

CONCRETE VINEYARDS AND BIG-BOX SPRAWL: PRESERVING FARMLAND AND RURAL COMMUNITIES IN CALIFORNIA'S CENTRAL VALLEY

I. INTRODUCTION

A drive along California State Highway 99 provides a telling glimpse of the Central Valley. A frequent traveler along this route is likely to notice the rapidly changing landscape. Many acres of what was once viable farmland have been developed for residential, commercial, and industrial use. Much of what has been developed for commercial use looks strikingly similar from city to city and from community to community. The familiar names of the “big-box” retailers, Wal-Mart, K-Mart, Target, and Home Depot, are configured in strip malls, attached to other well-known smaller chain stores and restaurants. At times it is difficult to distinguish one city from the next.

California's Central Valley is well-known for its role as a leading agricultural producer, a role threatened by the loss of farmland to urbanization. This Comment examines the legal options available to protect agriculture from the effects of urban sprawl, with an emphasis on protecting Central Valley agricultural land and rural communities from large-scale commercial development. The purpose of this Comment is to create an understanding of the urgency and relevancy of the problem. This Comment first provides statistical data pertaining to the agricultural output of California and the Central Valley, the current trends and future projections for population growth in the region, and an overview of the effects of urbanization, sprawl, and large-scale commercial development. This Comment then provides an analysis of the legal methods commonly employed by communities attempting to curtail sprawl, with specific examples of cities located within the Central Valley. The final portion of this Comment contains policy considerations and recommendations.

A. *California and the Central Valley: Leading Agricultural Producers in the Nation*

California has been the nation's top agricultural state for over fifty years.¹ The state outperforms all others in both volume and range of agricultural production.² More than 350 different crops and commodities are produced in California, including more than half of the nation's fruits, nuts, and vegetables.³ Agriculture is a vital part of the state's economy, valued at over thirty-three billion dollars in 2005.⁴ California also leads the nation in agricultural exports, shipping more than six and one half billion dollars of products throughout the world.⁵ If California were a nation, it would rank in the top ten agricultural nations of the world.⁶

Encompassing eighteen counties,⁷ the Central Valley consists of the inland area of California stretching from Redding to the north and Bakersfield to the south.⁸ A significant portion of land located in the Central Valley qualifies as "prime farmland,"⁹ having the ideal combination of physical and chemical features necessary to sustain long-term agricultural production.¹⁰ The Central Valley is unique in that it is one of just a handful of areas in the world with a Mediterranean climate,¹¹ ideal for

¹ OFFICE OF PLANNING & RESEARCH, CAL. DEP'T OF AGRIC., GOVERNOR'S ENVTL. GOALS AND POLICY REPORT 73 (2003), available at <http://opr.ca.gov/EnvGoals/PDFs/EGPR--11-10-03.pdf> [hereinafter "EGPR"].

² *Id.*

³ Great Valley Center, *The State of the Great Central Valley: Assessing the Region Via Indicators-The Economy* 30 (1999-2004), available at http://www.greatvalley.org/pub_documents/2005_1_18_13_59_43_indicator_econ05_report.pdf [hereinafter *Economy Indicators*] (explaining that California leads the nation in the production of over 70 specialty crops, including almonds, raisins, nectarines, and plums, and that the state's top commodity is milk and cream).

⁴ U.S. Dep't of Agric. Econ. Research Serv., State Fact Sheets: California, available at <http://www.ers.usda.gov/StateFacts/CA.htm> (last visited Oct. 25, 2006). California generates twice the revenue of Texas, the nation's second most productive agricultural state. *Economy Indicators*, *supra* note 3.

⁵ *Economy Indicators*, *supra* note 3.

⁶ EGPR, *supra* note 1, at 73.

⁷ KENNETH W. UMBACH, A STATISTICAL TOUR OF CALIFORNIA'S GREAT CENTRAL VALLEY (1997), available at <http://www.library.ca.gov/CRB/97/09/>.

⁸ MARK BALDASSARE, PPIC STATEWIDE SURVEY (June 2006), available at http://www.ppic.org/content/pubs/survey/S_606MBS.pdf.

⁹ U.S. Mayor Articles, *California's Great Central Valley: Finding Its Place in the World*, http://www.usmayors.org/uscm/us_mayor_newspaper/documents/06_15_98s/documents/sacramento.html (last visited Oct. 25, 2006).

¹⁰ EGPR, *supra* note 1, at 72.

¹¹ The Physical Environment, http://www.uwsp.edu/geo/faculty/ritter/geog101/textbook/climate_systems/mediterranean (explaining that a Mediterranean climate is one

growing fruit and vegetable crops.¹² If the Central Valley were a state, it would rank first in agricultural production in the United States.¹³ Of the nation's top ten agricultural counties, six are located within the Central Valley.¹⁴ With less than one percent of the nation's farmland, the Central Valley supplies eight percent of the nation's agricultural output¹⁵ and an incredible one quarter of the nation's food supply.¹⁶ Thirty percent of the region's economy is attributed to agriculture¹⁷ and twenty percent of the region's jobs are agriculture related.¹⁸

B. Accommodating Population Growth in the Midst of Agriculture

California also leads the nation in population growth.¹⁹ As one of the fastest growing areas of the state, the Central Valley's population grew by approximately 784,000 people between 1990 and 2000, a twenty percent increase.²⁰ The Central Valley is projected to see its current population of 6.6 million people reach 9.3 million people by the year 2025,²¹ and to exceed 15.6 million people by 2040.²² Where and how this population growth will be accommodated are subjects of immediate concern. The State Legislature has declared there to be a housing crisis in California and that reducing delays and restraints on the completion of housing projects is essential.²³ The Legislature has also declared that the preservation of open-space land is necessary for maintaining the economy of

characterized by wet winters and dry summers and is also found in South Africa, Central Chile, and southwestern Australia) (last visited Sept. 29, 2006).

¹² American Farmland Trust, *The Future is Now: Central Valley Farmland at the Tipping Point?* <http://www.farmland.org/programs/states/futureisnow/default.asp> (last visited Oct. 5, 2006) [hereinafter American Farmland Trust].

¹³ *Economy Indicators*, *supra* note 3.

¹⁴ EGPR, *supra* note 1, at 73 (counties include Fresno, Tulare, Kern, Merced, San Joaquin, and Stanislaus).

¹⁵ *Economy Indicators*, *supra* note 3.

¹⁶ National Public Radio series profiling the Central Valley, http://www.npr.org/programs/atc/features/2002/nov/central_valley/ (last visited Oct. 6, 2006).

¹⁷ UMBACH, *supra* note 7 (figure includes various support industries such as packing, shipping, and processing).

¹⁸ *Economy Indicators*, *supra* note 3 (figure includes both direct farm operations and agriculture-related industries).

¹⁹ American Farmland Trust, *supra* note 12.

²⁰ *Id.*

²¹ BALDASSARE, *supra* note 8.

²² Great Valley Center, *Agricultural Land Conservation in the Great Central Valley* (October 1998), available at http://www.greatvalley.org/pub_documents/2005_6_22_10_47_36_ag_land_conservation.pdf.

²³ CAL. GOV'T CODE § 65009 (Deering's 2006).

the state, as well as assuring the continued availability of land for the production of food and fiber.²⁴ The difficult question which must be addressed, especially in the Central Valley, is how to make these two findings mutually compatible.

Since 1990, the conversion of land from agricultural to urban use has increased thirty-one percent in the southern San Joaquin Valley, twenty-eight percent in the Sacramento Metropolitan Region, twenty-one percent in the northern San Joaquin Valley, and eighteen percent in the North Sacramento Valley.²⁵ Since many cities in the Central Valley are located in the midst of agricultural land, the region's high quality farmland is disproportionately affected by city-oriented growth and development.²⁶ The flat and well-drained land of the region, ideal for farming, is also well-suited for commercial, industrial, and residential development.²⁷ During the 1990s, the Central Valley lost one acre of land for every eight new residents, a significantly low level of density.²⁸ Ninety-seven thousand acres of farmland was consumed by urban development, with a disproportionate amount being the area's highest quality farmland.²⁹ If current trends continue, the Central Valley is expected to lose approximately 882,000 acres of farmland to urbanization by 2040, with a cumulative loss in agricultural sales totaling approximately \$17.7 billion.³⁰ The projected loss of farmland is cause for concern. Not only would there be detrimental impacts to the region's economy and employment, but the Central Valley's agricultural production is a vital source of food throughout the country, if not the world.³¹ Continued loss of farmland would reduce the availability of the diverse food types produced in a Mediterranean climate and necessitate that one quarter of the nation's food supply come from another source.

²⁴ CAL. GOV'T CODE § 65561 (Deering's 2006).

²⁵ *Great Valley Center, Assessing the Region Via Indicators: the Environment 29* (2000-2005 edition), available at http://www.greatvalley.org/publications/pub_detail.aspx?pId=201 [hereinafter *Environment Indicators*].

²⁶ American Farmland Trust, *supra* note 12.

²⁷ David L. Szlanfucht, Note, *How to Save America's Depleting Supply of Farmland*, 4 Drake J. Agric. L. 333, 334 (1999).

²⁸ American Farmland Trust, *supra* note 12.

²⁹ *Id.* (fifty-three percent, on average).

³⁰ *Id.* (figure reflects the dollar value in 2000).

³¹ *Economy Indicators, supra* note 3.

C. Urbanization, Sprawl, and Large-Scale Commercial Development

“Urbanization” is the conversion of previously undeveloped land that existed as open space, or was used for farmland or grazing.³² While there appear to be varying definitions for the term “sprawl,” it generally refers to negative conditions relating to land use and development. Sprawl commonly springs from a lack of planning and the rampant and haphazard spread of existing cities into rural areas, resulting in the waste of land.³³ Common characteristics of sprawl include the geographic separation between home and essential places like work, school, and shopping, the exclusive dependence on private automobiles for travel, and the attendant negative effects on the environment.³⁴

Fitting within the category of “sprawl” is large-scale commercial development. The square footage of stores like Target, K-Mart, and Wal-Mart continue to increase, and these large-scale structures require substantial amounts of acreage.³⁵ New retail and other types of commercial development typically follow to serve the needs of a growing population.³⁶ As the Central Valley’s population increases at a rapid rate, large-scale development poses two problems with agricultural relevance: urban areas encroach further into viable farmland³⁷ and rural communities are impacted in terms of character and quality of life.

The culture of a rural farming community is often steeped in tradition, a slower pace, locally-owned businesses, and civic-minded citizens.³⁸ This close sense of community seems unique to smaller, rural towns. Citizens who live in these areas seek to preserve a quality of life which includes “scenic and cultural landscapes, farmers’ markets, recreational opportunities, local jobs and community businesses.”³⁹ Whereas smaller retailers and department stores were once able to incorporate into a

³² *Environment Indicators*, *supra* note 25.

³³ Susan Cosner, Extension to Communities, Iowa State Univ. Extension, *Sprawl and Growth Management*, <http://www.extension.iastate.edu/Publications/PM1868E.pdf> (last visited Oct. 7, 2006).

³⁴ Sierra Club, *Sprawl: The Dark Side of the American Dream*, <http://www.sierraclub.org/sprawl/report98/report.asp> (last visited Oct. 18, 2006).

³⁵ EDWARD B. SHILS, MEASURING THE ECONOMIC AND SOCIOLOGICAL IMPACT OF THE MEGA-RETAIL DISCOUNT CHAINS ON SMALL ENTERPRISE IN URBAN, SUBURBAN AND RURAL COMMUNITIES (February 1997) available at <http://www.lawmall.com/rpa/rpashils.html>.

³⁶ Ralph E. Heimlich and William D. Anderson, *Development at the Urban Fringe and Beyond: Impacts on Agriculture and Rural Land 3* (June 2001), available at <http://www.ers.usda.gov/publications/aer803>.

³⁷ *Id.* at 2.

³⁸ *Id.* at 4.

³⁹ American Farmland Trust, *supra* note 12.

community and co-exist peacefully with local businesses, large retailers exist not to supplement, but to supplant.⁴⁰ Large retailers have the effect of pulling away “main street” business, which has a detrimental impact on a small community.⁴¹ Economic studies have shown the occurrence of a direct shift of profits from local merchants to major retail chains.⁴² This “reallocation” has a direct negative impact on local economies,⁴³ transferring profits to large corporate headquarters located in other states and likely causing the closure of businesses run by community members and local entrepreneurs. Local business owners tend to circulate profits within the community and patronize other regional distributors and wholesalers, unlike major retailers, who have centralized suppliers and distributors.⁴⁴ Local business owners are more likely to have a vested interest in the communities where they live, participating in and contributing to the local civic life.⁴⁵ A job shift also occurs when a large retailer enters a small community. Large retailers promise the influx of new employment, but these jobs often turn out to be low paying, minimum wage jobs, without customary medical benefits.⁴⁶ Another negative effect of commercial sprawl is that geographically dispersed development means longer and more frequent commutes to reach shopping destinations.⁴⁷ Additional vehicle trips create more vehicle emissions, worsening both air quality and the greenhouse effect.⁴⁸

Fortunately, some communities which may have once welcomed new development are recognizing the negative consequences of lost farmland and diminished quality of life.⁴⁹ Concerned about the threat these large retailers present, numerous towns throughout the nation have voiced opposition.⁵⁰ A frequent target of such opposition has been the Wal-Mart Corporation. The company’s leverage strength on both suppliers and customers is widely known.⁵¹ Wal-Mart’s Chief Executive Officer announced at the 1996 stockholders’ meeting that the future expansion plan

⁴⁰ SHILS, *supra* note 35.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ STACY MITCHELL, *THE HOME TOWN ADVANTAGE* 17 (Institute for Local Self Reliance 2000).

⁴⁵ *Id.*

⁴⁶ SHILS, *supra* note 35.

⁴⁷ Irene Miles, *Urban Settlers Sprawl into Countryside*, *This is Our Land*, <http://web.aces.uiuc.edu/tabloid/UrbanSettlers.html> (last visited Oct. 18, 2006).

⁴⁸ *Id.*

⁴⁹ Sierra Club, *supra* note 34.

⁵⁰ SHILS, *supra* note 35.

⁵¹ *Id.*

for the company was “to dominate North America.”⁵² In 2002, Wal-Mart announced plans to open forty new Wal-Mart Supercenters in California;⁵³ as of September 2006, there were twenty-one supercenters in the state.⁵⁴ Supercenter stores combine discount merchandise with full-service grocery departments and generally operate twenty-four hours per day.⁵⁵ The corporation has faced opposition from citizens and civic leaders who have raised issues regarding Wal-Mart’s effect on open space and neighboring businesses.⁵⁶

Wal-Mart is the world’s largest retailer and the largest private employer in the United States and Mexico.⁵⁷ The average size of a Wal-Mart discount store is 101,000 square feet, with its supercenter stores averaging 185,000 square feet.⁵⁸ Stores of this magnitude require substantial amounts of acreage to accommodate the buildings themselves, parking, and other stores likely to be integrated within the development. This means that a significant amount of open space land historically used for agriculture must be converted to high intensity commercial use whenever the retailer seeks to locate in a rural California community. The supercenter concept is important to the Wal-Mart Corporation because shoppers typically visit grocery stores more frequently than general merchandise stores,⁵⁹ thereby giving Wal-Mart more opportunities to sell other products and generate higher profits. However, the concept of a retail store operating twenty-four hours per day, generating traffic, noise, and lighting at all hours, seven days per week, is often incompatible in a rural community where the quality of life includes a simpler, slower-paced lifestyle and quiet surroundings.

⁵² *Id.*

⁵³ Frontline, *Is Wal-Mart Good for America?* <http://www.pbs.org/wgbh/pages/frontline/shows/walmart/transform/protest.html> (last visited Oct. 6, 2006).

⁵⁴ Wal-Mart Facts, <http://www.walmartfacts.com> (last visited Oct. 28, 2006).

⁵⁵ *Id.*

⁵⁶ Michael Lidtke, AP Business Writer, *Wal-Mart Supercenters face California resistance* (July 22, 2003), republished by American Independent Business Alliance, available at <http://www.amiba.net/pressroom>.

⁵⁷ Wal-Mart Facts, *supra* note 54.

⁵⁸ *Id.*

⁵⁹ Lidtke, *supra* note 56.

II. PROTECTING AGRICULTURAL LAND AND RURAL COMMUNITIES THROUGH LEGAL MEANS

A. General Plans and Zoning

Large-scale retail development is proposed in communities which may or may not have adequate planning measures to address where such development is to be located and how it will be incorporated within the landscape. Communities which fail to plan and zone have no framework within which development can proceed.⁶⁰ Communities which successfully address sprawl are likely to have well-formulated and well-written general plans coupled with the unwillingness to amend them. A strategic plan for directing the course of development can serve to control and appropriately direct growth.⁶¹ Under California law, the legislative body of each city and county is required to adopt a comprehensive long-term general plan for the physical development of the city or county.⁶² A general plan embodies the overall vision for a community and incorporates this vision into specific policies for the area's physical development.⁶³ Specific plans and zoning policies flow from the general plan.⁶⁴ California law requires elements of a general plan to include land use designations which specify the general distribution, location, and extent of uses for housing, business, industry, and open space.⁶⁵ Open space includes any area devoted to the managed production of natural resources, such as agriculture.⁶⁶ The open space element of a county's general plan is the only one required by California law to include an action plan.⁶⁷ Furthermore, local governments can incorporate elements in their general plans specifically to address other subjects which relate to the physical development of a county or city, including agriculture preservation.⁶⁸

A shortcoming to general plans is the ease with which they can be amended.⁶⁹ In California, a general plan can be amended up to four times per year, with few exceptions.⁷⁰ Cities and counties often succumb to the

⁶⁰ Heimlich and Anderson, *supra* note 36, at 3.

⁶¹ *Id.* at 4.

⁶² CAL. GOV'T CODE § 65300 (Deering's 2006).

⁶³ Institute for Local Self Government, *Farmland Protection Action Guide: 24 Strategies for California* 19 (2002) [hereinafter *24 Strategies*].

⁶⁴ *Leshar Comm., Inc. v. City of Walnut Creek*, 52 Cal. 3d 531, 536 (1990).

⁶⁵ CAL. GOV'T CODE § 65302(a) (Deering's 2006).

⁶⁶ CAL. GOV'T CODE § 65560(b)(2) (Deering's 2006).

⁶⁷ *Environment Indicators*, *supra* note 25, at 31.

⁶⁸ CAL. GOV'T CODE § 65303 (Deering's 2006).

⁶⁹ *24 Strategies*, *supra* note 63, at 21.

⁷⁰ CAL. GOV'T CODE § 65358(b) (Deering's 2006).

pressure of developers and chain retailers who are more concerned about return on investment than any long-term vision for how an area should develop.⁷¹ A general plan written with the best intentions and with well-defined farmland preservation elements is seriously weakened and may have no beneficial effect if it is frequently altered and its policies ignored.

Local entities can also use zoning to protect agricultural land and to prevent the development of agricultural areas for non-agricultural purposes.⁷² Agricultural zoning can reduce the incentives for farmers to sell their land for non-farming purposes in two ways. First, when development is restricted as to the amount and type of allowable uses, land prices are reduced, and there is less pressure on farmers to sell their property.⁷³ Second, agricultural zoning provides farmers authorization to use their land for agricultural purposes which may not be compatible with neighboring uses.⁷⁴ Zoning also has been an effective means to protect farmland when used to establish minimum lot sizes to discourage the purchase of land for residential use and to limit the scope of permitted uses for farming purposes.⁷⁵ Higher density requirements can have the effect of protecting open space and agricultural land.⁷⁶ How zoning ordinances are implemented and enforced is crucial, for zoning can also serve to speed farmland conversion. For example, low density residential zoning causes more agricultural land to be consumed and can lead to “leapfrog” development.⁷⁷ Also, like general plans, zoning is relatively easy to amend, which can weaken its ability to protect and preserve farmland.⁷⁸

B. The California Environmental Quality Act

The California Environmental Quality Act (“CEQA”) is considered the broadest of the State’s environmental laws.⁷⁹ Modeled after the National Environmental Policy Act (“NEPA”), it is similar to NEPA in its procedural requirements.⁸⁰ However, CEQA goes further in that it re-

⁷¹ SHILS, *supra* note 35.

⁷² *24 Strategies*, *supra* note 63, at 63.

⁷³ Szlanfucht, *supra* note 27, at 348.

⁷⁴ *Id.*

⁷⁵ *24 Strategies*, *supra* note 63, at 63.

⁷⁶ *Environment Indicators*, *supra* note 25, at 28.

⁷⁷ *24 Strategies*, *supra* note 63, at 25.

⁷⁸ *Id.*

⁷⁹ Ronald E. Bass, Background and Implementation of CEQA § 20.02[1] (Matthew Bender & Company, California Environmental Law & Land Use Practice, 2006).

⁸⁰ *Id.* at § 20.02[6].

quires the adoption of feasible mitigation measures and alternatives.⁸¹ CEQA applies to public agencies and the activities or projects the agencies are responsible to approve and implement which could potentially affect the environment.⁸² In enacting CEQA, the Legislature emphasized its intent for all agencies which undertake activities found to affect the quality of the environment to “regulate such activities so that major consideration is given to preventing environmental damage”⁸³ CEQA’s fundamental purpose in protecting the environment is to ensure that every Californian has “a decent home and satisfactory living environment.”⁸⁴ The underlying principle is that CEQA be interpreted to afford “the fullest possible protection to the environment within the reasonable scope of the statutory language.”⁸⁵

Some of CEQA’s policies are particularly relevant to the preservation of agricultural land. The Legislature has declared “... the capacity of the environment is limited, and it is the intent of the Legislature that the government of the state take immediate steps to identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached.”⁸⁶ This declaration ties to the limitations and finite capacity of agricultural land, the fact that once it is lost, it is gone forever. Another legislative policy behind CEQA is to “[c]reate and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations.”⁸⁷ This policy reflects the competing demands on the environment to accommodate population growth while simultaneously allowing for a productive economy based on agriculture to continue.

Public agencies are required to implement certain requirements under CEQA, which are set forth in the “CEQA Guidelines.”⁸⁸ The four basic requirements are: 1) to determine if the project is subject to CEQA evaluation or if it is exempt; 2) if CEQA is applicable, the agency must prepare an “Initial Study”; 3) if there is no evidence of potentially significant effects on the environment, the agency prepares a “Negative

⁸¹ *Id.*

⁸² CAL. PUB. RES. CODE § 21065 (Deering’s 2006).

⁸³ CAL. PUB. RES. CODE § 21000(g) (Deering’s 2006).

⁸⁴ *Id.*

⁸⁵ *Laurel Heights Improvement Ass’n of San Francisco, Inc. v. the Regents of the Univ. of Cal.*, 47 Cal. 3d 376, 390 (1988).

⁸⁶ CAL. PUB. RES. CODE § 21000(d) (Deering’s 2006).

⁸⁷ CAL. PUB. RES. CODE § 21001(e) (Deering’s 2006).

⁸⁸ *Laurel Heights Improvement Ass’n of San Francisco, Inc. v. the Regents of the Univ. of Cal.*, 47 Cal. 3d 376, 391 (1988). *See* 14 Cal. Code Regs. § 15000 et seq.

Declaration”; 4) if there are potentially significant effects on the environment, the agency is required to prepare an “Environmental Impact Report” (“EIR”).⁸⁹ The EIR has five general components: “Notice of Preparation, preparation and circulation of a Draft EIR, preparation of a Final EIR, certification of the EIR, and adoption of certain findings before project approval.”⁹⁰

Public involvement in the CEQA process initially occurs at the draft EIR stage.⁹¹ Comments on the draft EIR, together with the agency’s responses to any raised environmental concerns, are incorporated into the final EIR.⁹² The lead agency is then responsible for certifying that the final EIR was completed in compliance with CEQA and the findings under the EIR sufficiently considered.⁹³ If the decision is made to approve the project, the agency must find that any significant environmental impacts were avoided or mitigated, or that if mitigation is not feasible, the impacts are outweighed by the beneficial aspects of the project.⁹⁴ Non-compliance with CEQA can result in challenge and judicial invalidation of agency decisions.⁹⁵

The EIR has been referred to as “the heart of CEQA” and “an environmental alarm bell” in that it is the key to alerting the public and responsible officials to potentially harmful environmental effects.⁹⁶ The EIR is intended to ensure the public that the responsible agency has made careful analysis and consideration prior to acting.⁹⁷ Since public officials are required to certify or reject the EIR, it is viewed as “a document of accountability.”⁹⁸ The EIR is thought to protect both the environment and “informed self-government.”⁹⁹

A court’s ability to set aside an agency decision under CEQA is possible only where there was a “prejudicial abuse of discretion.”¹⁰⁰ Therefore, the court does not evaluate the correctness of any findings under an

⁸⁹ Bass, *supra* note 79, at § 20.02[3].

⁹⁰ *Id.*

⁹¹ Laurel Heights Improvement Ass’n of San Francisco, Inc. v. the Regents of the Univ. of Cal., 47 Cal. 3d 376, 391 (1988).

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ Bass, *supra* note 79, at § 23.05[1].

⁹⁶ Laurel Heights Improvement Ass’n of San Francisco, Inc. v. the Regents of the Univ. of Cal., 47 Cal. 3d 376, 392 (1988).

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

EIR, but looks only at its “sufficiency as an informative document.”¹⁰¹ A court may not overturn the approval of an EIR based on whether alternate findings would have been more reasonable.¹⁰² Since courts do not have the resources and scientific expertise to make this type of analysis, their roles are to compel governments to make decisions with environmental consequences in mind, not to guarantee that decisions always favor certain environmental considerations.¹⁰³ CEQA does not require that an EIR be perfect or exhaustive in its analysis, just a good faith attempt at full disclosure.¹⁰⁴

C. CEQA and Planning Law Applied to the Preservation of Agricultural Land

A case specifically dealing with CEQA, general plans, and the preservation of agricultural land is *Defend the Bay v. City of Irvine*. In this case, a development project was proposed for a former Marine Corps Air Station encompassing approximately 7,700 acres of land.¹⁰⁵ The city council adopted the final EIR, which authorized a general plan amendment and zoning change.¹⁰⁶ The EIR qualified the conversion of 3,100 acres of prime farmland as a “significant unavoidable adverse impact” and the retention of agriculture as “infeasible.”¹⁰⁷ The court explained that under CEQA, “feasible” means “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.”¹⁰⁸ Due to increasing land prices and environmental regulation, higher water and labor costs, higher property taxes, and growing urbanization, long term agriculture was found to be no longer economically viable in Orange County.¹⁰⁹ The EIR also concluded there was no other comparable land contemplated for agriculture in the general plan to make off-site mitigation an option.¹¹⁰ The plaintiffs in *Defend the Bay* argued the conclusion that mitigation was not feasible was unsupported by the evi-

¹⁰¹ *Id.*

¹⁰² *Id.* at 393.

¹⁰³ *Id.*

¹⁰⁴ *Bakersfield Citizens for Local Control v. City of Bakersfield*, 124 Cal. App. 4th 1184, 1198 (2004).

¹⁰⁵ *Defend the Bay v. City of Irvine*, 119 Cal. App. 4th 1261, 1265 (2004).

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* at 1269.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.* at 1270.

dence.¹¹¹ The group believed the City had failed to consider the possibility of converting non-agricultural land to agricultural use as a possible means to mitigating loss and that the City's reasons were primarily economic.¹¹² The court held that the plaintiffs' position, while reasonable and principled, failed to demonstrate a lack of evidentiary support for the City's conclusions.¹¹³

The plaintiffs in *Defend the Bay* also objected to the EIR's discussion of the amendment to the general plan.¹¹⁴ Prior to the amendment, the objective pertaining to agriculture read: "Protect and preserve agriculture as viable land use within areas designated agriculture"¹¹⁵ The objective was amended to read: "Encourage the maintenance of agriculture in undeveloped areas of the City *until the time of development*, and in areas not available for development."¹¹⁶ The group contended the EIR failed to give adequate analysis to the "fundamental nature of the policy shift" behind the amendment.¹¹⁷ Holding that the nature of the change was made clear by the actual language of the amendment, the court declined to create the authority that a fundamental policy shift requires more.¹¹⁸

Characterizing the EIR as an informational document, the court stated that while it must contain substantial evidence on environmental effects and a "reasonable range of alternatives," the final decision on whether to approve a project belongs to the agency.¹¹⁹ As long as the EIR reflects a good faith effort at full disclosure, CEQA does not require an exhaustive analysis, nor does it mandate "perfection."¹²⁰ This standard is precisely what allowed the City of Irvine to alter its general plan, easily diluting its policy for preserving agriculture. The EIR finding that the loss of prime farmland was an "unavoidable adverse impact" illustrates how farmland conversion appears to be a foregone conclusion in many instances.

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.* at 1271.

¹¹⁴ *Id.* at 1272.

¹¹⁵ *Id.*

¹¹⁶ *Id.* [emphasis added].

¹¹⁷ *Id.* at 1273.

¹¹⁸ *Id.*

¹¹⁹ *Id.* at 1265.

¹²⁰ *Id.*

D. Attempts by Central Valley Communities to Curtail Sprawl

With a population of over 67,000, Turlock is the second largest city in Stanislaus County, the third richest agricultural county of the country.¹²¹ Located between the cities of Merced and Modesto along California State Route 99, agriculture continues to be a major part of Turlock's economy.¹²² In 2003, Wal-Mart approached Turlock city officials with its plan to develop a site and build a superstore.¹²³ City officials, citing its general plan policies to "promote and encourage vital neighborhood commercial districts," enacted a zoning ordinance prohibiting the development of discount superstores within the city.¹²⁴ The ordinance specifically cited the likely negative impact to the city's economic viability, the academic studies indicating a probable direct shift of dollars from existing retailers to discount superstores, and the direct competition to existing grocery stores as the bases for the prohibition.¹²⁵ Wal-Mart filed suit, claiming the City had exceeded its police powers and failed to comply with CEQA.¹²⁶ In April 2006, the court rejected Wal-Mart's challenge to the ordinance, concluding that a city has the right to organize development within its boundaries and can act to serve the general welfare.¹²⁷ The court also held that the environmental review required under CEQA did not apply because the zoning ordinance complied with the general plan and was adequately addressed in the prior EIR prepared for that general plan.¹²⁸ This case exemplifies how a city can take a proactive approach to ensure new development conforms to its vision. A general plan, coupled with consistent zoning policies, can ensure a community's goals for future growth become reality.

Located at the southern end of the Central Valley, the City of Bakersfield is the county seat of Kern County, where agriculture is the second largest industry employer following government.¹²⁹ In 2003, the City of Bakersfield approved two separate development projects which were

¹²¹ The Turlock Convention and Visitors Bureau, <http://www.visitturlock.org/communityinformation/>.

¹²² *Id.*

¹²³ *Wal-Mart Stores, Inc. v. City of Turlock*, 138 Cal. App. 4th 273, 279 (2006).

¹²⁴ *Id.* at 283.

¹²⁵ *Id.*

¹²⁶ *Id.* at 278.

¹²⁷ *Id.* at 279.

¹²⁸ *Id.*

¹²⁹ Bakersfield Community Profile, <http://www.bakersfieldchamber.org/documents/community%20profile.pdf>.

located approximately three miles apart.¹³⁰ One project was to develop thirty-five acres of land for a 370,000 square foot retail shopping center while the other project was to develop seventy-three acres for a 700,000 square foot regional retail shopping center.¹³¹ Both shopping centers were to feature 220,000 square foot Wal-Mart supercenters and required both zoning changes and general plan amendments.¹³² A citizens' group, Bakersfield Citizens for Local Control ("BCLC"), filed two CEQA actions, alleging the EIRs completed for the projects were inadequate.¹³³ The court sided with the citizens' group, agreeing the EIRs were deficient in that they did not consider the projects' cumulative potential to lead to urban decay.¹³⁴ Neither EIR addressed the other in terms of the combined environmental impact the two shopping centers would have.¹³⁵ While economic and social effects of proposed projects are ordinarily outside the realm of CEQA, if those effects will somehow lead to adverse physical changes in the environment, then CEQA requires a disclosure and analysis of those impacts.¹³⁶

It is important to note that the court in the BCLC suit said that "a comprehensive cumulative impacts evaluation" is stressed in CEQA and that damage to the environment can occur "incrementally" as a result of numerous smaller sources.¹³⁷ When projects are approved on a piecemeal basis, consideration of their cumulative effect on infrastructure and community services is crucial.¹³⁸

Centrally located twenty-five miles southeast of Fresno, the City of Reedley is referred to as "The World's Fruit Basket."¹³⁹ Reedley's economy is predominantly based in agricultural production and agriculturally-oriented industry.¹⁴⁰ In 2002, Reedley citizens faced two ballot measures which would have altered the city's general plan and amended established zoning to allow a Wal-Mart store and other development to be

¹³⁰ Bakersfield Citizens for Local Control v. City of Bakersfield, 124 Cal. App. 4th 1184, 1193-1194 (2004).

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.* at 1195.

¹³⁴ *Id.* at 1213.

¹³⁵ *Id.* at 1184.

¹³⁶ *Id.* at 1205.

¹³⁷ *Id.* at 1214.

¹³⁸ *Id.* The developer proceeded with its building plans, despite the fact that this action was pending. The two partially-completed Wal-Mart buildings currently remain in unfinished states. *Id.* at 1196.

¹³⁹ Reedley's History, <http://www.reedley.com/Lori/Other%20Pages/lo-history.htm> (last visited Oct. 7, 2006).

¹⁴⁰ *Id.*

built on sixty-eight acres of agricultural land adjacent to the Kings River.¹⁴¹ The CEQA environmental review concluded that although the impact to prime farmland was significant, it was an unavoidable impact associated with the development of the site and that feasible mitigation measures were not available.¹⁴² After denying the necessary general plan amendment and zoning change required for the project, the city council opted to place the issue on the ballot for Reedley citizens to decide.¹⁴³ The zoning change was narrowly defeated by seventy-five votes; the general plan amendment was defeated by thirty-two votes.¹⁴⁴ The council's willingness to put the issue to the voters and the narrow margin of the election outcome are examples of the relative ease with which zoning and general plan amendments can occur. This raises the question of whether more should be required to alter an established general plan, for instance, a super-majority rather than simple majority vote. This could reduce the likelihood of cities falling prey to the inducements of big-box retailers and developers.

When Wal-Mart's proposal to build in Reedley was at the height of its controversy, local citizens were divided about the purported advantages and disadvantages of the project.¹⁴⁵ Proponents believed the retailer would increase sales tax coffers and provide much-needed new jobs.¹⁴⁶ Critics opposed the project's proximity to the Kings River and believed the store would harm the city's small-town image and local downtown merchants.¹⁴⁷ After its defeat at the ballot box, Wal-Mart subsequently relocated to Dinuba, less than five miles away, with a store that opened in August 2005.¹⁴⁸ The store later became the first Fresno-area supercenter when Wal-Mart added 60,000 additional feet to include a grocery department in May 2006.¹⁴⁹ Rural communities are often under pressure to generate more sales tax revenues and may be willing to approve large-

¹⁴¹ Jodie Reyna, *Council finalizes Wal-Mart Project*, The Reedley Exponent, Dec. 6, 2001, at 1A. See also Cyndee Fontana, *Store site debate rages*, The Fresno Bee, Nov. 5, 2001, at B1.

¹⁴² Stephen J. Peck, Quad Knopf, *Recirculated Draft Environmental Impact Report: Reedley Wal-Mart/Otani Property Development* ES-14 (June 2001) (explaining that the site was within the "approved Sphere of Influence Boundary").

¹⁴³ Fontana, *supra* note 141, at B2.

¹⁴⁴ League of Women Voters of California, *Directory of Fresno County, CA Measures*, <http://www.smartvoter.org/2002/03/05/ca/fr/meas/> (last visited Oct. 7, 2006).

¹⁴⁵ Cyndee Fontana, *Reedley retail plan sent to voters*, The Fresno Bee, Oct. 31, 2001, at B1.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ Wal-Mart Facts, *supra* note 54.

¹⁴⁹ *Id.*

scale retail development for this purpose.¹⁵⁰ However, the ease with which sprawl can shift from one community to the next is a prime example of a short-sighted and uncoordinated approach to land use planning.

The City of Anderson is located in Shasta County at the northern end of the Central Valley.¹⁵¹ In 2003, city officials certified the EIR for a proposed project in a quasi-rural section of Anderson.¹⁵² The project encompassed twenty-six acres and included a 184,000 square foot Wal-Mart Supercenter, three other commercial-retail pads totaling 21,700 square feet, and a twelve position gas station.¹⁵³ The Anderson First Coalition (“Coalition”) challenged the City’s approval and brought suit under CEQA.¹⁵⁴ The lower court held that the negative findings under the EIR were limited to potential traffic and air quality impacts related to the gas station, and as a specific “project activity,” the gas station could be severed from the project while construction and operation of the remainder of the project could proceed.¹⁵⁵ The Coalition’s argument that the analysis regarding the entire project’s total size and cumulative impacts on traffic and air quality was inadequate was rejected on appeal.¹⁵⁶ The court held that severance does not prejudice complete and full compliance with CEQA, and allowing a project to go forward can be appropriate while an agency seeks to remedy CEQA violations.¹⁵⁷

The court in *Anderson* also disagreed with the Coalition’s argument that the EIR did not adequately address the project’s potential to cause urban decay.¹⁵⁸ The City had concluded that there was no substantial evidence the project would cause deterioration of the central business district or that *additional* physical blight or deterioration of character would result from the project.¹⁵⁹ The court explained that the evidence must be viewed in the light most favorable to the City’s conclusion, and under CEQA, “substantial evidence” means enough relevant information that “a fair argument can be made to support a conclusion, even though other conclusions might also be reached.”¹⁶⁰ Unlike in Bakersfield, the economic and social effects of the project were outside the purview of

¹⁵⁰ EGPR, *supra* note 1, at 76.

¹⁵¹ City of Anderson, <http://www.ci.anderson.ca.us/> (last visited Nov. 5, 2006).

¹⁵² Anderson First Coal. v. City of Anderson, 130 Cal. App. 4th 1173, 1177 (2005).

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ *Id.* at 1180.

¹⁵⁷ *Id.* at 1179-1180.

¹⁵⁸ *Id.* at 1182.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.* at 1183.

CEQA because there were no foreseeable impacts on the environment.¹⁶¹ Whereas the EIR in the Bakersfield case was deficient because it failed to consider the potential of a Wal-Mart Supercenter to cause urban decay, the EIR for the City of Anderson considered the issue and came to the conclusion that it was less than significant.¹⁶²

The Coalition also argued that the project was inconsistent with the land use element of the city's general plan.¹⁶³ The policy stated that the central business district should be "the center of activity in the community."¹⁶⁴ The Coalition's first claim was because the project was on the outskirts of town and was designed to serve 40,000 people when Anderson's population was just over 9,000, it would serve to dilute activity in the central business district.¹⁶⁵ The court, citing the EIR findings, agreed with the City's conclusion that the project was to be a regional-serving retail development not meant to fit within the central business district.¹⁶⁶ City officials believed the project could serve to benefit smaller retailers by increasing shopping traffic and could provide increased tax dollars.¹⁶⁷ The Coalition's second claim was the project's potential increase to the commercial acreage within the city was contrary to a statement found within the general plan: "The amount of land placed in the commercial categories must be kept in scale with the needs of the community. Too much commercial can be as detrimental as not enough."¹⁶⁸ The court found this generalized language problematic and said city officials had considered the amount of commercial land in a "reasoned, supported way."¹⁶⁹ The court explained a city is given broad discretion in interpreting its own general plan policies; as long as its decision is not "arbitrary, capricious, unsupported or procedurally unfair," it will be upheld.¹⁷⁰

The Anderson case exemplifies how CEQA can be circumvented and the potential cumulative effects of a project on the environment can be disregarded. The case also represents how adverse impacts on a community which stem from economic loss are ordinarily outside the realm of CEQA protection. It also illustrates the necessity of a clear, well-written

¹⁶¹ *Id.* at 1184.

¹⁶² *Id.* at 1185.

¹⁶³ *Id.* at 1191.

¹⁶⁴ *Id.* at 1192.

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.* at 1193.

¹⁷⁰ *Id.* at 1192.

general plan and how a vaguely written general plan is readily amended because it is subject to differing interpretations.

III. POLICY CONSIDERATIONS AND RECOMMENDATIONS

A. *Hercules and Inglewood: Responding Forcefully to the Threat of Sprawl*

The City of Hercules is located in the Bay Area and while not part of the Central Valley, the outcome of its fight against Wal-Mart exemplifies a somewhat novel approach by a city to protect its interests. Wal-Mart intended to open a store on seventeen acres overlooking the San Pablo Bay, despite vocal opposition from many critics within the community.¹⁷¹ In early 2006, the City offered to purchase the property from Wal-Mart, but the company refused to sell.¹⁷² The city council then voted unanimously to use eminent domain to prevent Wal-Mart from proceeding with its plans.¹⁷³

Hercules was the first city in the state to adopt a redevelopment code prescribing the design of streets, building dimensions, and architectural requirements.¹⁷⁴ Despite Wal-Mart's attempts to design a downscaled store with a more "attractive, village-like appearance," the City rejected the company's decision to locate there because it conflicted with the general vision for the community.¹⁷⁵

In the Los Angeles suburb of Inglewood, local groups vigorously lobbied the city council to deny Wal-Mart's proposal to build a store in its community in 2004.¹⁷⁶ The city council responded by adopting an emergency ordinance specifically designed to keep out large retailers.¹⁷⁷ The company then sponsored an initiative which would have exempted the company from the city's zoning and environmental restrictions, gathering 9,250 signatures in the process.¹⁷⁸ The initiative would have permitted Wal-Mart to circumvent government restrictions and allowed con-

¹⁷¹ Patrick Hoge, *Hercules: Vote goes against Wal-Mart; Council OKs using eminent domain to block retailer*, San Francisco Chronicle, May 24, 2006, available at <http://www.sfgate.com/cgi-bin/article.cgi?file=/c/a/2006/05/24/BAGM8J15531.DTL>.

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ Frontline, *supra* note 53.

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

struction to proceed without traffic reviews, environmental studies,¹⁷⁹ or public hearings.¹⁸⁰ In April 2004, Inglewood voters overwhelmingly opposed the initiative by a margin of 60.6 percent to 39.3 percent.¹⁸¹

Hercules took an unyielding stance against a proposal believed to be incompatible with its community and used eminent domain to prevent Wal-Mart from locating there. Inglewood residents resoundingly defeated an attempt to circumvent the means by which a community can direct its future development. If Central Valley leaders and citizens, recognizing the importance of the region's agricultural land and the urgency of the threat to the region, took a similarly aggressive stance, much could be accomplished to protect agriculture and local communities.

B. Local Control Versus a Regional Approach

Seventy-seven percent of California residents believe development poses a serious threat to farmland.¹⁸² Fifty-five percent of residents further believe development within the state is out of control.¹⁸³ While possible citizens are becoming increasingly alarmed, it remains to be seen whether this concern can be transformed into the appropriate action and attention necessary to affect change. Californians believe there is a two in three chance problems pertaining to new growth can be resolved by sound land use planning.¹⁸⁴ Seventy-four percent believe local governments are well-qualified to address these problems.¹⁸⁵ Citizens appear to put significant faith in local leadership to come up with the correct solutions to the dilemma. Perhaps this is true because the right to dictate land use policies is constitutionally reserved to the states, which traditionally have consigned the responsibility to local governments.¹⁸⁶ The concept of local control is worth upholding since local governments have the interests of their represented communities at stake. However, the piecemeal approach to land use is far from ideal, as seen in the Reedley

¹⁷⁹ 14 CAL. CODE REG. § 15378(b)(3)(Barclays 2006) (explaining that proposals submitted to the vote of the people which do not involve a public agency sponsored initiative are not considered a "project" under CEQA).

¹⁸⁰ Frank Buckley, *No smiles for Wal-Mart in California*, CNNMONEY.COM, Apr. 7, 2004, http://money.cnn.com/2004/04/07/news/fortune500/walmart_inglewood/ (last visited July 27, 2006).

¹⁸¹ Frontline, *supra* note 53.

¹⁸² *24 Strategies*, *supra* note 63, at 10.

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ Heimlich and Anderson, *supra* note 36, at 5.

and Dinuba example. A coordinated effort to address land use problems is impossible if local governments compete, fail to address the cumulative impacts of their actions, and ignore the broad and long-term interests which are affected. A regional effort is used in other areas of environmental concern such as air pollution and water quality.¹⁸⁷ Land use issues should be addressed in similar fashion. One promising step toward this concept is the San Joaquin Valley Blueprint Planning Process, a joint effort between the Great Valley Center,¹⁸⁸ local governments, and transportation councils to implement a comprehensive and coordinated approach using a *regional* vision of land use to guide future growth.¹⁸⁹

C. Strengthening Land Use Law

Assembly Bill 857 (“AB 857”) was written with the intent to strengthen and expand California’s land use priorities.¹⁹⁰ AB 857 established three state planning priorities: promote infill development and equity; protect the most valuable natural and agricultural resources; and encourage efficient development patterns in areas to the extent infill development is not possible.¹⁹¹ The Bill was passed by the Legislature and signed into law in 2002.¹⁹² As a result of the passage of this law, the Governor’s Office of Planning and Research prepared the first update to the state Environmental Goals and Policies Report (“EGPR”) in twenty-five years.¹⁹³ Adopted in November 2003, the EGPR is a comprehensive document meant to serve as a guide for local governments and planners

¹⁸⁷ See Central Valley Regional Water Quality Control Board, http://www.waterboards.ca.gov/centralvalley/board_information/index.html and San Joaquin Valley Air Pollution Control District, <http://www.valleyair.org> (last visited Nov. 4, 2006).

¹⁸⁸ The Great Valley Center is a non-profit organization whose mission is “to support activities and organizations that promote the economic, social and environmental well-being of California’s Great Central Valley.” Great Valley Center, http://www.greatvalley.org/about_us/mission.aspx (last visited Oct. 18, 2006).

¹⁸⁹ San Joaquin Valley Blueprint Planning Process, <http://www.greatvalley.org/blueprint> (last visited Sept. 12, 2006). The involved agencies include the Council of Fresno Governments, the Kern Council of Governments, the Kings County Association of Governments, Madera County Transportation Commission, the Merced County Association of Governments, San Joaquin Council of Governments, Stanislaus Council of Governments, the Tulare County Association of Governments, and the Great Valley Center. *Id.*

¹⁹⁰ Transportation and Land Use Coalition, *AB 857 Infrastructure Planning: Priorities and Funding*, http://www.transcoalition.org/c/leg/AB_857.html (last visited July 24, 2006).

¹⁹¹ *Id.*

¹⁹² EGPR, *supra* note 1, at 5.

¹⁹³ Letter from Tal Finney, Interim Director of Planning and Research, Cal. Governor’s Office of Planning and Research, to Members of Cal. Legislature (Nov. 10, 2003) *available at* <http://opr.ca.gov/EnvGoals/PDFs/EGPR--11-10-03.pdf>.

for development and a blueprint for how the State should grow, incorporating the three broad priorities of AB 857.¹⁹⁴ The Office of Planning and Research is required to establish a process to ensure the EGPR is revised and updated every four years.¹⁹⁵ The Governor and Legislature are required to be updated annually regarding the status of implementing the EGPR.¹⁹⁶ Many of the policies established pursuant to the EGPR focus on sustainable development, an alternative to sprawl in which development is compact, efficient, and intended to conserve agricultural and wild lands.¹⁹⁷ Rooted in the “smart growth” approach, this strategy focuses on mixed use development and the direction of development toward designated areas.¹⁹⁸ The strategy also focuses on locating new development in center cities rather than fringe areas, and encouraging mass transit and pedestrian friendly development.¹⁹⁹ The revised EGPR is also a promising step in the right direction, but at this point it is too soon to determine how effectively state mandates will be implemented and what direct impact on land use the policy will have.

The Office of Planning and Research is also responsible for overseeing CEQA.²⁰⁰ While CEQA has broad, worthwhile goals designed to protect the environment, its primary shortcoming is that a governmental agency, city or county can be in compliance simply by making note of the possible impacts to the environment and providing “reasonable” explanation for why alternatives or mitigation efforts are not possible. The EIR is primarily an informative document meant to bring to light potential harms to the environment, making it a minor obstacle readily dispensed with by agencies which can easily formulate overriding considerations which outweigh the negative environmental impacts of a project. In order for CEQA to have a meaningful effect, specific enforcement mechanisms must be adopted to ensure the policy of protecting the environment and agricultural land is actually implemented.

¹⁹⁴ *Id.* at 6.

¹⁹⁵ CAL. GOV'T CODE § 65048(a) (Deering's 2006).

¹⁹⁶ CAL. GOV'T CODE § 65048(b) (Deering's 2006).

¹⁹⁷ EGPR, *supra* note 1, at 6.

¹⁹⁸ Cynthia Nickerson, *Smart Growth: Implications for Agriculture in Urban Fringe Areas*, Agricultural Outlook 24, April 2001, available at <http://www.ers.usda.gov/Publications/Outlook/>.

¹⁹⁹ *Id.*

²⁰⁰ Governor's Office of Planning and Research, <http://www.opr.ca.gov/about/Functions.html> (last visited Nov. 4, 2006).

D. Questions on the Role of the Federal Government

The role the Federal Government should take in helping to address the issue is likely to be minimal. In the 1970s, legislation was proposed to establish a national land use policy and federal grants to states to improve development practices, but failed after lengthy debate.²⁰¹ The Farmland Protection Policy Act was enacted by Congress in 1981, but issues regarding enforcement of the Act have rendered it largely ineffective.²⁰² While one might be reluctant to see additional involvement by the government, and skeptical about the effectiveness of this approach, federal involvement might provide the needed financial incentives to preserve land for agricultural use.²⁰³

IV. CONCLUSION

The Central Valley's role as a leading agricultural producer must be maintained. With its unique combination of productive soils, Mediterranean climate, and available irrigation, the region is the ideal setting for the production of a significant portion of the nation's food. The fertile farmland of the Central Valley is irreplaceable, and the loss of agriculture would be irreversible. Rural communities with ties to agriculture are also worth protecting, unless California residents are prepared to live amid a landscape without a countryside, where the different cities are indistinguishable from one another, and the roadways lead from one strip mall to the next. The unique culture and quality of life of rural towns must be preserved. While population growth and urbanization may be factors beyond our control, sprawl is not inevitable. Essential to halting the current trend is recognition of the immediacy and magnitude of the problem. A coordinated effort and regional approach, coupled with creative approaches to land use and policies with mandated implementation,

²⁰¹ Heimlich and Anderson, *supra* note 36, at 9.

²⁰² Corwin W. Johnson and Valerie M. Fogleman, Article, *The Farmland Protection Policy Act: Stillbirth of a Policy?* 1986 U. Ill. L. Rev. 563, 566-67 (1986) (explaining that the Act gave the federal government an extremely limited role and provided no means to ensure agencies comply with its provisions, expressly forbidding judicial enforcement).

²⁰³ One example of an incentive program is the California Land Conservation Act of 1965, more commonly known as the "Williamson Act," which offers property owners reduced tax rates in exchange for maintaining land for agricultural use. See Kerry P. O'Brien, Comment, *California's Farmland Security Zone: A New Incentive for the Preservation of Existing Farmland*, 11 S. J. Agri. L. Rev. 135 (2001); see also Edward J. Johnson, Comment, *The Effect of Historic Parcels on Agriculture – Harvesting Houses*, 12 S.J. Agri. L. Rev. 49 (2002).

can serve to change the course of development within the state before it is too late.

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