



JUDICIAL COUNCIL OF CALIFORNIA
GOVERNMENTAL AFFAIRS

520 Capitol Mall, Suite 600 • Sacramento, California 95814-3368
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

April 20, 2022

Hon. Luz Rivas, Chair
Assembly Natural Resources Committee
1021 O Street, Ste 6140
Sacramento, California 95814

Subject: AB 1935 (Grayson), as amended April 19, 2022 – Withdrawal of opposition

Dear Assembly Member Rivas:

The Judicial Council is pleased to inform you that we have removed our opposition to AB 1935, as amended April 19, 2022. We appreciate the amendment to the bill that removes the 270-day expedited judicial review provision that was the basis for the council's prior opposition. The Judicial Council takes no position on the current version of AB 1935 as the remaining provisions in the bill do not negatively impact the courts and address issues that are outside the council's purview.

Should you have any questions or require additional information, please contact Kate Nitta at 916-323-3121.

Sincerely,

Sent April 20, 2022

Cory T. Jaspersen
Director, Governmental Affairs

Hon. Luz Rivas

April 20, 2022

Page 2

CTJ/KN/jh

cc: Members, Assembly Natural Resources Committee
Hon. Timothy Grayson, Member of the Assembly
Mr. Lawrence Lingbloom, Counsel, Assembly Natural Resources Committee
Ms. Katie Sperla, Consultant, Assembly Republican Office of Policy
Ms. Hazel Miranda, Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California
Ms. Shelley Curran, Chief Policy & Research Officer, Judicial Council of California



JUDICIAL COUNCIL OF CALIFORNIA

GOVERNMENTAL AFFAIRS

520 Capitol Mall, Suite 600 • Sacramento, California 95814-3368
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

April 19, 2022

Hon. Luz Rivas, Chair
Assembly Natural Resources Committee
1021 O Street, Ste 6140
Sacramento, California 95814

Subject: Assembly Bill 1935 (Grayson), as amended March 10, 2022 – Oppose unless amended
Hearing: Assembly Natural Resources Committee – April 25, 2022

Dear Assembly Member Rivas:

The Judicial Council has adopted an oppose unless amended position on AB 1935, which requires the council to adopt a rule of court that requires actions or proceedings brought to attack, review, set aside, void, or annul the certification of an environmental impact report for the Concord Base Reuse Project or the granting of any project approvals that require the actions or proceedings, including any potential appeals to the court of appeal or the Supreme Court, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.

It is important to note that our concerns are limited solely to the court impacts of this legislation, and that the Judicial Council is not expressing any views on CEQA generally or the underlying merits of the Concord Base Reuse Project, as those issues are outside the council's purview.

The requirement in AB 1935 that all CEQA lawsuits challenging the Concord Base Reuse Project, including any appeals therefrom, be resolved within 270 days is problematic as CEQA actions are already entitled under current law to calendar preference "over all other civil actions" pursuant to section 21167.1(a) of the Public Resources Code in both the superior courts and the Courts of Appeal. Imposing a 270-day timeline for the review of lawsuits from CEQA for the Concord Base Reuse Project, on top of existing CEQA calendar preferences, even with language

that references “to the extent feasible,” is an arbitrary and unrealistically short timeframe for California’s trial courts to address all of the issues each CEQA case is likely to present.

There are several reasons why the time frame is, from the outset, not feasible.

- *CEQA cases are complex and time-consuming.* Under normal circumstances and assuming the unrealistic context in which no extensions of time are requested or granted for any aspect of a case, CEQA cases take, on average, an estimated six months to get to hearing, much less to a decision. So, even if the court was able to issue its decision within six months (approximately 180 days), that would leave only three months (the remaining 90 days) for proceedings in the court of appeal, which is impracticable.¹ And, of course, it is more than likely that one or more parties will request, if not stipulate to, continuances, delays, or other procedural extensions. Given these common requests and stipulated delays, a 270-day timeframe is not feasible.
- *Active CEQA cases often include ancillary administrative and non-CEQA judicial causes of action.* Providing expedited judicial review for the Concord Base Reuse Project is even more unworkable in light of the common occurrence that CEQA cases involve ancillary motions, administrative review, other causes of action, and other civil actions and appeals in the middle of the CEQA action. These actions proceed under administrative (local governmental) and civil procedure (non-CEQA courtroom) timelines, often resulting in temporary stays or delays in the principal CEQA action. In other words, even if CEQA-specific procedures could be limited to 270 days for one or more of the projects, other, non-CEQA procedures related to the same cases that would occur in non-CEQA courtrooms and administrative hearings cannot be concluded in that same timeframe. These ancillary hearings and procedures make the 270-day goal not feasible.
- *The expedited judicial review requirements will likely have an adverse impact on other cases in the courts.* Like other types of calendar preferences that the Judicial Council has previously opposed, setting an extremely tight timeline for deciding CEQA cases has the practical effect of pushing other cases on a court’s docket to the back of the line. This could mean that as Concord Base Reuse Project cases proceed, other cases, possibly those including statutorily mandated calendar preferences, such as juvenile cases, criminal cases, civil cases in which a party is at risk of dying, wage theft cases, election issues, and other important issues, will take longer to decide.

For these reasons, the Judicial Council is opposed unless amended to AB 1935.

¹ In a typical civil appeal, it takes more than 95 days from when a trial court decision becomes final just for the record on appeal to be prepared and filed in the Court of Appeal. This does not include any time for briefing, oral argument, analysis of the issues, or preparation of a decision by the court.

Hon. Luz Rivas
April 19, 2022
Page 3

Should you have any questions or require additional information, please contact Kate Nitta at 916-323-3121.

Sincerely,

Sent April 19, 2022

Cory T. Jaspersen
Director, Governmental Affairs

CTJ/KN/jh

cc: Members, Assembly Natural Resources Committee
Hon. Timothy Grayson, Member of the Assembly
Mr. Lawrence Lingbloom, Counsel, Assembly Natural Resources Committee
Ms. Katie Sperla, Consultant, Assembly Republican Office of Policy
Ms. Hazel Miranda, Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California
Ms. Shelley Curran, Chief Policy & Research Officer, Judicial Council of California



JUDICIAL COUNCIL OF CALIFORNIA

GOVERNMENTAL AFFAIRS

520 Capitol Mall, Suite 600 • Sacramento, California 95814-3368
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

March 28, 2022

Hon. Timothy Grayson
Assembly Member, 14th District
1021 O Street, Ste 5510
Sacramento, California 95814

Subject: Assembly Bill 1935, as amended March 10, 2022 – Oppose unless amended

Dear Assembly Member Grayson:

The Judicial Council has adopted an oppose unless amended position on AB 1935, which requires the council to adopt a rule of court that requires actions or proceedings brought to attack, review, set aside, void, or annul the certification of an environmental impact report for the Concord Base Reuse Project or the granting of any project approvals that require the actions or proceedings, including any potential appeals to the court of appeal or the Supreme Court, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.

It is important to note that our concerns are limited solely to the court impacts of this legislation, and that the Judicial Council is not expressing any views on CEQA generally or the underlying merits of the Concord Base Reuse Project, as those issues are outside the council's purview.

The requirement in AB 1935 that all CEQA lawsuits challenging the Concord Base Reuse Project, including any appeals therefrom, be resolved within 270 days is problematic as CEQA actions are already entitled under current law to calendar preference "over all other civil actions" pursuant to section 21167.1(a) of the Public Resources Code in both the superior courts and the Courts of Appeal. Imposing a 270-day timeline for the review of lawsuits from CEQA for the Concord Base Reuse Project, on top of existing CEQA calendar preferences, even with language

that references “to the extent feasible,” is an arbitrary and unrealistically short timeframe for California’s trial courts to address all of the issues each CEQA case is likely to present.

There are several reasons why the time frame is, from the outset, not feasible.

- *CEQA cases are complex and time-consuming.* Under normal circumstances and assuming the unrealistic context in which no extensions of time are requested or granted for any aspect of a case, CEQA cases take, on average, an estimated six months to get to hearing, much less to a decision. So, even if the court was able to issue its decision within six months (approximately 180 days), that would leave only three months (the remaining 90 days) for proceedings in the court of appeal, which is impracticable.¹ And, of course, it is more than likely that one or more parties will request, if not stipulate to, continuances, delays, or other procedural extensions. Given these common requests and stipulated delays, a 270-day timeframe is not feasible.
- *Active CEQA cases often include ancillary administrative and non-CEQA judicial causes of action.* Providing expedited judicial review for the Concord Base Reuse Project is even more unworkable in light of the common occurrence that CEQA cases involve ancillary motions, administrative review, other causes of action, and other civil actions and appeals in the middle of the CEQA action. These actions proceed under administrative (local governmental) and civil procedure (non-CEQA courtroom) timelines, often resulting in temporary stays or delays in the principal CEQA action. In other words, even if CEQA-specific procedures could be limited to 270 days for one or more of the projects, other, non-CEQA procedures related to the same cases that would occur in non-CEQA courtrooms and administrative hearings cannot be concluded in that same timeframe. These ancillary hearings and procedures make the 270-day goal not feasible.
- *The expedited judicial review requirements will likely have an adverse impact on other cases in the courts.* Like other types of calendar preferences that the Judicial Council has previously opposed, setting an extremely tight timeline for deciding CEQA cases has the practical effect of pushing other cases on a court’s docket to the back of the line. This could mean that as Concord Base Reuse Project cases proceed, other cases, possibly those including statutorily mandated calendar preferences, such as juvenile cases, criminal cases, civil cases in which a party is at risk of dying, wage theft cases, election issues, and other important issues, will take longer to decide.

For these reasons, the Judicial Council is opposed unless amended to AB 1935.

¹ In a typical civil appeal, it takes more than 95 days from when a trial court decision becomes final just for the record on appeal to be prepared and filed in the Court of Appeal. This does not include any time for briefing, oral argument, analysis of the issues, or preparation of a decision by the court.

Hon. Timothy Grayson

March 28, 2022

Page 3

Should you have any questions or require additional information, please contact me at 916-323-3121.

Sincerely,

Sent March 28, 2022

Kate Nitta

Attorney

KN/jh

cc: Ms. Hazel Miranda, Deputy Legislative Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California
Ms. Shelley Curran, Chief Policy & Research Officer, Judicial Council of California