

# **THE DETERMINATION OF THRESHOLDS OF ENVIRONMENTAL SIGNIFICANCE IN THE APPLICATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

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# EXECUTIVE SUMMARY

The California Faculty Fellows Program was commissioned by the Governor's Office of Planning and Research (OPR) to examine issues regarding the use of "thresholds of significance" under the California Environmental Quality Act (CEQA). The research team of Dr. Owen Seiver and Dr. Thomas Hatfield was selected for this work through an RFP and competitive review process.

We began our project by meeting with members of OPR directly. Consequently, we refined the study into a survey of lead agencies on attitudes and activities regarding thresholds of significance. We designed a questionnaire that was mailed to 500 agencies from a clustered, random sample that included 250 cities and special districts, agencies from all 58 counties, and 192 state agencies.

The first page of the survey focused on activities in developing thresholds of significance, including the questions listed below:

1. Our agency is best described as: city, county, state, or other.
2. Has your agency adopted local thresholds of significance for CEQA purposes?
3. Have you placed all your existing thresholds in a single document?  
If yes, please return a copy (if available) via fax or mail using the enclosed label.
4. In the past 2 years, has your agency adopted new thresholds of significance under the California Environmental Quality Act? (If no, please skip questions 5-9).
5. Did you survey federal, state, or local agencies for adopted standards relevant to thresholds of significance?
6. Was the new threshold(s) taken from an existing federal, state, or local standard?
7. Has the new threshold been published for public review?  
If yes, please return a copy (if available) via fax or mail using the enclosed label.
8. Was the new threshold adopted legislatively or administratively?

The second page of the survey asked the participants to rate 14 statements according to a Likert scale (where 1 is "completely disagree," 4 is "neutral," and 7 is "completely agree"). The statements are listed below:

1. A statewide database of existing thresholds would be very useful to us.
2. Our agency has limited capacity to develop new thresholds as recommended by the CEQA Guidelines Sec. 15064.7 (amended 1999).
3. The current CEQA Guidelines are helpful for establishing thresholds.
4. Our thresholds are, in some cases, difficult to quantify.
5. We rely on the current version of Appendix G (the environmental checklist) for thresholds.
6. We prefer a return to the pre-1998 version of Appendix G (Significant Effects).
7. Locally developed thresholds are vulnerable to political influence.
8. Locally developed thresholds may be different than thresholds established by other public agencies.

9. Recently adopted thresholds have created controversy among the public.
10. Recently adopted thresholds have created confusion among applicants and developers.
11. We need more time to adequately develop thresholds of significance.
12. Thresholds for our agency are clear, concise and easy to enforce.
13. We are confident that our thresholds are reasonable and defensible.
14. Local agencies should develop their own thresholds.

Of the 500 lead agencies selected, 185 agencies responded (a 37% response rate). Very few of the responding agencies had actually developed and returned valid thresholds of significance (6 out of 185). Sorted by mean value for Likert scale rating, the results are given below:

mean	Question
3.42	12. Thresholds for our agency are clear, concise, and easy to enforce.
3.72	6. We prefer a return to the pre-1998 version of Appendix G (Significant Effects).
3.81	10. Recently adopted thresholds have created confusion among applicants and developers.
3.84	9. Recently adopted thresholds have created controversy among the public.
4.10	13. We are confident that our thresholds are reasonable and defensible.
4.40	3. The current CEQA Guidelines are helpful for establishing thresholds.
4.79	14. Local agencies should develop their own thresholds.
4.96	4. Our thresholds are, in some cases, difficult to quantify.
5.09	5. We rely on the current version of Appendix G (the environmental checklist) for thresholds.
5.10	2. Our agency has limited capacity to develop new thresholds as recommended by the CEQA Guidelines Sec. 15064.7 (amended 1999).
5.19	7. Locally developed thresholds are vulnerable to political influence.
5.43	11. We need more time to adequately develop thresholds of significance.
5.86	1. A statewide database of existing thresholds would be very useful to us.
5.97	8. Locally developed thresholds may be different than thresholds established by other public agencies.

The second part of our statistical testing was an analysis of variance. The most telling results were between those who had actually developed local thresholds of significance and those who had not. While it was a limited number (20) who indicated they had developed thresholds, we nevertheless found statistically significant differences. Agencies who had

developed thresholds were more confident in their ability to develop thresholds, but showed less confidence in the CEQA Guidelines as an aid to developing thresholds.

To fairly interpret the results of our survey, however, we must recognize the fundamental challenges to developing thresholds. Moreover, any proposed solutions must be able to address these challenges. Accordingly, we addressed the fundamental challenges of consistency, expert judgment, cumulative effects, political influence, and other issues.

The results lead us to the following conclusions:

1. Relatively few agencies have formally developed their own thresholds of significance.
2. The respondents do not consider thresholds of significance to be clear, concise, or easy to defend.
3. Experience with developing thresholds is associated with greater confidence in thresholds (experienced agencies did not think thresholds were as difficult to quantify, did not need more time, were more confident in their results, believed there was less controversy and confusion, and showed stronger support for local thresholds).
4. The respondents expressed limited interest in returning to pre-1998 guidelines for thresholds of significance.
5. The respondents expressed a strong interest in a database of existing thresholds of significance.
6. Despite the problems cited, respondents supported the right to develop their own thresholds of significance.

Recognizing these challenges and conclusions, we recommend three strategies: first, develop a database that includes information on existing thresholds of significance, and provide access to that database through the Internet. A number of useful government web sites already exist that pertain to thresholds which could easily accommodate such a database.

Second, once a mechanism is in place for distributing such information, thresholds could be subject to an ongoing review. An online discussion group could improve dialogue among agencies on questions relative to thresholds of significance.

Finally, we believe Appendix G should be more than a checklist. It should provide additional guidance by referencing a database for existing thresholds of significance without mandating any statewide uniform thresholds. The database could express the range that currently exists, and could also provide the opportunity to study key issues such as cumulative effects.

# 1. INTRODUCTION

Thresholds of significance are of primary importance in evaluating the impact of a project on the California environment. The subject of Thresholds of Significance is cited in Public Resource Code, Section 15064.7 as follows: “a) Each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant. b) Thresholds of significance to be adopted for general use as part of the lead agency’s environmental review process must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence.”

This study examines the level of utilization of locally adopted thresholds by lead agencies. A brief history of the California Environmental Quality Act (CEQA) and a review of significant legal rulings are needed to understand and interpret the results of this study.

CEQA is the principle statute in mandating environmental impact review of government actions in California. It is generally considered a stronger, more environmentally friendly version of the National Environmental Policy Act (NEPA), which was signed into law on January 1, 1970 by President Richard Nixon.

The goal of NEPA was to establish environmental policies and procedures so that federal agencies would include environmental concerns in their decision making process.<sup>1</sup> For major federal actions and legislative proposals, federal agencies must prepare an

environmental impact statement. These statements are designed to ensure that the agency would evaluate and consider the environmental consequences of the project.

The California Legislature, the same year NEPA was signed, passed the California Environmental Quality Act.<sup>2</sup> CEQA constituted a broad endorsement of the importance of the environment over other values and the commitment by the State of California to mandating its protection. In addition, CEQA was designed to provide a mechanism for informing both the public and the government as to the impact that projects would have on the environment. It was the intent of the legislature that all public agencies which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that consideration is given to preventing environmental damage.<sup>3</sup> CEQA in 1970 stated that state and local agencies “shall include in any report on any project they propose to carry out which could have a significant effect on the environment of the state, a detailed statement”<sup>4</sup> [i.e. an environmental impact report].

CEQA does have important differences from NEPA. For example, the California statute places a relatively higher value on environmental protections compared with economic growth.<sup>12</sup> Under NEPA, the federal government must give appropriate consideration to environmental values and evaluate all reasonable alternatives and suggest appropriate mitigation measures. However, there is no mandatory duty to act on those proposals even if they are feasible and achievable.

CEQA, in contrast to NEPA, mandates that agencies implement feasible mitigation measures or any alternatives that will be conducive to protecting the California environment. The environmental consequences must be reduced below the level of significance to the



degree feasible. The original intent of the legislation was to maintain a quality environment for the people of the state by protecting and rehabilitating the environmental quality of the state. The legislation required the development of procedures and standards by governmental agencies that were necessary to protect environmental quality.<sup>5</sup> The policy centers itself around the requirement that an Environmental Impact Report (EIR) be prepared whenever a governmental action may have a significant effect on the environment.<sup>6</sup>

The Resources Agency of California has adopted regulations entitled “Guidelines for the Implementation of the California Environmental Quality Act.” The guidelines are binding on all public agencies in California.<sup>7</sup> The guidelines also provide that CEQA is not applicable to an activity where it can be determined with certainty that there is no possibility that the activity may have a significant effect on the environment.

Determination of whether or not an EIR will be prepared is based entirely on the evaluation of whether a project may have a “significant effect” on the environment. Inherent problems are illuminated when one attempts to define the term “significant effect.” Prior to 1998, the CEQA Guidelines contained Appendix G that provided guidance for deciding whether an impact was “significant.” The guidelines listed types of projects that “will normally have” a significant impact on the environment. They include:

- a) Conflict with adopted environmental plans and goals of the community where it is located;
- b) Have a substantial, demonstrable negative aesthetic effect;
- c) Substantially affect an endangered, rare, or threatened species of animal or plant or the habitat of the species;
- d) Interfere substantially with the movement of any resident or migratory fish or wildlife species;

- e) Breach published national, state, or local standards relating to solid waste or litter control;
- f) Substantially degrade water quality;
- g) Contaminate a public water supply;
- h) Substantially degrade or deplete ground water resources;
- i) Interfere substantially with ground water recharge;
- j) Disrupt or adversely affect a prehistoric or historic archaeological site or a property of historic or cultural significance to a community or ethnic or social group; or a paleontological site except as a part of a scientific study;
- k) Induce substantial growth or concentration of population;
- l) Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system;
- m) Displace a large number of people;
- n) Encourage activities that result in the use of large amounts of fuel, water, or energy;
- o) Use fuel, water or energy in a wasteful manner;
- p) Increase substantially the ambient noise levels for adjoining areas;
- q) Cause substantial flooding, erosion or siltation;
- r) Expose people or structures to a major geologic hazard;
- s) Extend a sewer trunk line with capacity to serve new development;
- t) Substantially diminish habitat for fish, wildlife or plants;
- u) Disrupt or divide the physical arrangement of an established community;
- v) Create a potential public health hazard or involve the use, production or disposal of materials which pose a hazard to people or animal or plant populations in the area affected;
- w) Conflict with established recreational, educational, religious or scientific uses of the area;

- x) Violate any ambient air quality standard, contribute substantially to an existing or projected air quality violation, or expose sensitive receptors to substantial pollutant concentrations;
- y) Converts prime agricultural land to non-agricultural use or impair the agricultural productivity of prime agricultural land;
- z) Interfere with emergency response plans or emergency evacuation plans.

It is especially notable that the guidelines do not describe specific thresholds of significance, or even how they may be used. These potential effects may not be significant in all cases. In 1998, Appendix G was replaced with an “Environmental Checklist Form.” Although the new Appendix G addresses the same areas as cited above, they are presented as a template rather than a specific requirement legitimized by California government sanction. Upon comparison of the thresholds sited in pre-1998 Appendix G (“old”) to the implied thresholds sited in post-1998 Appendix G (“new”), it becomes evident that there are more than just a few similarities. Both versions address the same basic environmental impacts. The new Appendix G, however, is far more comprehensive than the old. For example, the old Appendix G addresses the effect a project may have on aesthetics if it will “Have a substantial, demonstrable negative aesthetic effect.” The new Appendix G questions if the project would “a) Have a substantial adverse effect on a scenic vista? b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? c) Substantially degrade the existing visual character or quality of the site and its surroundings? And d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?” The current version of Appendix G offers expanded guidance in all other environmental

factors potentially affected. Although only a suggested form, the new Appendix G provides far more guidance relative to determination of a project's impact than the old. The new Appendix G also requests the lead agency to determine if the impact is a) Potentially Significant, b) Less Than Significant with Mitigation, or c) Less Than Significant. It also encourages the lead agency to consider off site as well as on site effects, indirect as well as direct effects and cumulative effects.

CEQA does authorize and encourage the adoption of local thresholds to determine the environmental significance of an impact. Thresholds of significance are used to determine whether a project may have a significant environmental effect. The "threshold of significance" for a given environmental effect is that level at which the lead agency finds the effects of the project to be significant.<sup>8</sup> Thresholds must be dynamic and flexible. For example, an activity that may not be significant in an urban area may be significant in a rural one. Both direct and indirect consequences must be considered by the lead agency. Direct consequences are those related to a project, such as soil erosion, air pollution and water pollution. Indirect consequences are those caused by long term effects such as population growth leading to increased traffic congestion.

The CEQA process begins with the determination of whether or not an activity is a "project." According to the California Supreme Court, the term "project" includes not only government-initiated actions but also any private projects requiring a permit or a lease issued by the government.<sup>9</sup> The CEQA Guidelines, certified and adopted by the Secretary of Resources and reviewed by the Office of Planning and Research, specifically states that CEQA does not apply to any activity where it can be determined "with certainty" that there is no possibility that the activity may have a significant effect on the environment.

The state or local agency with the greatest responsibility relative to the approval or execution of a project is deemed the “lead agency.” Other agencies having discretionary approval authority are considered “responsible agencies.” A “*trustee agency*” is one which has jurisdiction over natural resources affected by a project. An example would be the Department of Fish and Game that holds in trust for the people of California. A lead agency must consult with the responsible and trustee agencies at various project stages. A *lead agency* is defined as that public agency that has the principal responsibility for carrying out or approving a project; a *local agency* is defined as any public agency other than state agency, board or commission; a *responsible agency* is a public agency that proposes to carry out or approve a project for which a lead agency is preparing or has prepared an EIR. These include all public agencies other than the lead agency that has discretionary approval power over the project.<sup>10</sup>

The lead agency decides whether to prepare an EIR, or, if no substantial evidence that the project may have a significant effect on the environment exists, a negative declaration. The State Clearinghouse (SCH) circulates the negative declaration to state review agencies for a 30-day review period. Agency comments are then forwarded to SCH. If the project is approved by the lead agency, it must file a Notice of Determination with the county clerk of the county where the project is located.

If the lead agency determines that an EIR is required, the agency will circulate a Notice of Preparation (NOP) to all responsible and trustee agencies. The NOP describes the project, the location and probable environmental impacts and issues. The responsible and trustee agencies review the NOP and submit comments to the lead agency and the SCH. The lead agency then submits a draft EIR and submits copies to the SCH. Reviewing agencies are

selected based on the environmental impact. The review agency comments are forwarded to SCH. The comments are all forwarded to the lead agency. The lead agency then responds to all comments and includes them in the final EIRs. If the project is approved, the lead agency must file a Notice of Determination (NOD) with the county clerk where the project is located.

Understanding the identity and role of these agencies is paramount to unraveling the CEQA process and the importance of thresholds themselves. It is the lead agency's responsibility to decide whether the CEQA applies, decide whether to prepare an EIR or a Negative Declaration, to prepare and circulate a draft EIR or Negative Declaration for public review and to act to minimize environmental damage and balance competing public objectives.<sup>11</sup> These responsibilities are now contingent on the lead agency developing their own thresholds of significance.

CEQA requires that lead agencies acts so as to minimize environmental damage and balance competing public objectives.<sup>12</sup> To accomplish this, each lead agency is required to adopt objectives, criteria and specific procedures for CEQA review consistent with CEQA and the guidelines for the evaluation of projects and preparation of environmental documents. With the removal of the list of "significant effects" from the old Appendix G and the replacement with the checklist, it now becomes critical to examine the agency's criteria (qualitative, quantitative and performance based) in establishing thresholds. In other words, lead agencies may now have an increased role in determining thresholds of significance. We must also consider consistency in the decision making process, and the level of understanding by the agency. Studies have shown that inconsistent perceptions of a policy can lead to poor policy implementation.<sup>13</sup> If the perceptions relative to the entire

CEQA process by the public, the Legislature, the Clearinghouse and the lead agencies are inconsistent, it becomes difficult to maintain a level of efficiency in carrying out the intent of CEQA.

Therefore, this study is designed to survey lead agencies in California to determine their progress and participation in meeting the recommendations in the CEQA Guidelines for each public agency to establish thresholds of significance. It would also be of great value to determine the agency's views on CEQA and thresholds of significance.

## 2. METHODOLOGY

### 2.1. Objectives of the study

We designed the study to reflect the objectives in the revised RFP proposal. The original RFP dated October 2000, suggested a study designed to answer the following questions and areas of concern:

1. How many lead agencies in the State have adopted thresholds of significance?
2. Do roots of variance exist between the agencies because of different statutes, ordinances, rules and regulations?
3. Construct a database to identify inconsistencies, variances in jurisdictions and conflicts at local, state and perhaps federal level (NEPA).
4. Identify lead agencies that have adopted thresholds, and any conflicts between agencies.
5. Do the lead agencies that have adopted thresholds meet the same standards as those originally established in Appendix G?
6. Have existing standards been incorporated into the established thresholds?
7. Can we determine if a mechanism exists to evaluate lead agency thresholds as to their consistency and defensibility?
8. Can this lead to an evaluation of the feasibility of developing quantified thresholds for individual areas such as water, air and land use?
9. Compare and contrast pre and post Appendix G EIRs.
10. Notice and comment on hearings records examined for any “red flag” which may aid in threshold evaluations.



On November 2 2000, the Office of Planning and Research narrowed the scope of the study to primarily focus on the following:

1. How many lead agencies have adopted CEQA thresholds of significance?
2. Identification of what the thresholds are.
3. Are the thresholds reasonable and defensible?
4. How much variation there is between the various agencies and the adopted thresholds?
5. Obtain a substantial, quantitative analysis of a statistically significant number of lead agencies.

Upon agreement as to the charge of the study, we met with the Governor's Office of Planning and Research located in Sacramento, on November 15, 2000. The goal of the meeting was to evaluate the existing resources available relative to the CEQA process and the State Clearinghouse.

## **2.2. Research methods**

Our interview with Ms. Terry Roberts and Katie Shulte Joung of OPR was instrumental in refining the search and obtaining background information on the role of OPR in the CEQA process. We began with a computer database (Excel format) identifying all agencies in the State of California that have acted as a lead agency since 1998. There were approximately 1700 entries. We also received a computer database of more complete contact information on 58 county agencies (representing all the counties in California) and 68 state agencies. We opted for a clustered random sample yielding 500 lead agencies: 250 agencies from cities and special districts, 58 county agencies, and 192 state agencies. We expected a lower response rate from the state agencies because contact information was limited in this group.

Following the meeting with OPR, we performed a literature review using library, Internet and existing documents from the State Clearinghouse. Legal case study was used to facilitate an understanding of the CEQA process, its history, court challenges and established legal precedent.

A survey form was then constructed by the research team. It is ultimately our intent that this form could be used in an ongoing Delphi study or similar approach. The Delphi method was originally developed by the Rand Corporation in the early fifties for use in defense research.<sup>14</sup> It is actually a form of remote group communication and is used to access the opinions of knowledgeable people on a topic. In a typical Delphi survey, a series of questionnaires is sent to a panel of individuals who have been recruited based on their expertise and interest in the issue being investigated. In this case, we utilized the agency planning directors as our target population. The advantage of the Delphi survey over face-to-face communication are that the opinions are anonymous, the group cannot be dominated by individuals or organizations with more status, and geographical location does not act as a barrier to participation. An individual can also complete the survey on their own and respond as they wish without peer or other pressure. Delphi research is normally accomplished with a Likert-type scale utilized to quantify the respondents agreement or disagreement with statements generated by the research team. The ultimate goal of a Delphi survey is to achieve consensus by circulating the results of the survey in the form of Likert-type questions and allowing the participants to agree or disagree.

The survey in this study consisted of two parts: 1) Part 1 was designed to obtain information on the agency or special district completing the form; 2) Part 2 was the Likert scale, from 1-7, showing agreement or disagreement with the statement.

### 2.3 Intent of the survey questions

In designing the survey questions, our intentions were to examine the concerns of the redesigned RFP.

Question 1. Our agency is best described as: city, state, county, or special district.

This question describes the agency as to city, state, county or special district for statistical identification. This helps identify existing conflicts, if any, between local and state agency thresholds and attitudes.

Question 2. Has your agency adopted local thresholds of significance for CEQA purposes? This question allows the researchers to compare and contrast those agencies that have experience with the CEQA process in establishing thresholds of significance with those agencies that have not.

Question 3. Have you identified all your existing thresholds in a single document? This question determines if the agency thresholds have been compiled into a single document or are referenced in many different locations and documents. The OPR document: “Thresholds of Significance: Criteria for Defining Environmental Significance on Thresholds of Significance” recommends placing all thresholds in a single document.<sup>8</sup>

Question 4. In the past two years, has your agency adopted new thresholds of significance under the California Environmental Quality Act (in accordance with the 1998 amendments)? This question determines if any new thresholds have been adopted since 1998 as recommended by the CEQA Guidelines. OPR recommends that agencies review thresholds of significance periodically to ensure their continued relevance and accuracy.<sup>8</sup>

Question 5. In establishing thresholds of significance, did you survey federal, state, or local agencies for adopted standards relevant to thresholds of significance?

OPR encourages agencies to “harmonize the thresholds with those of other agencies to the extent possible.”<sup>8</sup> This question examines the extent of the utilization of other agency thresholds as a reference in adopting local thresholds.

Question 6. Was your new threshold(s) taken from an existing federal, state, or local standard? Determining if the thresholds were actually taken from existing federal, state or local adopted standards allows the research team to quantify the extent of cross-referencing and consistency between agencies.

Question 7. Has the new threshold been published for public review?

OPR recommends adopting thresholds as part of the local CEQA Guidelines, with public review.<sup>8</sup>

Question 8. Was the new threshold adopted legislatively or administratively?

Although administrative thresholds may be easier to adopt and are less subject to political pressures than thresholds adopted by governing bodies, the OPR recommends that thresholds are adopted by a legislative body in order to carry full authority of the city or county.<sup>8</sup> It also is conducive to public involvement.

STATEMENTS 1-14 (Likert Scaled)

Statement 1. A statewide database of existing thresholds would be very useful to us.

This statement is designed to determine if a statewide database of existing thresholds would serve as a model and be conducive to simplifying the process of developing thresholds.

Providing examples of existing thresholds could be a vital first step in creating dialog on the topic between agencies.

Statement 2. Our agency has a limited capacity to develop new thresholds as recommended by the CEQA Guidelines Sec. 15064.7 (amended 1998).

The development of thresholds may be well beyond the limited resources of some agencies.

How limited are the current agencies by budget, research and manpower?

Statement 3. *The current CEQA Guidelines are helpful for establishing thresholds.*

This question is designed to determine if agencies are aware of the guidelines and if they feel they are effective in the process.

Statement 4. *Our thresholds are, in some cases, difficult to quantify.*

Do lead agencies feel that their own thresholds are difficult to quantify? Do experts in a given area (water for example) find the development of quantifiable thresholds difficult if not impossible.

Statement 5. *We rely on the current version of Appendix G (the environmental checklist) for thresholds.* To understand the significance of this statement, we need to review the

decision of Quail Botanical Gardens Inc. vs. the City of Encinitas.<sup>15</sup> That decision focused on one of the 24 significant effects listed in old Appendix G. Old Appendix G references significant effects that “will normally have” a significant effect on the environment.

The court cited the significant effect of “b.) Have a substantial demonstrable negative aesthetic effect.” The most important part of this decision, in our view, was that “the CEQA Guidelines established a rebuttable presumption any substantial negative aesthetic effect is to be considered a significant environmental impact for CEQA purposes.” The court concluded “it is inherent in the meaning of the word “aesthetic” that any substantial negative effect of a project on view and other features of beauty could constitute a “significant” environmental impact under CEQA.”<sup>15</sup>

This court decision referenced the old Appendix G. Since that decision, the old Appendix G has been removed and replaced with a comprehensive environmental checklist (the new

Appendix G) designed as an aid for evaluating environmental impacts. With no explicit interpretation as a rebuttable presumption, the current Appendix G nevertheless provides guidance for the decision to prepare a negative declaration or an EIR. The significance of this change relative to future legal cases, however, remains to be seen. We wanted to examine agency responses to this issue.

Statement 6. We prefer a return to the pre-1998 version of Appendix G (Significant Effects). Would any agency actually prefer the pre-1998 appendix G in the regulation as opposed to a checklist?

Statement 7. Locally developed thresholds are vulnerable to political influences. Do lead agencies agree that political influence and pressure may be exerted in the attempt to develop thresholds and have them adopted by a governing body?

Statement 8. Locally developed thresholds may be different than thresholds established by other public agencies. A fundamental concept is that the same activity can have a different impact depending on the project, the location, and even the underlying values of the community. We asked this question to see how strongly the agency agreed with the concept.

Statement 9. Recently adopted thresholds have created confusion among the public. How aware is the public of the CEQA process? Whether the thresholds are adopted administratively which could shield the process from the public, or legitimized through governmental action, have the agencies been the target of public controversy?

Statement 10. Recently adopted thresholds have created confusion among applicants and developers. This question can best be answered by those lead agency planners who have feedback and direct knowledge of the level of understanding of the CEQA process by the developers and contractors.

Statement 11. *We need more time to adequately develop thresholds of significance*

For those agencies who have not developed thresholds, do they consider time an important issue?

Statement 12. *Thresholds for our agency are clear, concise and easy to enforce.*

How does the lead agency view the legitimacy of their thresholds? Have they had trouble in enforcement?

Statement 13. *We are confident that our thresholds are reasonable and defensible.*

Again, assuming a lead agency has developed thresholds, what level of confidence do they have in their own thresholds as to being reasonable and defensible?

Statement 14. *Local agencies should develop their own thresholds.*

Should local agencies develop their own thresholds on a case by case basis or should the role of establishing such criteria be placed on another entity where general thresholds are established for all communities?

The survey forms were mailed to the 500 lead agencies along with return address labels on November 27, 2000 with a requested due date of December 22, 2000. A follow-up postcard was mailed out December 15, 2000 to encourage completion of the survey and to extend the deadline if needed by the agency. Completed survey forms returned by January 7, 2001 were used in data analysis.

## 3. RESULTS

### 3.1 Descriptive statistics

We received 185 responses from 500 mailed survey forms (a 37% response rate). We also received 20 returns as undeliverable mail (4% undeliverable). Given the short response time for this survey, the end of year activities within agencies, and the general response rates for these kinds of surveys, we consider this a good result. We generated most of our statistical analysis through the SPSS program (Statistical Programming for Social Sciences). Figure 1 shows the number of responses by category (i.e., from question 1). Cities and special districts were the largest number of respondents with 112 cities and 2 special districts ( $114/250 = 45.6\%$  response rate). County agencies, while drawing from a smaller population, had the highest response rate ( $31/58 = 53.4\%$  response rate). State agencies had the lowest response rate ( $33/192 = 17.2\%$ ). The relatively low number of state agencies in our survey is probably due to the lack of contact names from the computer database. However, the number of responses appears to be consistent with the number of state agencies in the lead agency database since 1998.

(Insert Figure 1 about here).

Figure 2 shows the number of agencies that have developed thresholds. Of those, that responded yes to question 2, only six returned documents with identifiable thresholds. Table 1 shows the number of respondents that had compiled these thresholds into a single document.

(Insert Table 1 and Figure 2 about here)



Table 1 also shows that only seven agencies have developed thresholds within the last 2 years. Upon closer review of these questions, we believe there may be some confusion on the part of the agencies as to exactly what a single document is. For example, a document may be entitled “Thresholds of Significance”, or it may be placed within a given EIR. The reason we raise this point is that some agencies simply returned an EIR or general plan.

These figures show that relatively few agencies have developed their own thresholds of significance, and even fewer were willing or capable of returning these documents in our survey. In fact, of the 20 respondents who indicated developing thresholds, only 6 returned documents that contained some kind of quantifiable threshold accompanying the checklist. Table 2 shows that questions 4-8 apply to a small minority of the respondents.

(Insert Table 2 about here).

For further verification of this trend, we conducted an Internet review of thresholds of significance (see appendix 4). By using the keywords “thresholds of significance” on standard Internet search engines, we found only a limited number of sites with appropriate thresholds. While we must be cautious with interpreting the results of such a search, it does seem consistent with our earlier findings that a limited number of agencies are developing their own thresholds of significance.

Why have so few agencies adopted thresholds? An obvious answer is that agencies are encouraged, not mandated, to develop thresholds.<sup>20</sup> However, to further explore this issue, it is necessary to take a closer look at the Likert-scaled questions on the second part of the questionnaire. Table 3 and Figure 3 show the descriptive statistics (mean and standard deviation) for these questions. The actual questions are listed in the table for ease of reference.

(Insert Table 3 and Figure 3 about here).

To get a clearer sense of agreement with the statements, we sorted the questions by mean values (see Table 4 and Figure 4). To get a sense of the level of controversy with the statements among the participants, we sorted the questions by standard deviation (see Table 5 and Figure 5). The order is from lowest to highest level of controversy.

(Insert Table 4 and Figure 4 about here).

(Insert Table 5 and Figure 5 about here).

Table 6 places the questions into 3 categories, based on the median values for each question: strong agreement (median = 6), agreement (median = 5), and neutrality (median = 4).

(Insert Table 6 about here).

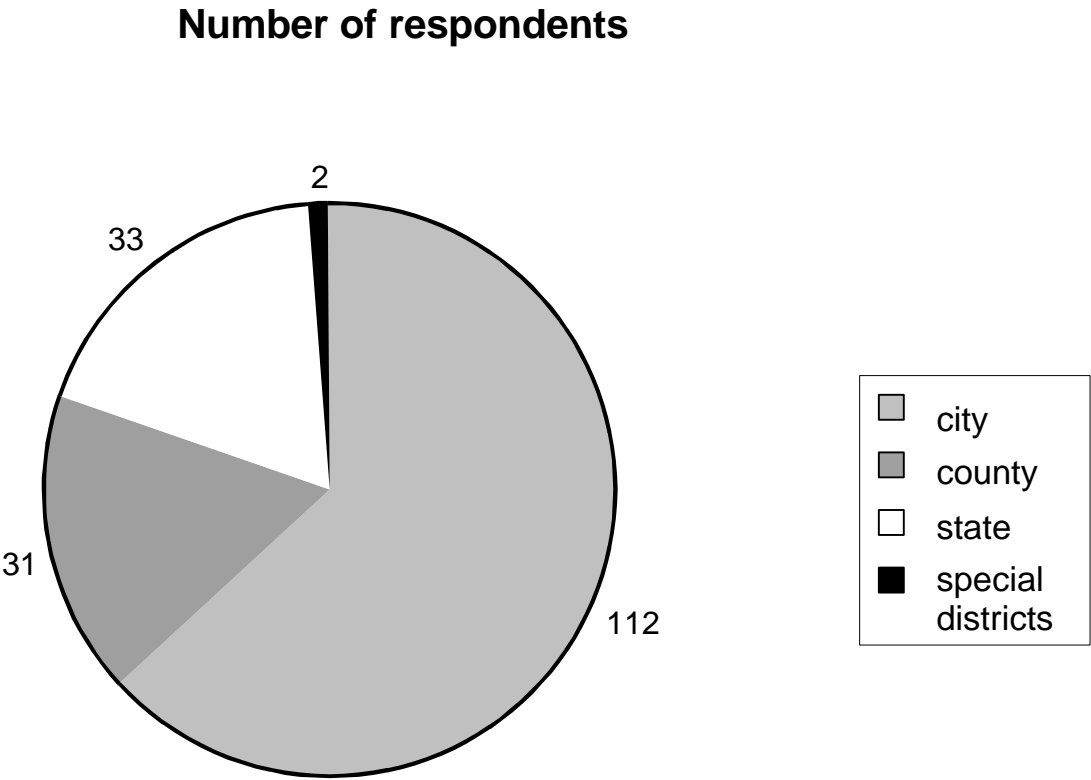
Reviewing these categories, we see two major themes:

1. Agencies want more support (e.g., 3 of the 4 questions with strongest agreement emphasized statewide databases, more time, and improved capacity).
2. Agencies do not want a return to the past (e.g., no preference for a return to pre-1998 guidelines, and no confusion yet among the public or developers from the new guidelines).

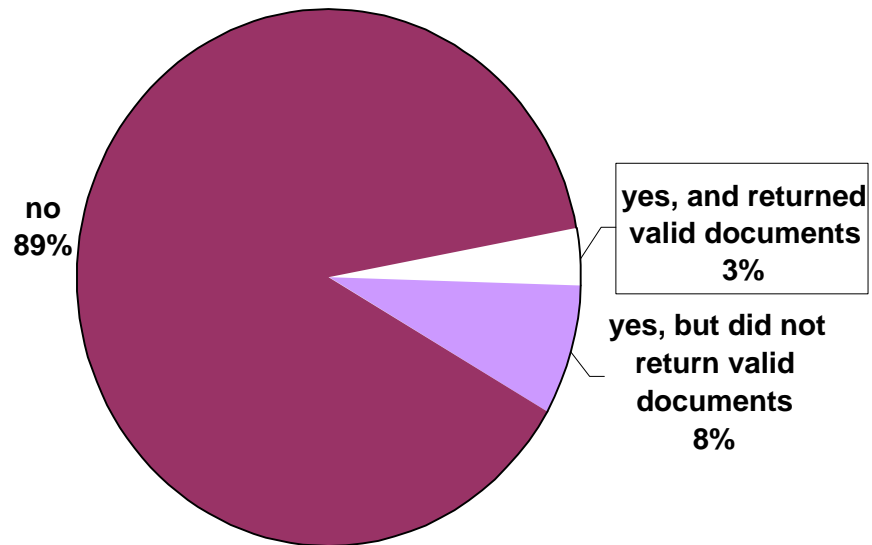
The differences between mean and median values can raise questions about the distribution of Likert ratings for each statement. Table 7 shows the breakdown of Likert ratings for each statement, and Figure 6 presents these results graphically. The raw scores show very clearly in the neutrally rated questions that the overwhelming response was rated 4, or neutral.

(Insert Table 7 and Figure 6 about here).

**FIGURE 1. NUMBER OF RESPONDENTS BY CATEGORIES (QUESTION 1).**



**FIGURE 2. AGENCIES THAT SUPPLIED THRESHOLDS WITH DOCUMENTATION**



**TABLE 1. RESPONSES TO QUESTIONS 2-4**

# of  
respondents

No	Yes	Question
158	20	2. Has your agency adopted local thresholds of significance for CEQA purposes?
157	16	3. Have you placed all your existing thresholds in a single document?
169	7	4. In the past 2 years, has your agency adopted <u>new</u> thresholds of significance under the California Environmental Quality Act?

**TABLE 2. RESPONSES TO QUESTIONS 5-8**

# of  
respondents

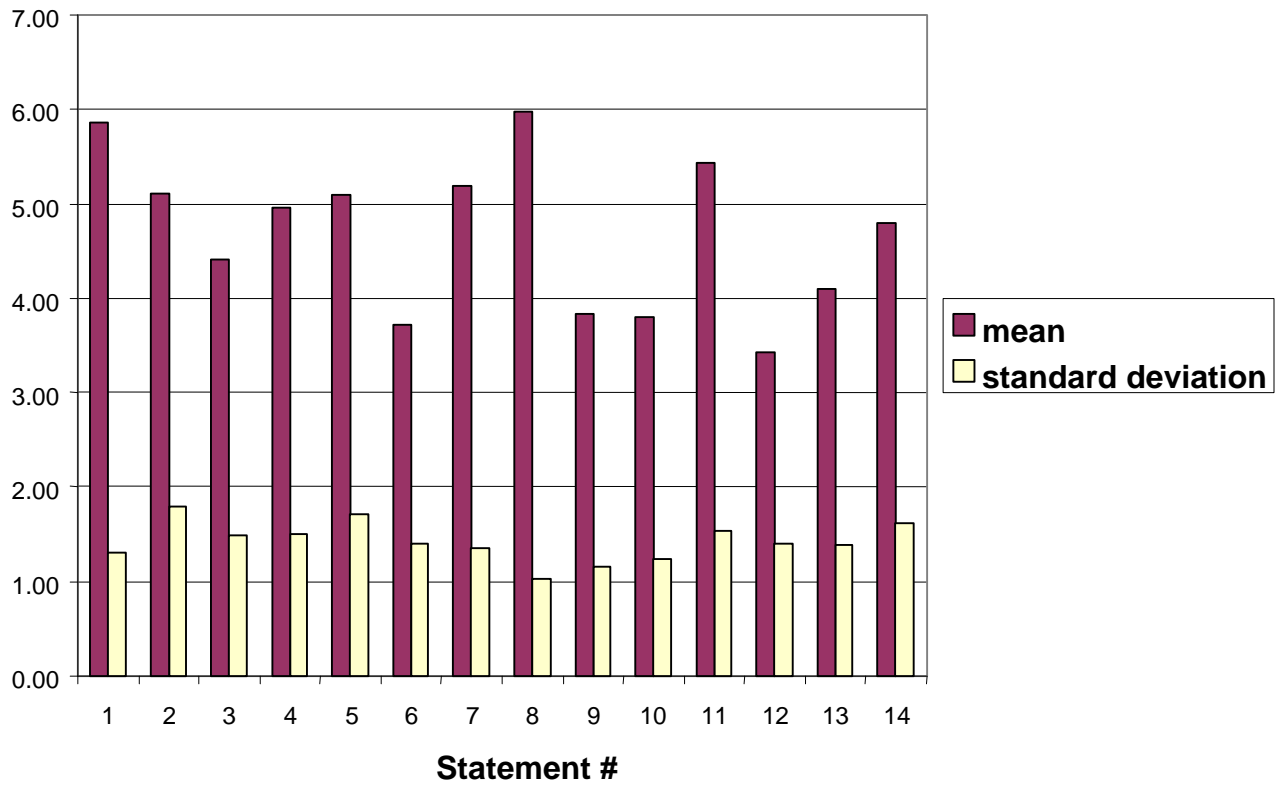
No	Yes	Question
14	4	5. Did you survey federal, state, or local agencies for adopted standards relevant to thresholds of significance?
11	5	6. Was the new threshold(s) taken from an existing federal, state, or local standard?
7	6	7. Has the new threshold been published for public review?
6	3	8. Was the new threshold adopted legislatively or administratively (yes = legislatively; no = administratively)?

**TABLE 3. DESCRIPTIVE DATA (MEAN AND STANDARD DEVIATION)**

(Note: mean values refer to a Likert scale of 1-7)

Mean	S.D.	Question
5.86	1.31	1. A statewide database of existing thresholds would be very useful to us.
5.10	1.8	2. Our agency has limited capacity to develop new thresholds as recommended by the CEQA Guidelines Sec. 15064.7 (amended 1999).
4.40	1.48	3. The current CEQA Guidelines are helpful for establishing thresholds.
4.96	1.5	4. Our thresholds are, in some cases, difficult to quantify.
5.09	1.72	5. We rely on the current version of Appendix G (the environmental checklist) for thresholds.
3.72	1.41	6. We prefer a return to the pre-1998 version of Appendix G (Significant Effects).
5.19	1.36	7. Locally developed thresholds are vulnerable to political influence.
5.97	1.02	8. Locally developed thresholds may be different than thresholds established by other public agencies.
3.84	1.16	9. Recently adopted thresholds have created controversy among the public.
3.81	1.24	10. Recently adopted thresholds have created confusion among applicants and developers.
5.43	1.54	11. We need more time to adequately develop thresholds of significance.
3.42	1.41	12. Thresholds for our agency are clear, concise and easy to enforce.
4.10	1.39	13. We are confident that our thresholds are reasonable and defensible.
4.79	1.62	14. Local agencies should develop their own thresholds.

**FIGURE 3. DESCRIPTIVE DATA SORTED BY STATEMENT**

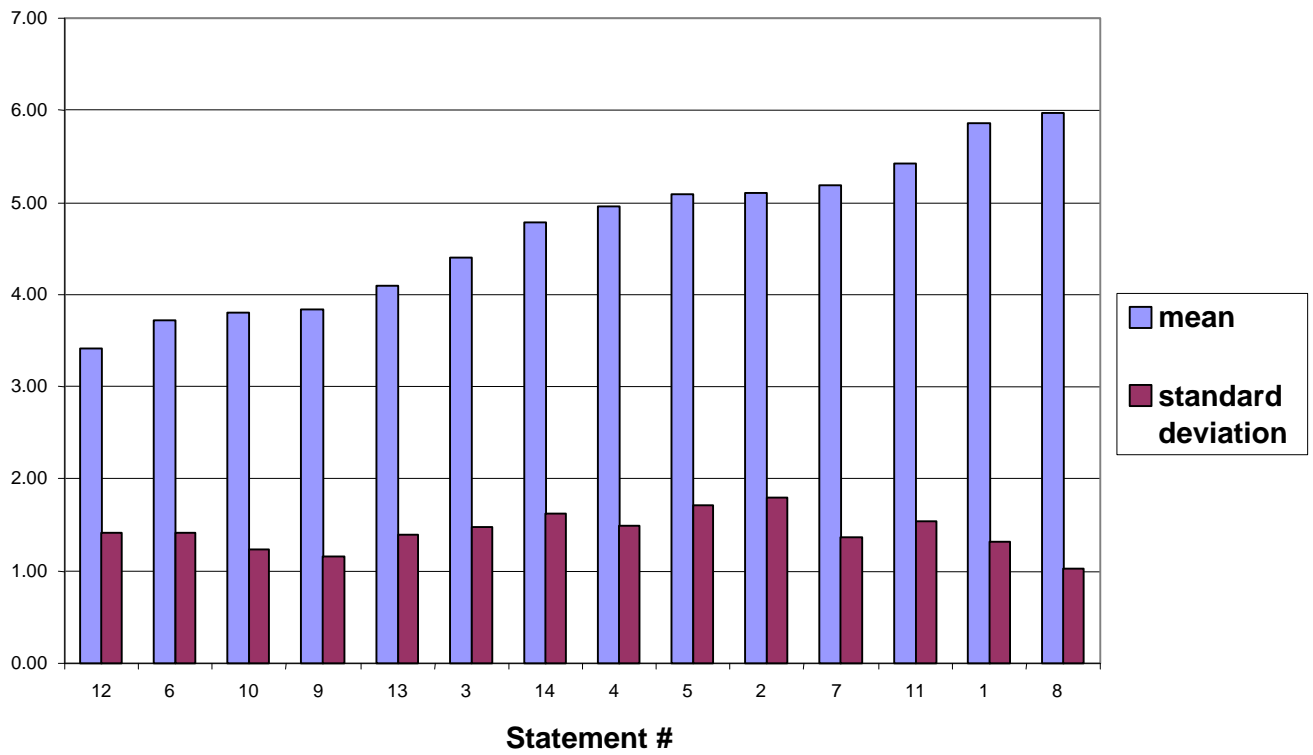




**TABLE 4. STATEMENTS SORTED BY MEAN VALUES (LOWEST TO HIGHEST)**

Mean	Question
3.42	12. Thresholds for our agency are clear, concise, and easy to enforce.
3.72	6. We prefer a return to the pre-1998 version of Appendix G (Significant Effects).
3.81	10. Recently adopted thresholds have created confusion among applicants and developers.
3.84	9. Recently adopted thresholds have created controversy among the public.
4.10	13. We are confident that our thresholds are reasonable and defensible.
4.40	3. The current CEQA Guidelines are helpful for establishing thresholds.
4.79	14. Local agencies should develop their own thresholds.
4.96	4. Our thresholds are, in some cases, difficult to quantify.
5.09	5. We rely on the current version of Appendix G (the environmental checklist) for thresholds.
5.10	2. Our agency has limited capacity to develop new thresholds as recommended by the CEQA Guidelines Sec. 15064.7 (amended 1999).
5.19	7. Locally developed thresholds are vulnerable to political influence.
5.43	11. We need more time to adequately develop thresholds of significance.
5.86	1. A statewide database of existing thresholds would be very useful to us.
5.97	8. Locally developed thresholds may be different than thresholds established by other public agencies.

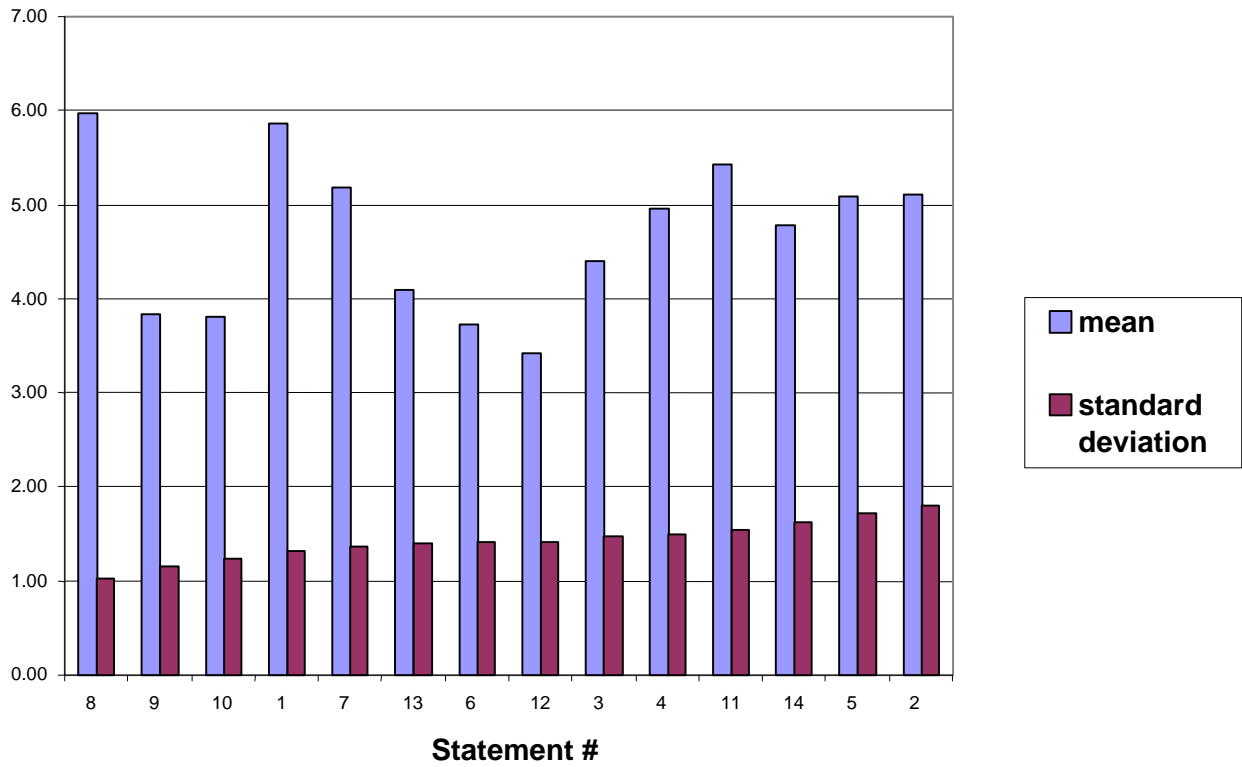
**FIGURE 4. STATEMENTS SORTED BY MEAN VALUES**



**TABLE 5. STATEMENTS SORTED BY STANDARD DEVIATION**

S.D.	Question
1.02	8. Locally developed thresholds may be different than thresholds established by other public agencies.
1.16	9. Recently adopted thresholds have created controversy among the public.
1.24	10. Recently adopted thresholds have created confusion among applicants and developers.
1.31	1. A statewide database of existing thresholds would be very useful to us.
1.36	7. Locally developed thresholds are vulnerable to political influence.
1.39	13. We are confident that our thresholds are reasonable and defensible.
1.41	6. We prefer a return to the pre-1998 version of Appendix G (Significant Effects).
1.41	12. Thresholds for our agency are clear, concise, and easy to enforce.
1.48	3. The current CEQA Guidelines are helpful for establishing thresholds.
1.5	4. Our thresholds are, in some cases, difficult to quantify.
1.54	11. We need more time to adequately develop thresholds of significance.
1.62	14. Local agencies should develop their own thresholds.
1.72	5. We rely on the current version of Appendix G (the environmental checklist) for thresholds.
1.8	2. Our agency has limited capacity to develop new thresholds as recommended by the CEQA Guidelines Sec. 15064.7 (amended 1999).

**FIGURE 5. STATEMENTS SORTED BY STANDARD DEVIATION**



**TABLE 6. LEVELS OF AGREEMENT WITH SURVEY STATEMENTS**

**STRONGEST AGREEMENT (median = 6)**

8. Locally developed thresholds may be different than thresholds established by other public agencies. (mean = 5.97)
1. A statewide database of existing thresholds would be very useful to us. (mean = 5.86)
11. We need more time to adequately develop thresholds of significance. (mean = 5.43)
2. Our agency has limited capacity to develop new thresholds as recommended by the CEQA Guidelines Sec. 15064.7 (amended 1999). (mean 5.10) *

**AGREEMENT (median = 5)**

7. Locally developed thresholds are vulnerable to political influence. (mean = 5.19)
5. We rely on the current version of Appendix G (the environmental checklist) for thresholds. (mean = 5.09)
4. Our thresholds are, in some cases, difficult to quantify. (mean = 4.96)
14. Local agencies should develop their own thresholds. (mean = 4.79)
3. The current CEQA Guidelines are helpful for establishing thresholds. (mean = 4.40)

**NEUTRAL (median = 4)**

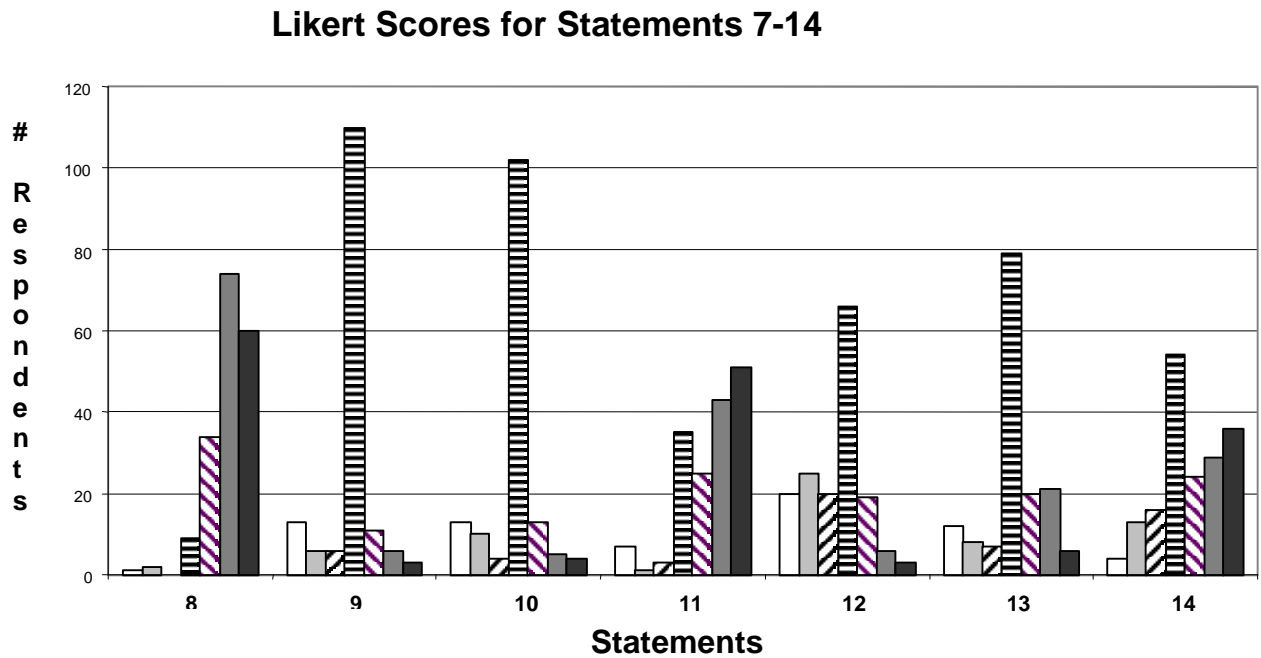
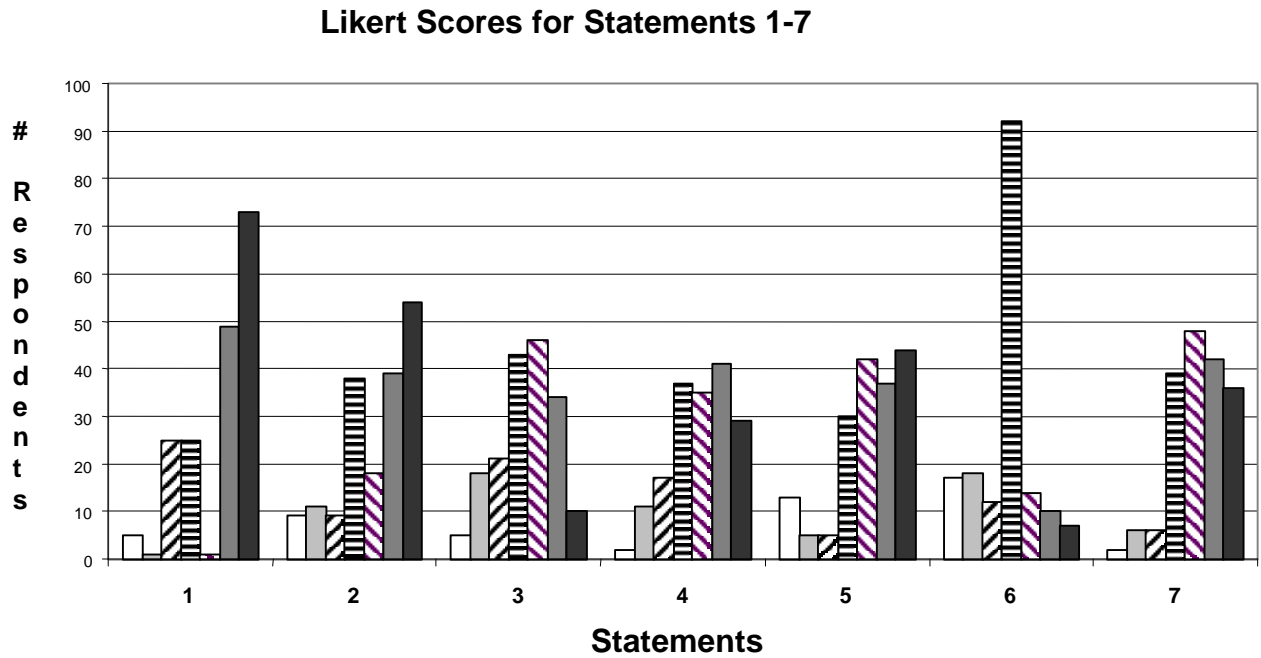
13. We are confident that our thresholds are reasonable and defensible. (mean = 4.10)
9. Recently adopted thresholds have created controversy among the public. (mean = 3.84)
10. Recently adopted thresholds have created confusion among applicants and developers. (mean = 3.81)
6. We prefer a return to the pre-1998 version of Appendix G (Significant Effects). (mean = 3.72)
12. Thresholds for our agency are clear, concise, and easy to enforce. (mean = 3.42)

\* -- Because of the mathematical nature of means and medians, statement 2 can have a higher median but a lower mean than statement 7. Medians reduce the influence of outlier responses, so the median for statement 2 is still 6 despite its mean value of 5.1. For more insight on this effect, see the breakdown of responses in Table 7.

**TABLE 7. NUMBER OF RESPONDENTS WITH LIKERT SCORES FOR EACH STATEMENT**

Statements	Likert score:						
	1	2	3	4	5	6	7
1	5	1	25	25	1	49	73
2	9	11	9	38	19	39	54
3	5	18	21	43	46	34	10
4	2	11	17	37	35	41	29
5	13	5	5	30	42	37	44
6	17	18	12	92	14	10	7
7	2	6	6	39	48	42	36
8	1	2	0	9	34	74	60
9	13	6	6	110	11	6	3
10	13	10	4	102	13	5	4
11	7	1	3	35	25	43	51
12	20	25	20	66	19	6	3
13	12	8	7	79	20	21	6
14	4	13	16	54	24	29	36

**FIGURE 6: LIKERT SCORE DISTRIBUTIONS**



-- The white bars always refer to the number of respondents indicating a preference of 1; the black bars always refer to the number of respondents indicating a preference of 7; the remaining bars (made of stripes or grays) are in order from a preference of 2 to 6 (e.g., The upper left corner indicates that for statement 1, less than 10 respondents had a preference of 1 and more than 70 had a preference of 7).

### 3.2 Analysis of individual questions

With the summary statistics as a context, we can now examine the results of each individual question.

1. A statewide database of existing thresholds would be very useful to us.

A mean of 5.86 indicates a strong level of support. Clearly, the professionals we surveyed were interested in a database of existing thresholds. It would help resolve many of the issues indicated in this report. Individuals who may be confused by the whole process may feel more comfortable reviewing the database for examples of what other agencies have done. We will develop these points further in the discussion section.

2. Our agency has a limited capacity to develop new thresholds as recommended by the CEQA Guidelines Sec. 15064.7 (amended 1999). A mean of 5.1 indicates moderate agreement with this question. While some agencies are well prepared for this task, many agencies are concerned about their capacity to develop meaningful and viable thresholds. Some of the agencies placed calls directly to us requesting additional information because they did not understand the definition of thresholds. These responses suggest that “capacity” is not just a matter of funding, but of additional time for research and development.

3. The current CEQA Guidelines are helpful for establishing thresholds.

A mean of 4.4 indicates modest agreement. If we were looking for affirmation that CEQA Guidelines provided help to these agencies, we got only modest support. However, it is unclear whether some of our respondents understood the meaning of thresholds, which may be another reason why they offered neutral responses. Indeed, several of our respondents did indicate in writing that they did not understand the terms, let alone the issues. Some returned what they thought were thresholds of significance when it turned out not to be so. Bear in



mind that this is a population of professional planners. Therefore, if there is a weak understanding of thresholds, we need to examine the barriers that lead to this situation.

4. Our thresholds are, in some cases, difficult to quantify. A mean of 4.96 indicates a moderate level of support. We concur that many of the thresholds are difficult to quantify. From the standpoint of aesthetics, for example, it is an extremely difficult task. For another example, how many people would be classified as a “large number” if individuals were displaced? As a third example, while it is relatively easy (albeit tedious) to quantify the number of cars on a stretch of highway over 24 hours, it is far more difficult to quantify the threshold beyond which the traffic becomes significant. Each of these examples demonstrates the difficulty of developing quantitative thresholds. We wanted to get an idea of how planners felt overall about this task, and these examples are consistent with the results.

5. We rely on the current version of Appendix G (the environmental checklist) for thresholds. A mean value of 5.09 is moderate agreement. The “checklist” is evidently used to some extent. Some responses stated they relied partially on the checklist. However, we must emphasize that referencing the checklist alone does not constitute a quantifiable, defensible threshold.

6. We prefer a return to the pre-1998 version of Appendix G (Significant Effects). A mean of 3.72 is on the negative side of this question. On the other hand, an overwhelming number of respondents were neutral on this question. We certainly do not see overwhelming support for returning to the pre-1998 version.

7. Locally developed thresholds are vulnerable to political influence. A mean of 5.19 indicates a level of agreement with the question. We would agree that some agencies asked to evaluate a proposal by a multinational corporation might be vulnerable to political influence. Local political pressure can be subtle but forceful in molding local policy. A database would allow planners to share information and encourage dialog.

8. Locally developed thresholds may be different than thresholds established by other public agencies. A mean of 5.97 indicates the strongest level of support in this survey. Given the site-specific issues associated with many environmental issues, it is perfectly acceptable and expected that there would be differences among agencies. This underscores an important point: a database would not necessarily lead to identical thresholds; the thresholds would be there for planners to learn from each other.

9. Recently adopted thresholds have created controversy among the public. A mean of 3.84 suggests there has not been a tremendous amount of public controversy. However, there have been so few recently generated thresholds that we would not expect to hear of much controversy. Indeed, most of the respondents were neutral on this question. If the public were aware of the limited development of thresholds, perhaps that would cause even greater controversy.

10. Recently adopted thresholds have created confusion among applicants and developers. A mean of 3.81 is almost identical to the previous question. Again, if agencies are not receiving negative feedback, it could be because there are no new thresholds or that developers may not even be aware of thresholds. Further study seems appropriate to evaluate this question

11. We need more time to adequately develop thresholds of significance.

A mean of 5.43 indicates good support for this question. We are not surprised by the response. Time is needed to provide research, consulting, funds, and even organizational change to commit to this recommendation. Standard setting processes are time consuming. If we imagine a planner with limited resources having to develop thresholds of significance on his or her own, we can understand the agreement with the question. A database would again be a viable aid in providing information and opening dialog between agencies.

12. Thresholds for our agency are clear, concise, and easy to enforce.

A mean of 3.42 is on the negative side of this question. On the other hand, most of the respondents were neutral on this statement, perhaps because most agencies have not developed thresholds. We do not see much optimism for this statement, but if new thresholds are going to be clear, a review of successful cases may be helpful.

13. We are confident that our thresholds are reasonable and defensible.

A mean of 4.10 indicates a neutral response. Given the few agencies that have developed their own thresholds, it is not surprising that most respondents were neutral on this question. At first glance, individuals concerned about the environment may be disappointed that lead agencies have little conviction of existing thresholds being reasonable and defensible. However, in the next section we show that those agencies that reported developing thresholds were in fact more confident on this question.

14. Local agencies should develop their own thresholds. Given the lack of confidence shown in the previous question, a mean of 4.79 may be surprising. It appears that agencies wish to retain the right to local thresholds, but this is despite the fact that there is little confidence in the thresholds being reasonable, defensible, clear, and concise. However, the

importance of site-specific issues (from question 8) is undoubtedly an important reason for this response. The advantage of a database here is that it would not dictate to the local agency.

### **3.3. Analysis of variance**

The second part of our statistical testing was an analysis of variance. The most telling results were between those who had actually adopted local thresholds of significance and those who had not (see Table 8). While it was a limited number (20) who answered yes to question two, there were statistically significant differences found. Agencies who had actually developed thresholds showed the following qualities.

(Insert Table 8 about here).

1. They appeared more confident (did not think thresholds were as difficult to quantify, did not need more time, were more confident in their results, believed there was less controversy and confusion, and showed stronger support for the idea of local thresholds).

2. They appeared less confident in the CEQA Guidelines (found the guidelines less helpful, and relied less on Appendix G).

We also used a t-test to examine statistical differences among agencies (city, county, and state). While we must exercise caution because of the low response rate for state agencies, we found only two statements where there were statistically significant differences.

1. With a mean of 5.3, city respondents indicated slightly more agreement with statement 5 [“We rely on the current version of Appendix G (the environmental checklist) for thresholds.”].

2. With a mean of 5.0, city respondents indicated slightly less agreement with statement 7 [“ Locally developed thresholds are vulnerable to political influence.”].

Given the low response rate from the state database, we are hesitant to draw any major conclusions regarding the differences between state and other agencies. Perhaps of greater interest are the other questions where there were no statistically significant differences. For example, there was agreement across agencies on the need for a database of existing thresholds. Despite the obvious differences in size of agencies, there was agreement on the issue of limited capacity.

**TABLE 8. STATISTICAL DIFFERENCES AMONG RESPONDENTS**

	2. Have you adopted thresholds?		
	no	yes	p-value
3. The current CEQA Guidelines are helpful for establishing thresholds.	4.53	3.4	0.001
4. Our thresholds are, in some cases, difficult to quantify.	5.03	4.35	0.049
5. We rely on the current version of Appendix G (the environmental checklist) for thresholds.	5.27	3.75	<0.001
9. Recently adopted thresholds have created controversy among the public.	3.91	3.22	0.019
10. Recently adopted thresholds have created confusion among applicants and developers.	3.91	3.06	0.006
11. We need more time to adequately develop thresholds of significance.	5.52	4.53	0.003
13. We are confident that our thresholds are reasonable and defensible.	3.95	4.78	0.023
14. Local agencies should develop their own thresholds.	4.72	5.56	0.01

### 3.3 Comments and “red flags”

Many of the agency planners added comments to their survey response; although the comments were not solicited by the survey form, we feel they are important and may help identify a general trend or “red flag” areas for further study.

*A city agency in response to question number 4:*

“In the past two years has your agency adopted new thresholds of significance under the California Environmental Quality Act (in accordance with the 1998 amendments)”?

“As per section 15064.7 of CEQA, this is ENCOURAGED, not mandated.”

*A state agency:*

“...OPR..... tried to put out statewide thresholds back in the 1970s and had to retract them..... We try to use our own judgment and Local community Perspectives.”

*A state agency in response to question number 2, “Has your agency adopted local thresholds of significance for CEQA purposes?”:*

“We did, however, develop a “...Impact Study Guide” which contains ... thresholds of significance. The guide is advisory and intended to be used as an aid for lead agencies addressing impacts on the state ... system.”

*A county agency:*

“ Often our thresholds are on a case by case basis. We often use another standard as a threshold on a case by case basis.” We have a few thresholds adopted by our General Plan Policy. Others are NOT formally adopted but are staff guidelines used for determining significance.”

*A county agency:*

“Our thresholds are limited to traffic and noise and identified as a single document and are General Plan Policies. We are limited in developing new thresholds at this point by staffing levels and application volume.”

*A city agency:*

“ We have not adopted thresholds of significance but do use our growth management program and standards found in our General Plan MEIR as a basis of determining environmental impacts.” “ Some impacts are very difficult to quantify and open to conflicting opinions. The expectation is that it would be difficult to achieve consensus and adoption.” *Researchers note: An MEIR is a Master Environmental Impact Report.*

*A county agency:*

“ We are in the process of establishing thresholds as part of a General Plan.”

*A state agency:*

“ We have not adopted thresholds of significance but we are using the new checklist questions as thresholds of significance.”

*A county agency in response to statement number 11:*

“We need more time to adequately develop thresholds of significance.”

“Yes we do, but too rigid even if we have enough time.”

*A county agency in response to question number 4, “Have you identified all your existing thresholds in a single document?”:*

“ We use what is in CEQA Appendix G.”

*A special district is response to question 6, “Was your new threshold taken from an existing federal, state, or local standard?”:*

“ Yes, in accordance with the 1998 amendments.”



*A county agency:*

“ Although we do not have adopted thresholds, we do use Federal and State Standards.”

*A state agency:*

“ I don’t think state agencies can develop local thresholds of significance. Adopting thresholds in a single document would be useful if it could be done without too much staff time.”

*In response to question 4, “In the past two years has your agency adopted new thresholds of significance under CEQA?”:*

“ No news on this! Does it apply to state agencies as well as local agencies?”

“Relative to thresholds of significance for a state agency- what are they and how are they established? Since projects are local, how would state thresholds of significance apply? An obvious GAP in my knowledge. Can we adopt local thresholds or just statewide?

Our lawyer says we don’t set thresholds but use PRC 21080.5. Appendix G is a gap in my knowledge, but there is a big time conflict between lead agency roles and pro-economic development. I am totally unaware of any 1998 amendments until I got your survey. “

*A county agency:*

Local agencies should develop their own thresholds BUT SHOULD NOT BE REQUIRED TO DO SO!

## 4. DISCUSSION

### 4.1. Fundamental challenges with thresholds

We must recognize the fundamental challenges to developing thresholds before we can fairly interpret the results of our survey. Moreover, any proposed solutions must be able to address these challenges.

#### 1. Consistency

The first of these challenges has to do with the consistency of thresholds of significance. While the development of thresholds of significance is a worthy goal, ultimately it may be impossible to prove consistency among thresholds. This is especially true for site-specific and project-specific issues. Aesthetic considerations, for example, are entirely dependent on the site involved. An ironclad definition of an aesthetic threshold of significance is simply not possible, and the law recognizes this. Even with more measurable criteria such as traffic, a threshold of significance in a downtown urban area may be far different from a rural or protected area.

On the other hand, there is a difference in measuring consistency of outcomes versus consistency of criteria. For example, while different projects might have different thresholds for protecting endangered species, all of them are intended to protect endangered species. The degree to which they accomplish this can be measured. It may even be that a seemingly liberal threshold in one area may protect an endangered species very well, while a seemingly strict threshold in another area may not protect so well. For all planners involved with these issues, it is instructive to see the range of thresholds and how well they performed in their site-specific tasks.

## 2. Expert judgment

Given the difficulty in developing thresholds that perform equally well for all sites and projects, this inevitably leads to the role of expert judgment. On the one hand, this is certainly nothing new -- agencies constantly make difficult judgments. On the other hand, the fundamental problem here is that expert judgment is prone to an array of cognitive effects.<sup>16,17</sup>

A good starting point for considering these cognitive effects is the research on heuristics. A heuristic can be thought of as an informal rule used to simplify decisions. This is especially relevant to the detailed world of environmental impact assessments, where anything that can simplify the decisions is likely to be welcome. Based on research that started with Amos Tversky and Daniel Kahneman, heuristics are a natural and necessary part of being human: we face complex decisions virtually every day; these informal rules help us to simplify and therefore cope with such decisions. Unfortunately, these heuristics can also lead to faulty judgments. This is best explained by defining a specific heuristic and giving some examples.

**A. Representativeness** refers to the similarity of new events to known processes (and thought to be representative). This informal rule can help simplify decisions, because known processes can help us evaluate new processes. Unfortunately, it can also lead to errors, because the new processes may not be identical to the known processes. The underlying statistical fallacy of representativeness is that we use very small samples or anecdotal evidence to generalize about a population. For example, a small town reviewing a limited number of EIRs may be affected by a single project which may not be representative of

decisions across the state. Put another way, smaller towns could benefit by knowing the decisions made in other small towns across the state.

**B. Availability** refers to the ease of imagining or recalling an event. The more easily we recall an event, the more we raise our risk estimates for a particular event. For much of human history, it makes sense that higher risk would lead to increased recall. However, with the advent of television and movies, we can recall events that have little to do with the underlying risk. For example, the public routinely over-estimates the risks from handguns, fires, and homicides. These events are also more likely to be reported in the news. Media coverage may increase the sensitivity to some issues while other issues may go ignored. Relative to EIRs, availability tells us that “the squeaky wheel gets the oil.” Media coverage, essential though it may be in a democratic society, should not be the determining variable for requiring an EIR.

**C. Anchoring** refers to the fact that we tend to stabilize (or anchor) our probability estimates towards our first numerical estimate. Our initial risk estimates are a reference point used to improve the consistency of subsequent responses, but if the reference point (our initial risk estimate) is inaccurate, this can lead to bias. The conclusion here is that the first estimate has a powerful influence on subsequent estimates, so we should always be careful about reporting early results. This is especially relevant to small towns that may review a limited number of projects. The last decision on an EIR may play an inappropriately large role in the subsequent decisions. Again, if all jurisdictions can have easy access to a larger database of decisions, the anchoring effect could be diminished.

**D. Framing** refers to the fact that our risk estimates depend on whether the risk is expressed (or framed) as a gain or a loss. Of course, any given public project may represent

benefits and costs to a society. We can usually re-frame any given project to emphasize either the costs or the benefits. The research tells us that expert judgment is more prone to these effects than we may be aware. If jurisdictions had access to a larger database and the opportunity to see how similar projects are framed within their communities, such information may help to minimize this effect.

Of course, there are many other cognitive effects. For example, thresholds of significance may be vulnerable to the overall context of a project, or to the human tendency to ignore small numbers (although those small numbers may have a much larger cumulative effect). The main point of this section is to point out the fundamental frailties of relying on expert judgment for complex issues without the benefit of serious review.<sup>18,19</sup>

### **3. Cumulative effects**

While individual agencies evaluate individual projects, it is unclear how effectively they can evaluate the cumulative effects. For example, if ten agencies all agree to regulate a pollutant to the level just below air quality emission standards, the cumulative effect of the ten projects may still create a problem. We note that the new Appendix G specifically states that agencies must account for “cumulative as well as project level, indirect as well as direct, and construction as well as operational impacts.” A statewide database could assist in such an evaluation.

### **4. Political influence**

Given the vulnerability of expert judgment, agencies called upon to make these judgments may be vulnerable to political influence from various stakeholders. Some of this influence may be legitimate, as in the public deliberation process. However, given the variety of known cognitive effects in decision making, we wanted to know from the participants

themselves about their concerns for political influence. The results suggest a clear concern for many of the respondents. This is also significant because some agencies may tend to adopt thresholds administratively rather than legislatively in order to minimize public controversy.

## **5. Other issues**

The evidence from our survey and literature review suggests other issues:

- 1) Many planners are not fully aware of thresholds of significance.
- 2) Some of the towns are extremely small with obviously small planning departments. Their capacity to develop an entire array of thresholds is a concern reflected in our results.
- 3) If a lead agency does not identify a specific threshold of significance, it places an additional burden on the reviewing agency, which may have their own resource limitations. In some cases, there may be a strain on the reviewing agency's resources to follow through on whether such decisions are adequate.
- 4) If an agency has limited experience as a lead agency, they must still determine whether an impact is significant or not. However, this limited experience may place a special strain on such agencies.
- 5) Because of the potential for political intervention, the development of thresholds administratively would not allow as much public intervention. However, if agencies adopt thresholds legislatively, this tends to allow for more public review, which appears to be the intent of CEQA.

## 4.2 Conclusions

Recognizing the fundamental challenges with thresholds, the results point to certain conclusions. We summarize them below.

1. Few agencies have formally developed their own thresholds of significance.

Eighty-nine percent of the surveyed agencies have not adopted their own thresholds of significance. Very few agencies reported development of their own thresholds, and fewer still provided valid documentation.

2. Current thresholds are not particularly clear, concise, or easy to defend. The respondents themselves expressed views that were slightly pessimistic about the quality of thresholds of significance.

3. Experience with developing thresholds is associated with greater confidence in thresholds. Agencies that reported developing their own thresholds expressed more confidence about statements on the quality of their own thresholds.

4. The respondents expressed limited interest in returning to pre-1998 guidelines for thresholds. Whatever strategies may be in the minds of the average respondent, it does not include a strong interest in returning to pre-1998 guidelines.

5. The respondents expressed strong interest in a database of existing thresholds.

Both statistically and in the informal comments we received, there was a strong interest in the statement: “A statewide database of existing thresholds would be very useful to us.” At the same time, there was the frequently expressed view that the database should not dictate thresholds to local agencies. Establishing a database may be the link necessary to update existing documents that guide agencies through the development of thresholds.

6. Despite the problems cited, agencies should retain the right to develop their own thresholds due to site-specific issues. Even after acknowledging the problems and limitations under the current system, agencies appear to reserve the right to develop their own thresholds. This may be due to many reasons, but undoubtedly includes a recognition of the role of site-specific issues.

### **4.3 Recommendations**

In the course of our research, we discovered a profound question: why are there so few agencies that have adopted their own thresholds of significance? This fundamental question leads us to recommend a triad of strategies

First, various tools of the Internet could improve training and prevent inconsistencies in the CEQA process. A number of useful web sites already exist that pertain to thresholds, and there are ways these sites could be developed. Specifically, we recommend that databases include information on existing thresholds of significance, and that these databases should be made available on the state web site.

We recognize that there could be drawbacks associated with such a database. For example, developers may see this as a way for environmental groups or activists to use this information to block projects. In addition, the issues of site-specific and project-specific thresholds may be missed by the uninitiated. However, the intent of CEQA has always been to keep environmental issues open to the public. Moreover, an adequate database of existing thresholds may prove useful for all interest groups and may ultimately lead to wiser decisions.



Our second recommendation is to evaluate the existing lines of communication, and to seek out ways to improve inter-agency dialogue on threshold issues. For example, a follow-up study could examine the reasons why 89% of the lead agencies have not developed their own thresholds. We have little doubt that there is interest in such communications: our survey alone generated many questions that agency officials had about the process. We observed no small amount of concern and frustration for resolving these issues. A practical way of initiating such discussion could be an online discussion group.

Our third and final recommendation is that the CEQA Guidelines should include reference to a statewide database on thresholds of significance. At the same time, the guidelines should not require the adoption of any uniform statewide threshold. A database would express the ranges that currently exist, and provide the opportunity to study such issues as cumulative effects. Moreover, if we learn of success stories through an ongoing database, it may be less likely that local agencies will need to “reinvent the wheel.”

To put these recommendations into perspective, we close with a question: if most agencies are not developing thresholds and publishing them for public review, then what criteria are they using?

## 5. REFERENCES

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## 6. APPENDICES

### Appendix 1. Cover Letter

#### MEMORANDUM

Date: December, 2000  
To: Planning Agencies  
From: Terry Roberts, Senior Planner  
Subject: CEQA Thresholds of Significance Survey

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The Governor's Office of Planning and Research (OPR) requests your help in evaluating thresholds of significance under the California Environmental Quality Act (CEQA). We would like you to complete and return the enclosed questionnaire regarding your agency's use of thresholds to determine the significance of environmental impacts. Your agency was selected in a stratified random sample from the State Clearinghouse that contains records on CEQA lead agencies.

The questionnaire was developed for OPR by a research team from the California State University, Northridge. They are the primary contacts authorized by OPR during the course of this study. Should you have any questions or comments about this survey, please feel free to contact directly either of the professors from the research team listed below.

Our goal is to assist agencies in implementing CEQA, and that includes hearing your views on this important issue. Please take a moment to complete and return the questionnaire by December 22, either by fax or mail. It should take less than 10 minutes to complete, and your individual views will be kept strictly confidential. Please do not return this survey to Sacramento! Instead, please fax or mail it to the Northridge address listed below in bold print. Thank you for your participation!

Mail to: Dr. Hatfield and Dr. Seiver  
Department of Health Sciences  
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FAX: 818-677-2045

## Appendix 2. Questionnaire

### Thresholds of Significance under the California Environmental Quality Act

1. Our agency is best described as:

\_\_\_\_\_ city      \_\_\_\_\_ county      \_\_\_\_\_ state      \_\_\_\_\_ other (special district,  
school district)

2. Has your agency adopted local thresholds of significance for CEQA purposes?

\_\_\_\_\_ yes      \_\_\_\_\_ no

3. Have you placed all your existing thresholds in a single document?

\_\_\_\_\_ yes      \_\_\_\_\_ no      If yes, please return a copy (if available)  
via fax or mail using the enclosed label.

4. In the past 2 years, has your agency adopted new thresholds of significance under the California Environmental Quality Act?

\_\_\_\_\_ yes      \_\_\_\_\_ no      If no, please skip questions 5-9.

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Did you survey federal, state, or local agencies for adopted standards relevant to thresholds of significance?

\_\_\_\_\_ yes      \_\_\_\_\_ no

6. Was the new threshold(s) taken from an existing federal, state, or local standard?

\_\_\_\_\_ yes      \_\_\_\_\_ no      If yes, please list the  
relevant standard (if available).

7. Has the new threshold been published for public review?

\_\_\_\_\_ yes      \_\_\_\_\_ no      If yes, please return a copy (if available)  
via fax or mail using the enclosed label.

8. Was the new threshold adopted legislatively or administratively?

\_\_\_\_\_ legislatively      \_\_\_\_\_ administratively

9. (Optional) In the event that we need to follow up for clarification of this section, would you please list your name, job title, agency, and phone number (or other contact information). This information will be kept confidential.

Indicate your agreement with the following statements by using the following scale:

Completely Disagree		No preference			Completely Agree	
1	2	3	4	5	6	7

- |   |   |   |   |   |   |   |   |
|---|---|---|---|---|---|---|---|
| 1. A statewide database of existing thresholds would be very useful to us.  | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 2. Our agency has limited capacity to develop new thresholds as recommended by the CEQA Guidelines Sec. 15064.7 (amended 1999). | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 3. The current CEQA Guidelines are helpful for establishing thresholds.   | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 4. Our thresholds are, in some cases, difficult to quantify.  | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 5. We rely on the current version of Appendix G (the environmental checklist) for thresholds.                                   | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 6. We prefer a return to the pre-1998 version of Appendix G (Significant Effects).  | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 7. Locally developed thresholds are vulnerable to political influence.  | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 8. Locally developed thresholds may be different than thresholds established by other public agencies.                          | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 9. Recently adopted thresholds have created controversy among the public.   | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 10. Recently adopted thresholds have created confusion among applicants and developers.   | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 11. We need more time to adequately develop thresholds of significance.   | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 12. Thresholds for our agency are clear, concise and easy to enforce.   | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 13. We are confident that our thresholds are reasonable and defensible.   | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 14. Local agencies should develop their own thresholds.   | 1 | 2 | 3 | 4 | 5 | 6 | 7 |

### **Appendix 3. Follow-up Postcard**

#### **REMINDER!**

Have you returned your CEQA survey on thresholds of significance from the Governor's Office of Planning and Research? If so, we thank you! If not, there is still time. After the deadline, we will make every effort to include your survey. If you have any questions, our phone numbers and e-mail are listed below along with our return address on the opposite side.

Tom Hatfield, R.E.H.S., Dr.P.H  
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phone: 818-677-4708

Owen Seiver R.E.H.S., Dr.P.A.  
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#### Appendix 4. Internet review

Due to the small number of thresholds returned from our survey, we conducted an Internet search to find more evidence of thresholds. In the cases listed below, several points are worth noting from this search:

1. There is still a relatively small number of thresholds available, and
2. The justification provided for some of these thresholds is unclear.

1. El Dorado County General Plan - Chapter 8. AGRICULTURE AND FORESTRY.

(<http://co.el-dorado.ca.us/planning/genplan/agforest.htm>, 20-Aug-99).

Policy 8.1.3.4: “A threshold of significance for loss of agricultural land shall be established by the Agriculture Department and the Planning Department, to be used in rezone applications requesting conversion of agricultural lands to non-agricultural lands, based on the land evaluation and land assessment system to be developed by the State.”

2. SBSD Hidden Valley Minutes #3 January 14, 1999.

([http://www.sbceo.k12.ca.us/~sbsdweb/hidden\\_valley\\_minutes3.html](http://www.sbceo.k12.ca.us/~sbsdweb/hidden_valley_minutes3.html) , 03-Jan-00).

“Other words relating to environmental review to define later in the process include ‘threshold of significance,’ ‘significant impact,’ ‘mitigation measure,’ ‘level of service,’ etc.

If other words need to be defined, please let Pat know.”

3. San Jose -- Spieker Properties Draft EIR, Phase I Site Assessments

(<http://www.ci.san-jose.ca.us/planning/sjplan/eir/spiekerProperties/section3h.htm> , 23-Nov-

99). A copy of the Site Assessments, closure letters, and summary report is found in



Appendix F, Volume II of this EIR. 2. Hazardous Materials Impacts:

“For the purposes of this project hazardous materials impacts are considered significant if the project will: create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials; or be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.

#### 4. San Jose Air Quality Impacts. Thresholds of Significance.

(<http://www.ci.san-jose.ca.us/planning/sjplan/eir/legacyTerrace/section2E2.htm> , 03-Dec-

99). Air Quality Impacts: “For the purposes of this project, an air quality impact is considered significant if the project will:

violate an ambient air quality standard, contribute substantially to an existing or projected air quality violation, or expose sensitive receptors to substantial pollutant concentrations; or

result in substantial emissions or deterioration of ambient air quality; [The significance thresholds recommended by the BAAQMD are considered to represent “substantial” emissions. These thresholds are 80 pounds per day for all regional air quality pollutants except carbon monoxide. The significance threshold for carbon monoxide is 550 pounds per day, although exceedance of this threshold only triggers the need for estimates of carbon monoxide “hot spot” concentrations. A substantial contribution to an existing carbon monoxide exceedance would be defined as greater than 0.1 parts per million, based on

the accuracy of the monitoring instruments] or create objectionable odors; or alter air movement, moisture, or temperature, or result in any change in climate either locally or regionally.

The Bay Area Air Quality Management District has established threshold of significance for ozone precursors and PM10 of 80 pounds per day. Proposed project emissions shown in Table 23 would exceed this criterion for ozone precursors and PM10, so the proposed project would have a significant effect on regional air quality.

## 5. Riverside County

ENVIRONMENTAL IMPACT REPORT FORMAT AND GENERAL CONTENT REQUIREMENTS. (<http://www.tlma.co.riverside.ca.us/plan/eir.htm>, 21-Jan-00).

### 2.1.2 Thresholds of Significance:

“This sub-subchapter briefly discusses the thresholds of significance in order to provide a baseline for the following analysis of project effects. Thresholds of significance can be determined by obtaining guidance from the County’s “Guidelines for the Implementation of CEQA” (Greenbook)...”

## 6. Malibu, ALTERNATIVES TO THE PROJECT (<http://ci.malibu.ca.us/l.htm>, 26-Mar-99).

“Consequently, air pollutant emissions from vehicles would also increase proportionally, resulting in daily emissions above the SCAQMD thresholds and creating a significant impact on air quality, whereas the project’s emission are projected to be below the SCAQMD’s thresholds of significance.”

## **Appendix 5. Significant court rulings relative to CEQA**

A review of court rulings that have impacted the CEQA process and have set legal precedent is vital to the comprehensive understanding of the current CEQA policy implementation. We feel the following rulings are significant:

### *Environmental Defense Fund v. Coastside County Water District (1972)*

This was the first significant ruling relative to CEQA. The Environmental Defense League (EDL) charged that the Coastside County Water District in San Mateo County proceeded with a project to increase the water supply before preparing an EIR. The Court ordered an injunction against the project until an EIR was filed. The district filed an EIR and the court dissolved the injunction. The court ruled that the court was not obligated to determine the adequacy of the report, just whether or not an EIR was filed. The EDL appealed the ruling and the appeals court ruled that judges do need to protect natural resources and the court ruled that the EIR did not adequately address all the environmental issues. The court issued an injunction that was to remain in effect until the EIR adequately addressed the issues. The court took this position without consulting the agencies involved and engaged in its own scientific fact finding. This set precedent for the Courts to consider more than just the EIR itself but also the content of the document.

### *Friends of Mammoth v. Board of Supervisors (1972)*

A Real Estate Developing Company filed with the Mono County Planning Commission for a conditional use permit. Six buildings were intended to be built which include restaurants, specialty shops, and condominiums at the Mammoth Lakes in Mono County. The planning

commission approved the permit. The Friends of Mammoth (property owners at the resort site) filed for legal relief that was taken up by the Supreme Court of California. The question was simply whether or not the permit granted by the commission required the CEQA process and does CEQA apply to private projects approved by a county as well as public projects. The court ruled based on Section 21000 which states that all agencies of the state government which regulate activities of private individuals, corporations and public agencies must give major consideration to preventing environmental damage. The court also ruled that since NEPA included leases and permits as part of a “project,” CEQA would also include permits and that an EIR would have to be prepared if there was a chance of significant effects on the environment.

*No Oil Inc. V. City of Los Angeles (1974)*

The Los Angeles City Council determined that there would be no significant impact on the environment from an exploratory oil drilling project. The court ruled that the intent of CEQA was to mandate that environmental protection was to be considered to the fullest before any project was allowed to continue. The court ruled that an EIR is required “whenever the action arguably will have an adverse environmental impact.” The court ruled that the City of Los Angeles did not follow the law in not requiring an EIR. The court cited the *Friends of Mammoth* ruling. Therefore, if the public or an environmental group can make a fair argument that there is a need for an EIR, one would have to be ordered. A statement that no significant impact will occur cannot be strictly subjective.

*People v. County of Kern (1974)*

Rules were established by an appellate court that stated that if agencies failed to respond to comments made by the public, the EIR would be voided. This public participation was a means of insuring “the integrity of the process.” P.R.C., Section 15064.7 encourages thresholds of significance be developed through a public review process.

*Russian Hill Improvement Association v. Board of Permit Appeals (1974)*

Following the *People v. Kern*, the court ruled that CEQA mandates that the EIR always be released prior to the agency’s decision so that comments could be utilized in the decision process. The court emphasizes the point of public review and comment which again is consistent with the requirements of CEQA statute and guidelines.

*San Francisco Ecology Center v. City and County of San Francisco( 1975)*

The expansion of San Francisco International Airport led to a court of appeals ruling an EIR was acceptable based on NEPA standards. The court cited that the legislative history of CEQA supports the view that environmental values are to be assigned greater weight than the needs of economic growth.

*Gallegos v. California State Board of Forestry, (1978).*

The Court stated that certified agencies must solicit meaningful input by the public on their environmental documents and respond in writing to all significant points raised by the public during the evaluation process.

*Whitman v. Board of Supervisors (1979).*

The ruling was based on the determination that an EIR was unacceptable because it devoted only one paragraph to the concept of cumulative effects. The court also ruled that the discussion of the cumulative effects was “devoid of any reasoned analysis.”

*Brentwood Ass’n for No Drilling v. City of Los Angeles ( 1982)*

Courts ruled that a negative declaration may be held improper by a court if the project opponents can show substantial evidence of environmental impact. If there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support the decision to dispense with an EIR. No quantitative thresholds of significance were cited in the case and the City arbitrarily decided that the traffic impact of four trucks utilized on the work site did not present an impact on the environment. The court disagreed.

*City of Antioch v. City Council (1986)*

The Court ruled that conformity with the general plan for the area does not insulate a project from the EIR requirement, where it can be fairly argued that the project will generate significant environmental effects. (This ruling is significant because many of the lead agencies in our survey deferred to their own general plan as an example of their thresholds of significance.)

*Citizens for Quality Growth v. City of Mt. Shasta (1988)*

Section 21081 and Guidelines section 15091 required an agency to make findings for each significant environmental effect. The City of Mt. Shasta failed to provide mitigation measures for the loss of wetlands. If an agency can find specific economic, social or other considerations make infeasible the mitigation measures, the agency may approve the project. The courts ruled that the city failed to provide evidence of such considerations and that significant environmental impacts must be mitigated to an acceptable level.

*Leonoff v. Monterey County Bd. Of Sup'rs (1990)*

Evidence of environmental impact must be more than unsupported complaints, or uncorroborated material, at a minimum, there must be "fair argument" of substantial environmental effect.

*Friends of La Vina v. County of Los Angeles (1991)*

Courts ruled that an EIR may be prepared by the lead agency itself, or the lead agency may adopt the analysis prepared by the applicant's consultants. The requirement is that the agency independently reviews, evaluates, and exercises its judgment over the documentation and issues raised.

*Quail Botanical Gardens, Inc. v. City of Encinitas (1994)*

This case recognized the original Appendix G as establishing a rebuttable presumption that the effects on the environment are significant.

*Los Angeles Unified School District v. City of Los Angeles (1997)*

The Court rejects a predetermination by the lead agency that a small incremental increase in noise level was insignificant. The ruling focused on the importance of evaluating cumulative effects.

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