



# CapitolVoice

Sierra Club California —Your Voice in the State Capitol

## GLOBAL WARMING SOLUTIONS

By Bill Magavern

In a summer when everyone talked about the climate, the California Legislature actually did something about it. Deadly heat waves, new scientific studies, and Al Gore's film "An Inconvenient Truth" all stressed the importance of taking action to curb global warming pollution. Fortunately, Assembly Speaker Fabian Núñez and Assembly Member Fran Pavley already had been working on the Global Warming Solutions Act, AB 32.

The Global Warming Solutions Act was Sierra Club California's top priority all year long. In August, 45 Sierra Club members came to Sacramento during our annual Lobby Day to ask their legislators to support the bill.

The new law makes California the first state with enforceable limits on its overall emissions of greenhouse gases. The Air Resources Board will set the limits, to take effect in 2012, with emissions decreasing until they return to 1990 levels by 2020.

Another new law, SB 1368, by State Senate President pro Tem Don Perata, will play a key role in bringing down greenhouse gas pollution by prohibiting California electricity providers from signing long-term contracts for power that does not meet a greenhouse gas performance standard. Emissions under that standard may not exceed those from a combined-cycle natural gas plant, which rules out long-term power from any of the current fleet of coal plants or dirtier natural gas plants.

California's action strikes a stark contrast to the inaction

of the Bush Administration and Republican-led Congress. Other states are already considering adopting emissions limits like California's.

History will remember the leadership of Núñez, Pavley, and Perata. These three delivered the votes of 69 of the 73 Democratic legislators for AB 32. On the other hand, only one of the Legislature's 47 Republicans voted for the bill.

A large coalition of environmental and health groups worked with businesses, faith groups, local governments, labor unions and others to build support for the most important environmental measure in recent years.

Governor Arnold Schwarzenegger deserves credit for putting the global warming issue high on his agenda, and for finally agreeing to support AB 32 just before the Legislature sent it to him. In between, though, he tried his best to weaken the bill, right down to threatening a veto just before he capitulated and announced he would sign it.

The difficult task of fighting greenhouse gas pollution in California has just begun. The challenge will require unprecedented efforts to improve energy efficiency, deploy clean, renewable power, coordinate land use planning, bolster recycling, conserve water and plant trees. Sierra Club California plans to actively engage in the implementation process.

## Disappointment On Flood Control Reform This Session

By Jim Metropulos

When the Legislature adjourned this session, California lawmakers had failed to reach consensus on policies that would guide development in floodplains and increase flood protection for existing developments. However, they did provide for needed funding for flood control projects by authorizing the spending of \$500 million to repair levee erosion sites and assess the 1,600 miles of state levees. They also placed Proposition 1E, a \$4.1 billion flood prevention bond, on the November ballot.

Sierra Club California supports legislation which addresses public safety and critical flood policy needs and there were three major bills this session which did that. AB 1899 (Wolk D-Davis) would have required increased flood protection requirements for future subdivisions built in the Central Valley. AB 3050 (Jones D-Sacramento) would have made local governments jointly liable with the state for any flood damages that occurs when they permit new development

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## Many Critical Decisions on the November Ballot

By Bill Allayaud



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While everyone naturally follows the race between Arnold Schwarzenegger and challenger Phil Angelides, there are many “down-ballot” candidates and other ballot measures that will significantly affect California’s environment. For example, did you know that the Controller is an important environmental official? We think Steve Westley, the current Controller, has done a very good job making sure our tax dollars are spent to protect and restore our air, water, and urban environment, and we want the next Controller to do the same.

Or, take the Lt. Governor race which features a true champion for the environment, John Garamendi, versus one of the most anti-environmental legislators of the last 25 years, Tom McClintock. We simply cannot afford to have McClintock fill the seat the Lt. Governor has on the California State Lands Commission, making decisions about offshore oil drilling.

In addition to the races for statewide office, Assembly, and Senate, there are critical ballot measures that need your attention, in particular, Proposition 90, which has a feature article in this newsletter. You can see all of our endorsements at our website, [www.sierraclubcalifornia.org](http://www.sierraclubcalifornia.org) – click on “November Election Information.”

Back to the Governor’s race, Schwarzenegger made big news by signing Assembly Bill 32, the global warming legislation; he deserves credit for his past and continuing acknowledgment that global warming must be addressed immediately. But Phil Angelides has said that not only would he have signed AB 32, he would not have worked to weaken it as Schwarzenegger did over the preceding months. We also believe that Angelides would sign a higher percentage of environmental legislation that Schwarzenegger has. This year, the Governor signed only 3 of our top 7 bills, continuing his so-so record enacting environmental legislation. Nevertheless, the Governor is good on some issues and his team is open to working with us, so I am confident we will make more progress on behalf of the environment if he is re-elected.

Your *Capitol Voice* includes our Report Card for the Senate and Assembly. While the raw scores certainly give you an indication of who is acknowledging Californians’ strong support of environmental laws, they do not tell you who does the inside work to get good legislation to the Governor’s desk. Assemblymembers like Hector De La Torre, John Laird, Fran Pavley, Loni Hancock, and Ira Ruskin, and Senators like Don Perata, Alan Lowenthal, Joe Simitian, Sheila Kuehl, and Christine Kehoe not only have great voting records, they do the hard work needed to move what are sometimes complicated and controversial environmental measures.

In closing, I wish you could hear what our members say who attend our Lobby Day in Sacramento and work the Capitol with us for a day. They come away very impressed with what we do and how we do it. I am proud of our staff and the impact we have. But, our ability to be effective in Sacramento absolutely depends on financial support from people like you. Again, thank you and we look forward to your continued support.

# Proposition 90 Threatens to Undermine Land Use Planning and Environmental Protection

On November 7th, Californians will vote on one of the most environmentally significant measures to ever reach the ballot. Passage would effectively abolish our ability to pass or enforce basic laws that protect our coastline, open space, farmland, and air and water quality and will cost taxpayers billions of dollars in lawsuits to fund payouts to a few developers.

## Impacts of Prop. 90 on Environmental Protection

This proposition contains a far-reaching provision that is not mentioned at all by its proponents and most newspaper reporters have missed. The backers of Proposition 90 want voters to believe it is about “eminent domain reform.” But, a “Trojan Horse” provision in the measure would amend the State Constitution to allow anyone to claim a new law or regulation has impacted the value of their property or business — and taxpayers will be on the hook to pay the bill if the city, county, or state loses in court. A similar but much less far-reaching measure was passed in Oregon in 2004 and has already resulted in well over 2,000 claims requesting \$5.4 billion in compensation. We expect that in many if not most cases, our governments will have no choice but to allow environmentally destructive actions because of the inability to defend against thousands of lawsuits.

The scope of planning and environmental regulations that could trigger compensation under the measure is virtually limitless. Some examples include:

- Protection of old growth forests, wetlands, coastal areas, agricultural lands, public parks, and open space
- New listings of endangered or threatened species or protection of habitat
- Designations of marine reserves to protect fish or other ocean habitat
- Neighborhood zoning protections: height limits, setbacks, local restrictions on big-box retail, historic preservation, affordable housing, and restrictions on adult businesses in residential areas and near schools
- Amendments to general plans, specific plans, or zoning ordinances

## Broad Coalition Opposes the Proposition

Sierra Club California has been working with a broad and unusual coalition of education, business, consumer, environmental, local government, and community groups to defeat Proposition 90. Recent additions to this coalition include the Chamber of Commerce, the Farm Bureau, the Building Industry Association, and the California Taxpayers Association, all of whom see the litigation nightmare that would be unleashed by Prop 90 to be bad for California's economy and governments' fiscal stability.

Please go to this website to see how you can help us defeat this terrible measure: [NoProp90.com](http://NoProp90.com)

## WE STILL NEED YOUR SUPPORT!

You've received this newsletter because you are, or have been, one of our donors, and we thank you very, very much for your past support.

Sierra Club California handles all the state legislation, as well as most of the administrative advocacy before State agencies, and as such is a huge part of Sierra Club's voice in California.

But we couldn't maintain this program without individual donors like you.

Your Sacramento office receives less than two dollars from each California member, and less than 2% of those members make direct donations to support our work here.

We mention this to reinforce how important your support is to maintaining a strong voice in the State Capitol. We know you've donated before, and we ask you to use the enclosed envelope to help us again. Or, if you want to make a year-end tax-deductible donation, give us a call (we need to route the money differently for IRS purposes).

Alternately, pass the envelope on to a friend and ask them for support.

*Democracy is not a spectator sport. Thank you for putting your money where your values are.*

# WE'LL BREATHE EASIER, THANKS TO NEW LAW CLOSING THE SMOKING VEHICLE LOOPHOLE

By Bill Magavern



The dirty loophole that allows a vehicle to pass Smog Check even when filthy smoke is belching out of its tailpipe will soon be history, thanks to a new law sponsored by Sierra Club California. AB 1870, authored by Assembly Member

Sally Lieber, will help clean up our air by including a simple test for visible smoke in all Smog Checks, starting in 2008. Smoking vehicles emit particulates, which can cause heart disease and early death. California becomes the second state, after neighboring Nevada, to test for smoke.

This clean-air bill won bi-partisan support in the state legislature along with the support of health experts at the American Lung Association, air pollution control officers, and even

automobile and oil companies. The only opposition came from the bureaucrats in the Department of Consumer Affairs, who seem to be unwilling to change their ways, even when our health is at stake.

“Closing the loophole was a small but necessary step,” said Bill Haller, a Los Angeles activist who co-chairs Sierra Club California’s Air Quality Committee. “However, we still have five counties in California with the dirtiest air in the United States. Government officials and organizations cannot afford to sit back and wait for other groups to take the lead while our children, elderly and infirm continue to suffer from the worst air in the nation.”

Haller launched a creative “Common Sense Campaign,” which featured a cartoonist’s rendition of the issue, to spur thousands of breathers to ask Governor Schwarzenegger to sign AB 1870. The Governor’s office loved the cartoon and, more importantly, California now has a new tool for cleaning up our air.

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## ▲ Flood Control Reform, *continued from cover*

in flood-prone areas. SB 1796 (Florez D-Shafter) would restructure the Reclamation Board, the agency in charge of the Central Valley’s flood control system.

These bills were vigorously opposed by the Chamber of Commerce, the Building Industry Association, and the Farm Bureau, who argued that the bills would have discouraged home construction. Local government also opposed the bills because they said it would limit their land use authority and they will not accept any liability for flood damages when they approve new development in high-risk areas.

Opposition from the local government agencies and 24 of the state’s largest development firms was too much for AB 3050. It failed to pass the Assembly in June.

AB 1899 passed the Assembly but was not brought up for a vote on the Senate floor. It got caught up in a dispute between its author, Assemblymember Wolk, and Senate President pro Tem Perata over whether Wolk had addressed some outstanding concerns in amendments. The Senate instead returned a different flood bill to the Assembly, AB 1665, without provisions requiring tougher flood protection standards for new development in the Central Valley. In turn, the Assembly sent that bill to its Water Parks and Wildlife Committee, chaired by Wolk, to die a quiet death on the last day of session.

The only bill to reach Governor Schwarzenegger’s desk was SB 1796. He vetoed it without an explanation. Perhaps he and the Legislature believe that if you throw enough money at the problem, you can avoid making the hard decisions that involve placing responsibility or costs on developers and property owners.

Voter approval of Proposition 1E does not eliminate the need for the state to develop comprehensive floodplain management strategies to minimize the risks of flooding. Plans should identify methods to retain flood waters, minimize levee failures in urban areas, and ensure flood maps are current. The state needs to set tougher standards for residential development to protect residents from flooding. We also believe that cities and counties should give greater consideration to potential flood risk before approving homes in floodplains that are currently open space or agricultural lands.

Significant funding without implementation of statewide policy may result in repeating past mistakes, including placing more people in harm’s way and further degrading California’s natural floodplain and river systems. If bond funds are approved for flood control, Sierra Club California will advocate for limiting the money to repairing the deteriorating levee system and protecting current at-risk development.