



## JUDICIAL COUNCIL OF CALIFORNIA

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March 26, 2015

Hon. Das Williams, Chair  
Assembly Natural Resources Committee  
State Capitol, Room 4005  
Sacramento, California 95814

Subject: AB 1068 (Allen), as introduced February 26, 2015 – Oppose  
Hearing: Assembly Natural Resources Committee – April 13, 2015

Dear Assembly Member Williams:

The Judicial Council is opposed to AB 1068. This bill authorizes each Member of the Legislature to nominate one project subject to the California Environmental Quality Act (CEQA) within his or her respective district each year, and the Governor to designate those projects as priority projects if the projects meet specified requirements. Among other things, the bill prohibits a court from staying or enjoining the implementation of a priority project unless the court finds either of the following: (i) the continued construction or operation of the priority project presents an imminent threat to the public health and safety; or (ii) the priority project site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continued construction or operation of the priority project.

In addition, AB 1068 specifies that if the court finds that either of the above criteria is satisfied, the court shall only enjoin those specific activities associated with the priority project that present an imminent threat to public health and safety or that materially, permanently, and adversely affect unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values. It is important to note that the Judicial Council's

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concerns regarding AB 1068 are limited solely to the court impacts of the legislation, and that the council is not expressing any views on CEQA generally or the underlying merits of the projects covered by the legislation, as those issues are outside the council's purview.

The provisions in AB 1068 that significantly limit the forms of relief that the court may use in a CEQA action challenging a priority project interferes with the inherent authority of a judicial officer and raises a serious separation of powers question.

For these reasons, the Judicial Council opposes AB 1068.

Sincerely,



Daniel Pone  
Senior Attorney

DP/lmb

cc: Members, Assembly Natural Resources Committee

Hon. Travis Allen, Member of the Assembly

Mr. Lawrence Lingbloom, Chief Consultant, Assembly Natural Resources Committee

Mr. John Kennedy, Consultant, Assembly Republican Office of Policy

Ms. June Clark, Deputy Legislative Affairs Secretary, Office of the Governor

Ms. Martha Guzman-Aceves, Deputy Legislative Affairs Secretary, Office of the Governor