costly and prescriptive than the previous iteration. CSAC submitted a comment letter to the Water Board urging them to adopt a reasonable and measured permit. Given the significant outcry over the proposed permit, it is our understanding that the proposed IGP will be significantly amended before it is re-released. We have been informed that the numeric limits will be eliminated and inspection requirements kept the same as the existing permits.



### **Wetland Area Protection Policy and Dredge and Fill Regulations**

Consistent with CEAC's 2011 legislative priorities, CSAC staff remained actively engaged in discussions involving the Water Board's proposed wetland regulations. CSAC continues to advocate for a streamlined and consistent regulatory process that protects the State's wetlands resources while providing regulatory certainty for public agencies and private property owners. However, after the numerous meetings, CEQA scoping sessions, and Board Resolutions, the Board staff released for public review and comment a proposed policy and regulatory program that would create additional and unnecessary regulatory burdens on stakeholders. Thus, CSAC continues to urge the Water Board to consider an expedited permit process for flood protection projects, including maintenance and operation work as well as standardized mitigation measures for the flood management system. In addition, a coalition of organizations comprised of private and public stakeholders, including CSAC, have asked the Governor to intervene by asking the Water Board to await the outcome of a recently convened federal discussion before creating a new statewide standard that is duplicative or could lead to litigation and delays. At the time of this report's preparation the Administration had not responded. This issue will very likely carry over into next year.

### **■ OTHER EFFORTS**

#### **Statewide Flood Control Needs Assessment**

In 2006, CSAC staff and members of CEAC initiated discussions with officials from the Department of Water Resources (DWR) regarding the development of a statewide needs assessment for regional flood control infrastructure. A similar report was prepared by DWR in 2005, which highlighted the condition of flood management in the Central Valley and outlined a plan to reduce flood risks (*Flood Warning: Responding to Californians Flood Crisis*). CSAC and CEAC convinced DWR to collaborate with counties in the development of more expansive review of flood risk in other areas of the State. Since the early discussions, CSAC and CEAC have provided significant input and advice to DWR regarding all aspects of their Statewide Flood Management Planning (SFMP) Program. To date, DWR has honored its commitment to regularly consult with our organizations regarding all aspects of this ambitious project. As envisioned by CSAC and CEAC, the key product of the SFMP Program will be the *Flood Future: Recommendations for Managing California's Flood Risk Report* (Flood Future Report), which is expected to be finalized by the end of 2013.

#### **Department of Fish and Game**

CSAC, in conjunction with CEAC, is working on reviving a past collaborative effort with the Department of Fish and Game (DFG) to improve county/DFG staff working relationships that allow for more efficient use of resources and processing of permits and other requests. The timing is right, as DFG is currently in the process of developing a strategic vision that will address a wide range of fish and wildlife issues of interest to counties. Through the strategic vision process, CSAC and CEAC will coordinate and participate in discussions with DFG staff regarding the continuation of our past collaborative efforts. ●

CSAC CONTINUES TO ADVOCATE FOR A STREAMLINED AND  
CONSISTENT REGULATORY PROCESS THAT PROTECTS THE STATE'S  
WETLANDS RESOURCES WHILE PROVIDING REGULATORY CERTAINTY FOR  
PUBLIC AGENCIES AND PRIVATE PROPERTY OWNERS.



# 2011 SOLID WASTE



The Legislature entertained several pieces of legislation this year related to solid waste. CSAC staff was successful in warding off some of the more negative proposals, including AB 1178 as well as helping to assure the passage of other more positive measures related to recycling.

## ■ STATE LEGISLATION: CEAC High Priority Bills

### AB 1178 (Ma) – Solid Waste Landfills

Assembly Bill 1178, by Assembly Member FIONA MA, would have restricted the ability of local governments to impose a solid waste import ban based on the origination of that solid waste into privately-owned landfills. This bill was borne out of a Measure E, a highly contested 1984 Solano County initiative that attempted to limit the importation of solid waste in excess of 95,000 tons per year. The bill, sponsored by a private-sector solid waste hauler, attempted to limit a jurisdiction's ability to prohibit the importation of solid waste based on the place of origin. The issue was further complicated by several court rulings that included a United States Supreme Court ruling, *Fort Gratiot Sanitary Landfill v. Michigan Department of Natural Resources*, which ruled that a state's attempt to solve its solid waste problems by delegating to counties the ability to prohibit the importation of out-of-county garbage (and thus out-of-state garbage) violates the Commerce Clause of the United States Constitution.

CSAC staff was concerned with the original language of AB 1178 because there are counties that own and operate landfills with a limited lifespan, and those counties want to preserve capacity in that landfill for their solid waste disposal needs. In addition, there are counties that have put in place—as part of the permitting process—out-of-county waste restrictions based on public input. There are also counties that have existing agreements to reserve a certain amount of landfill capacity for their jurisdiction's disposal needs. Thus, the bill pitted certain export counties against those jurisdictions that owned and/or operated their own landfills, and thus necessitated taking the issue to the CSAC Board of Directors for a more specific response to the bill. Upon the recommendation of staff, the CSAC Board of Directors adopted an oppose-unless-amended position on the bill, giving staff the latitude to negotiate amendments to the bill, while affording us the opportunity to continue to oppose the bill if our concerns were not addressed. Subsequently, CSAC, in collaboration with the Regional Council of Rural Counties (RCRC), was successful in negotiating amendments to address concerns regarding the publically owned and operated landfills provision of the bill. Facing significant opposition, the bill was ultimately held in the Senate Environmental Quality Committee.

### AB341 (Chesbro) – Solid Waste Diversion

AB 341 (Chapter No. 476, Statutes of 2011), by Assembly Member WESLEY CHESBRO, establishes a state policy goal that 75% of solid waste generated be diverted from landfill disposal by 2020. After several rounds of negotiations, CSAC staff was able to remove our opposition to this bill when the author agreed to turn the 75% diversion provision into a statewide goal as opposed to a mandate. In addition, the bill also requires a commercial waste generator to arrange for recycling services; and, requires local governments to implement commercial solid waste recycling programs designed to divert solid waste from businesses, and requires multifamily recycling. AB 341 was signed into law on October 6, 2011.

## ■ OTHER MEASURES

CSAC had the opportunity to work in collaboration with CEAC and other stakeholders to achieve successful advocacy efforts on a few solid waste bills that were signed by the Governor, including several bills that provide funding for recycling programs.

**AB 525 (Gordon) – Chapters 573, Statutes of 2011**

This bill extends the sunset date of the Department of Resources, Recycling and Recovery's (Cal Recycle) Tire Recycling Program to June 30, 2015. The bill would also provide increased grant opportunities to local agencies for projects that use waste tires and makes technical clean up amendments to the Architectural Paint Stewardship Program.

**AB 1149 (Gordon) – Chapters 486, Statutes of 2011**

This bill extends the sunset date of a provision of law that allows the Department of Resources Recycling and Recovery to expend up to \$10 million from the Beverage Container Recycling Fund, or Bottle Bill, to provide market development payments for empty plastic beverage containers until January 1, 2017. The bill would also refine the program to encourage more in-state development of plastic bottle recycling facilities.

**■ STATE REGULATION: Commercial Recycling**

Cal Recycle and the Air Resources Board (ARB) moved forward with their draft regulations on commercial recycling this year. The California Global Warming Solutions Act of 2006 (Chapter 488, Statutes of 2006) directed ARB to develop a comprehensive statewide plan to reduce California's greenhouse gas (GHG) emissions to 1990 levels by 2020. As part of its strategy to achieve GHG reductions, ARB as well as Cal Recycle engaged in the process to develop mandatory commercial recycling regulation. Specifically, the mandatory commercial recycling measure is assigned a reduction goal of five million metric tons of carbon dioxide (CO<sub>2</sub>) equivalents. The commercial sector disposes 27 million tons of solid waste per year. While many jurisdictions require commercial recycling, to achieve the measure's objective, an additional two to three million tons of material annually will need to be recycled from the commercial sector by the year 2020.

CSAC staff has been engaged in discussions surrounding the development of the commercial recycling regulation, and has taken a support position on the draft proposal. CSAC appreciates the flexibility incorporated into the proposed regulations, allowing local governments to construct a commercial recycling program that works for their respective communities, utilizing existing infrastructure and resources. In addition to CSAC's existing policy that support these proposed regulations, this draft provides the most flexibility, requiring counties to develop a commercial recycling program that contains a minimal set of requirements and does not include an enforcement component.

**Climate Change**

CSAC staff is following the numerous efforts occurring at the legislative and regulatory levels to address climate change. In addition to working with the Air Resources Board on AB 32 implementation, CSAC staff has begun to work with the California Resources Agency on their Climate Change Adaptation Strategy. Staff was solicited by the Resources Agency to work as an official Advisory Committee Member to the Climate Adaptation Planning Guide Committee. In this capacity, staff has provided comments and participated in several meetings. The Planning Guide is designed to help guide California's efforts in adapting to climate change impacts. In cooperation and partnership with multiple state agencies, the *Draft Climate Adaptation Planning Guide* is an informational tool that will enable city and county planners, government agencies, and the public to identify potential climate change risks in specific areas throughout California. ●

SPECIFICALLY, THE MANDATORY COMMERCIAL RECYCLING MEASURE IS ASSIGNED A  
REDUCTION GOAL OF FIVE MILLION METRIC TONS OF CARBON DIOXIDE (CO<sub>2</sub>) EQUIVALENTS.  
THE COMMERCIAL SECTOR DISPOSES 27 MILLION TONS OF SOLID WASTE PER YEAR.





With lawmakers focusing much of their attention on deficit reduction efforts and partisan wrangling, Congress was not able to reauthorize a number of expiring programs this year, including a rewrite of the nation's surface transportation law and the Secure Rural Schools program. However, several other federal issues continue to move forward, including the Army Corps of Engineers Levee Vegetation Removal Policy and the Clean Water Act Section 404 Streamlining Process.

### **Clean Water Act Section 404 Streamlining**

Throughout the year, CSAC and representatives from Orange County worked closely with Representative GARY MILLER on legislation (HR 2427) that would streamline the Clean Water Act's (CWA) Section 404 permitting process. The bill, entitled the Flood Control Facility Maintenance Clarification Act, would provide a narrow exemption for maintenance removal of sediment, debris, and vegetation from flood control channels and basins. It was introduced in response to determinations by the Corp which ignored the existing CWA permit exemption for the maintenance of serviceable structures.

HR 2427 has been referred to the Water Resources and Environment Subcommittee and currently has eight co-sponsors. With the bill's introduction, Orange County and CSAC have moved onto the development of a strategy to successfully shepherd it through the Congressional process. In that vein, CSAC staff continues to coordinate and participate in briefings of interested stakeholders, including the environmental community, with the goal of ensuring a broad base of support and to fend off potential opposition.

### **Waters of the U.S.**

In May of this year, the Environmental Protection Agency (EPA) and Army Corps of Engineers' (Corps) sought comments via the Federal Register on their draft guidance document (Guidance) regarding the identification of waters protected by the Clean Water Act (CWA). The draft document is intended to provide guidance to agency field staff in making jurisdictional determinations under the CWA. In response to concerns raised by our member counties regarding many provisions of the draft Guidance, CSAC submitted comments echoing these concerns. The comments noted significant concerns with the approach taken by EPA and the Corps in providing this direction via a "guidance" document, as opposed to an official rulemaking or statutory change.

CSAC also expressed concerns with expanding the scope of the CWA to more water bodies, and how the Guidance will result in subjective determinations by Corp staff given the lack of clarity regarding what is, or what is not considered Waters of the U.S. Given the widespread opposition to the proposed Guidance, staff thought that the EPA and the Corp would move in a different direction. Instead the EPA and Corp have released a rulemaking which appears to include many of the same problematic provisions that were included in the draft Guidance. CSAC, in collaboration with members of the CEAC Flood Control Committee, will submit comments which reiterate many of the same concerns expressed in our earlier letter on the draft Guidance.

### **Army Corps of Engineers Levee Vegetation Removal Policy**

CSAC and CEAC, along with other stakeholders from California, have actively opposed the Army Corps of Engineers' (Corps) Levee Vegetation Removal Policy. Under the Corps' policy, State and local agencies are required to remove most vegetation from levee systems to allow access by personnel and equipment for surveillance, inspection, maintenance, and flood fighting.



According to key California stakeholders, including county flood control agencies and the Department of Water Resources, removing vegetation from the state's levees would cost billions of dollars without providing tangible benefits to public safety. Although the Corps has a variance process in place—which allows agencies to petition the Corps to maintain vegetation on levee systems—the high cost associated with the variance application process is prohibitive for most agencies and can consume financial resources that could be spent on levee improvement projects.

Notably, a recent study completed by the Corps shows that trees growing near the base of levees actually improves flood protection. Incidentally, such a conclusion runs counter to previous statements from the Corps. The study results combined with significant political pressure may have attributed to recent statements by Corp officials that the agency is drafting a new stand-alone document that will allow some exceptions to its levee vegetation policy.

CSAC and members of the CEAC Flood Control Committee conducted an intense lobbying campaign, working closely with key members of the California congressional delegation including Representatives DORIS MATSUI (D-CA), JOHN GARAMENDI (D-CA), and GEORGE MILLER (D-CA). These Representatives have urged the Corps to modify its one-size-fits-all vegetation mandate, and to consider such factors as regional variations in levee management, as well as the need to distinguish between existing levees and new levees. Senators DIANNE FEINSTEIN (D-CA) and BARBARA BOXER (D-CA) also have strongly supported CSAC and other stakeholders in this matter.

On the legislative front, CSAC has proposed language for the next Water Resources Development Act (WRDA) that would provide specific, statutory direction to the Corps with regards to clarification of its levee vegetation policy. The association also has suggested that similar language be included in the fiscal year 2012 Energy and Water Appropriations legislation.

### **Reauthorization of the Secure Rural Schools Act**

CSAC has been a leader in advocating for a long-term reauthorization of the Secure Rural Schools (SRS) program, a key priority for California's rural counties. Along with the Regional Council of Rural Counties (RCRC), the association continued to promote the critical importance of the longstanding partnership between the federal government and forest counties, which is embodied in the SRS Act.

For his part, President Obama's fiscal year 2012 budget proposes a five-year reauthorization of the SRS program. The House of Representatives also included a deficit neutral reserve fund for rural counties and schools in its fiscal year 2012 budget resolution. Under the resolution, the Committee on Budget is permitted to revise the allocations of another committee(s) pursuant to legislation that would provide for a reauthorization of the SRS program or make changes to the Payments-in-Lieu-of-Taxes program (or both) provided that the legislation would not increase the deficit or direct spending.

In addition, the House Natural Resources Committee recently unveiled a draft proposal to reauthorize and modify the Secure Rural Schools (SRS) program. The proposal, which emphasizes "active forest management," would create a County, Schools and Revenue Trust to provide a source of revenue for rural counties that currently depend upon SRS. The bill could pass the GOP-controlled House, but faces long odds in the Senate.

On the Senate side, Senator BARBARA BOXER recently announced her co-sponsorship of the County Payments Reauthorization Act of 2011 (S.1692), which would extend for five years the Secure Rural Schools (SRS) program with funding starting at FY 2011 levels and decline 5% per year.

# 2011



At the time of publication, the long-term fate of the SRS program remains uncertain, with lawmakers continuing to discuss both a multi-year rewrite of the county payments law, as well as the need for a short-term extension. CSAC will continue to work with key members of our congressional delegation in an effort to ensure that Congress provides a long-term reauthorization of this essential program.

### **A New Authorization for Federal Surface Transportation Funding**

Key members of Congress continued efforts throughout 2011 to reauthorize the nation's surface transportation law (SAFETEA-LU), with competing proposals emerging from transportation leaders in the House and Senate. With both gas tax and spending authority slated to expire in the fall, lawmakers were under increased pressure to approve another extension of the current Act or approve a new long-term bill. As reported last year, many transportation insiders continue to predict that Congress will not take action until after the 2012 presidential election.

For its part, CSAC continued to promote its transportation reauthorization priorities throughout the year, including environmental streamlining proposals and increased funding for the High Risk Rural Roads Program and the Highway Bridge Program. A number of county supervisors, county public works directors, and CSAC staff attended the 2011 NACo Legislative Conference in March 2011. During this meeting we met with key congressional members and staff and White House officials to advocate for CSAC's adopted priorities related to federal transportation funding and programs. During these meetings we shared the results of the Statewide Local Streets and Roads Needs Assessment 2010 Update which were very well received and appreciated by the California Congressional Delegation.

In addition, CSAC worked closely with Congressman GARY MILLER (R-CA) on the development of his legislation (HR 2389: The Environmental Review Cooperation Act) that would create a new pilot demonstration program whereby States and local governments could carry out the responsibilities of the Secretary of Transportation with respect to highway projects through implementation of State environmental laws instead of Federal laws. Under the bill, the Secretary would need to determine that a State's laws are substantially equivalent to the National Environmental Policy Act (NEPA) and that participation in the program would not diminish protection of the environment.

CSAC is continuing to work closely with Congressmen Miller and other key members of the House Transportation and Infrastructure Committee in an effort to include HR 2389 in the next multi-year highway and transit reauthorization measure.

Finally, CSAC, in conjunction with the County Engineers Association of California, developed a working group of county, city, regional, and state transportation practitioners to systematically review the federal project delivery process and develop recommendations that CSAC can push for inclusion in the next authorization package. We are in the final phases of drafting explicit language and vetting the proposals across the 58 counties and will bring them to the California congressional delegation for consideration sometime in the fall. ●



# 2011 CEAC PROGRAM UPDATE



Once again CEAC thrived as an association in 2011, continuing its long standing tradition of offering valuable networking and educational events for its members, while continuing to provide professional input to CSAC on legislative and regulatory issues.

Joint with the League of California Cities, the 2011 CEAC spring conference/Public Works Officers Institute and Mini Expo was held at the San Diego Marriott Hotel and Marina. Almost one hundred thirty public and private sector engineers participated in this year's conference. Over fifty people attended the Northern California Regional conference held at the PG&E Camp Conery, Lake Almanor. Continuing the tradition of making the policy conference affordable, CEAC maintained the fifty-dollar registration fee for the sixth annual policy conference held in Sacramento 8-9. Over one hundred policy conference participants assisted CEAC in reviewing our *2011-2012 CEAC Policy Priorities and Guidelines*. The 117th CSAC Annual Meeting hosted by San Francisco City and County, was attended by over 100 CEAC registrants and eleven sponsors.

A deserving PHILLIP DEMERY, Sonoma County, was presented the CEAC Engineer of the Year award at the CSAC Annual Meeting. The CEAC Surveyor of the Year Award was presented to STEVEN STEINHOFF, Los Angeles County. PATRICK DeCHELLIS, Los Angeles County was the lucky recipient of the Buffalo Bull award, PAM HOSPERS received the Buddy Award, and PATTIE McNAMEE received the CHICS award.

Several active CEAC participants retired in 2011, including TOM FLINN, Public Works Director, San Joaquin County, MITCH AVALON, Deputy Public Works Director, Contra Costa County and FARHAD MANSOURIAN, Public Works Director, Marin County. All were awarded CEAC life memberships for their previous contributions to the association.

CEAC's Oversight and Special Tasks committee continued to refine the association's vision for the future. Consideration is being given to a public relations outreach program, and utilization of social media that would work in concert with our website [www.ceaccounties.org](http://www.ceaccounties.org). The CEAC website continues to be a valuable resource for our members, providing an up-to-date calendar of all CEAC-related events, conferences and news articles.

The "Call for Nominations" process that was implemented in 2009 (that allows all qualified county members to submit applications to CEAC for appointments to outside committees) was again used extensively in 2011. CEAC appointed CHRIS SNEDDON, Santa Barbara County to the Highway Bridge Program (HBP) Advisory Committee as the Southern California alternate; RICK TIPPET, Trinity County as a rural member on the City County State Federal Cooperative Committee (CCSFCC); RICK MARSHALL, Napa County as the primary Northern California representative on the California Traffic Control Devices Committee (CTCDC); and BOB BRONKALL, Humboldt County as the Alternate member on the CTCDC for Northern California.

The CEAC scholarship committee awarded three scholarships in 2011. Recipients included CLARISSA JUNG CHIN, JENNIFER CARLEY and TIFFANY TATUM.

DANIEL WOLDESENBET, Alameda County was installed as 2011-2012 CEAC President at the Annual Meeting in San Francisco, December 2, 2011. The most recent Alameda County past president was DON LABELLE, 1999-2000. ●

# ON THE HORIZON IN 2011



## **T**ransportation Funding – Ensuring Accurate HUTA Adjustments

Staff will continue to monitor actual HUTA adjustments pursuant to the transportation tax swap that requires an annual adjustment of the new HUTA to reflect sales tax revenues that would have been generated under Proposition 42. Further, staff will continue to monitor allocations made to counties to ensure the funding commitment made in the transportation tax swap is met. Another goal in 2012 is to work with the Legislature, Governor, Caltrans, the State Controller's Office, and the Board of Equalization to explore options for adjusting the new HUTA tax rate more than once a year to more accurately reflect the real-time changes in the price of gasoline.

## **Transportation Needs Local Streets and Roads and Statewide Multi-Modal Assessments**

The Statewide Local Streets and Roads Needs Assessment Report Oversight Committee will work with the new project manager (Metropolitan Transportation Commission) and the consultant (Nichols Consulting Engineers) to develop the 2012 Report. The Oversight Committee, in an effort to improve the quality of the data and the usefulness of the Report with each update, is focusing on improved road and bridge data, as well as a new public education and outreach strategy. Upon completion, staff will engage each county to ensure a thorough statewide education and outreach campaign. Further, the comprehensive effort to provide an assessment of transportation needs across all systems and modes in the State is also nearing completion. Both of these efforts will be critical as we continue to work on federal surface transportation authorization efforts as well as any revenue generating proposals at the state level.

## **California Environmental Quality Act – Streamlining for Effectiveness and Efficiencies**

CSAC will continue its work to streamline the California Environmental Quality Act so that while it continues to protect the environment it makes the process more efficient and effective saving valuable time and financial resources. While CSAC's sponsored bill (AB 931 by Assembly Member ROGER DICKINSON) to amend the requirements for a county to qualify for a CEQA exemption for affordable infill housing projects did not make it to the Governor's desk in 2011, staff continues to work with the Legislature, the executive branch, and a group of diverse stakeholders to push forward our streamlining proposals. We will advocate for not only CEQA exemptions or a streamlined process for infill projects and infrastructure projects to support infill but also for other CEQA proposals such as AB 890 by Assembly Member Olsen to exempt from CEQA safety projects in the existing county road right-of-way.

## **Levee Vegetation Management**

CSAC will continue to work closely with members of the CEAC Flood Control and Water Resources Committee to pursue modifications to the Army Corps of Engineers policy on vegetation management of Corps built flood control facilities. Staff will be advocating for proposed language to be included in the next Water Resources Development Act that will provide specific statutory direction to the Corps for its Levee Vegetation Policy. In addition, staff will continue to advocate for a policy that considers regional variation across the nation; includes an exemption provision where appropriate; conforms to other federal and state laws; and, includes local government in a transparent and collaborative process.

## **Storm Water**

The State Water Resources Control Board (Water Board) is expected to release a modified draft of the Municipal Separate Storm Water System Permit and the Industrial Storm Water General Permit in the coming months. Staff will continue to lobby for a cost effective, flexible approach to storm water regulation. Furthermore, staff is requesting the Water Board conduct a comprehensive cost benefit analysis on the draft permit that includes feedback from regulated



local governments and business. That costs analysis will serve as a valuable tool to help the Board evaluate and prioritize permit provisions that meet the highest water quality objectives using limited local general fund resources wisely and with the highest benefit. Staff is also recommending that the Water Board direct staff to work with the regulated municipalities to craft a permit that will be feasible and still achieve significant water quality benefits.

### **SB 5 Implementation**

The Central Valley Food Protection Plan is scheduled to be finalized by 2012. CSAC will work closely with members of CEAC Flood Control and Water Resources Committee in pursuing changes to SB 5 over the next year as the Department of Water Resources works to complete the Plan. Staff will work with Central Valley counties to advocate for the need for statutory clarification.

### **Flood Control Needs Assessment**

Momentum continues on the Statewide Flood Control Needs Assessment. DWR staff has assured us that they remain committed to the principles of the Memorandum of Agreement with CEAC. CSAC staff is currently in the process of coordinating future meetings between DWR and CEAC's Flood Control Needs Assessment Team to discuss a course of action. The key product, "Flood Future: Recommendations for Managing California's Flood Risk Report" is expected to be finalized by the end of 2013.

### **Solid Waste Management**

With the passage of a new statewide diversion goal of 75%, it is reasonable to anticipate that there will be efforts to help the state achieve this goal through the introduction of legislation regarding extended producer responsibility, plastic bags and other products. CSAC staff will look to members of the CEAC Solid Waste Management Committee for feedback on such efforts. In addition, it is expected the Air Resources Board will adopt the Mandatory Commercial Recycling measure proposed by Cal Recycle. Staff will continue to work with CEAC and the Institute for Local Government on outreach and education efforts to help counties with the implementation of this measure. ●



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