

# Making CEQA Work for You

Rachel E. O'Malley

Department of Environmental Studies

[romalley@sjsu.edu](mailto:romalley@sjsu.edu)

408-924-5450



Invasive Plant Laws and Regulations  
Research and Management: Bridging the Gap  
California Invasive Plant Council 2006

# What is Environmental Impact Assessment (EIA)

- Environmental Impact Assessment: “the process of identifying, estimating and evaluating the environmental consequences of current and proposed actions...”



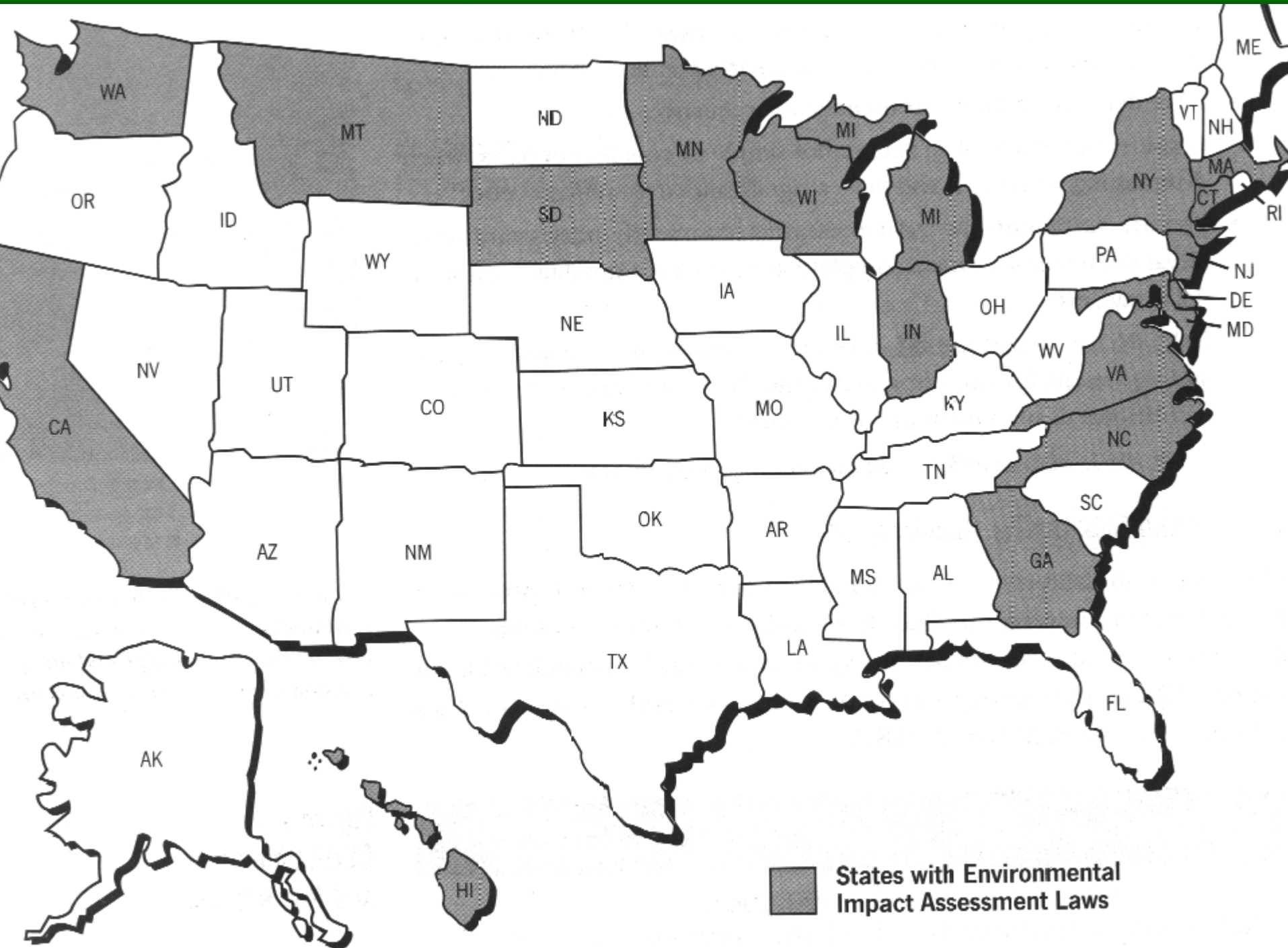
# Environmental Impacts Assessment Goals

- To help decisionmakers assess projects
- To help the public assess decisionmakers
- To protect the environment

# The Beginnings of EIA

- **1969 NEPA** (National Environmental Policy Act)
  - signed by president... !
- **1970 CEQA** (California Environmental Quality Act)
  - signed by governor... !
- **1973 Endangered species act**
  - Dovetails with and strengthens CEQA
- **Today:** 19 US States, 40+ countries have EIA laws



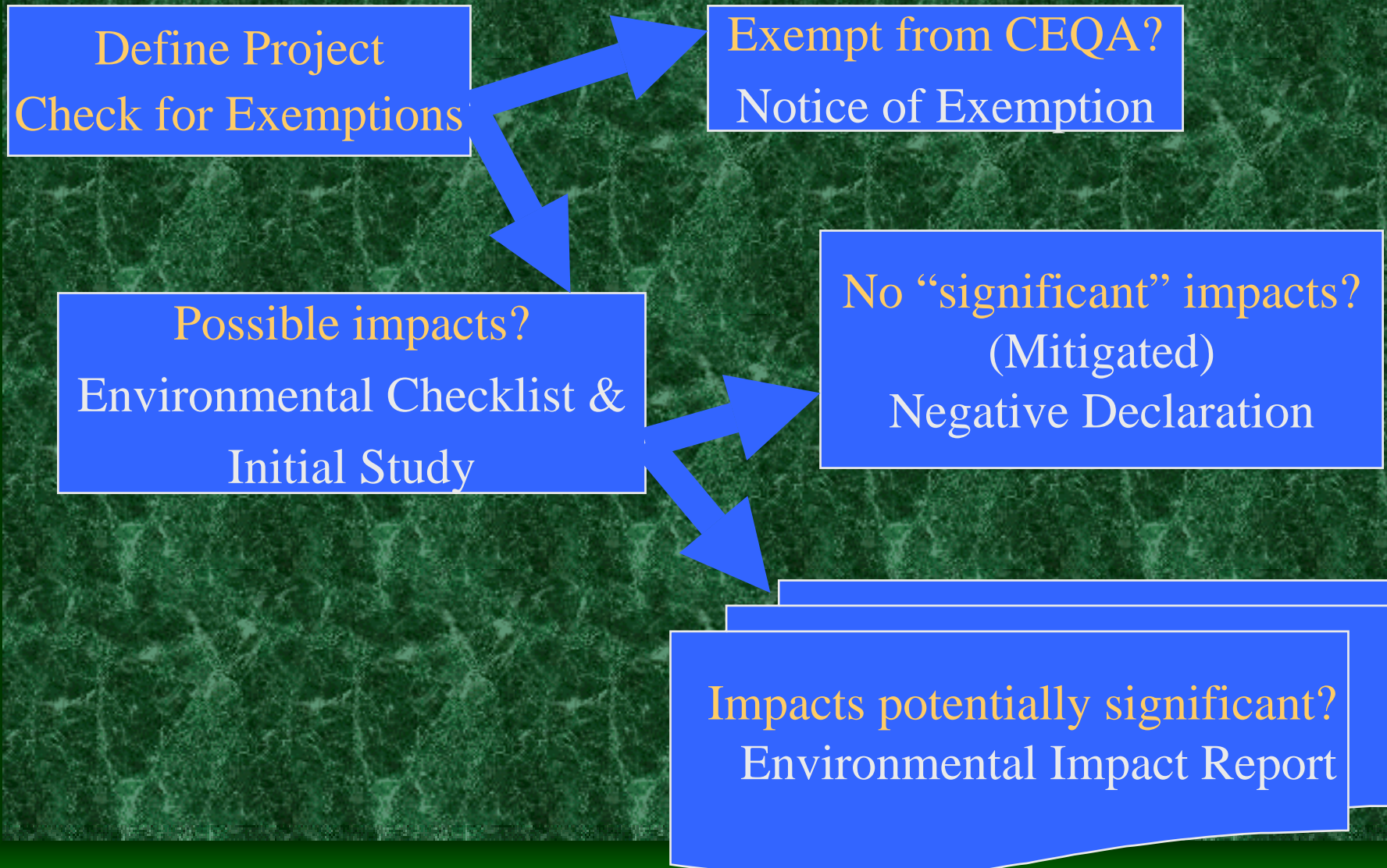


# Terminology What's an EIA?

- California
  - Initial Study
  - Negative Declaration
  - Environmental Impact Report (EIR)
- USA - Federal
  - Environmental Assessment
  - Finding of no significant impact (FONSI)
  - Environmental Impact Statement



# The California Assessment Process



# Environmental Impact Assessment and Invasive Plants

Will invasive plant control  
cause other  
environmental impacts?

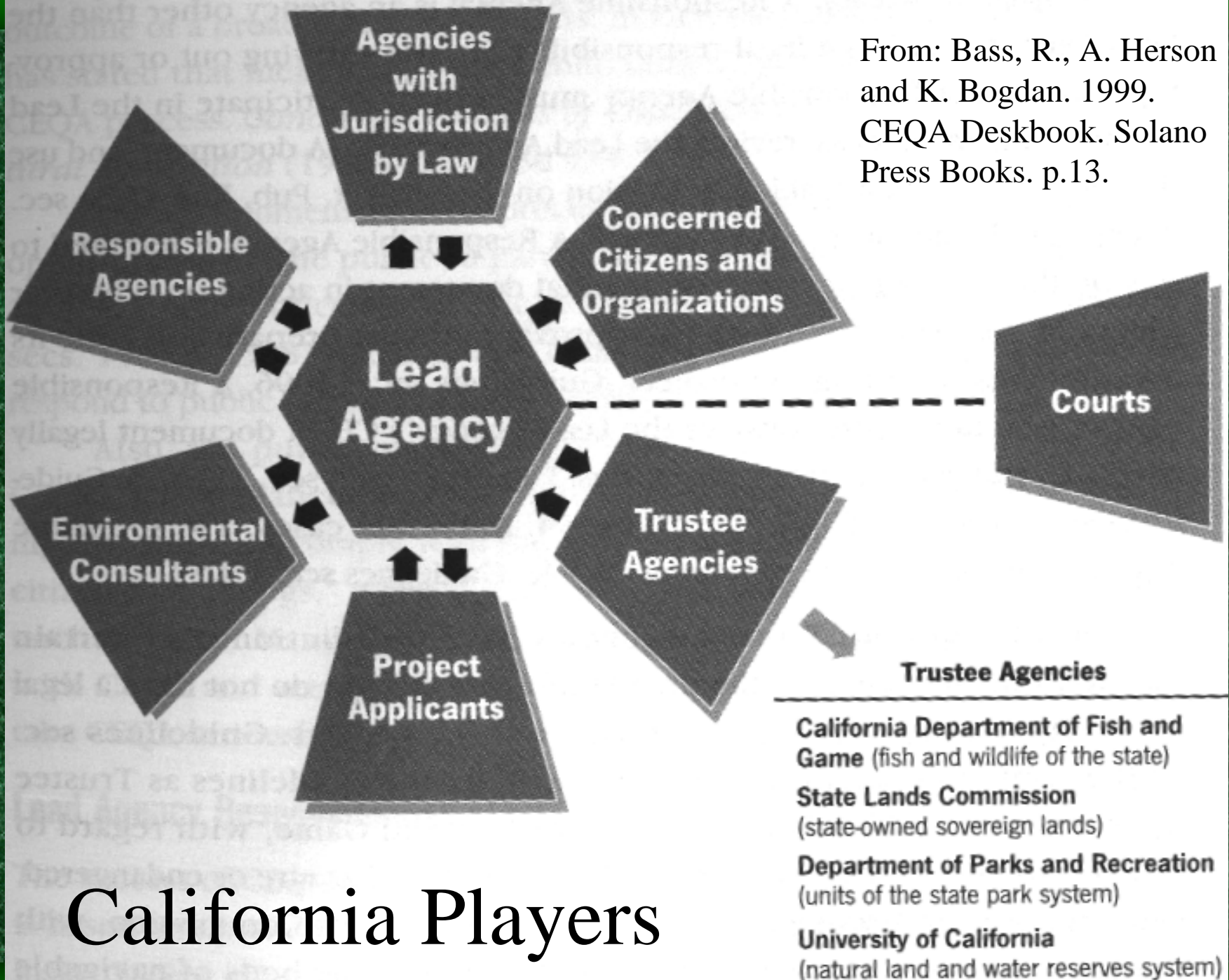
What level of  
impact assessment  
is appropriate?

Will proposed projects  
contribute to invasive plant  
introduction or spread?

Should invasive  
plant control be  
required as mitigation?



From: Bass, R., A. Herson  
and K. Bogdan. 1999.  
CEQA Deskbook. Solano  
Press Books. p.13.



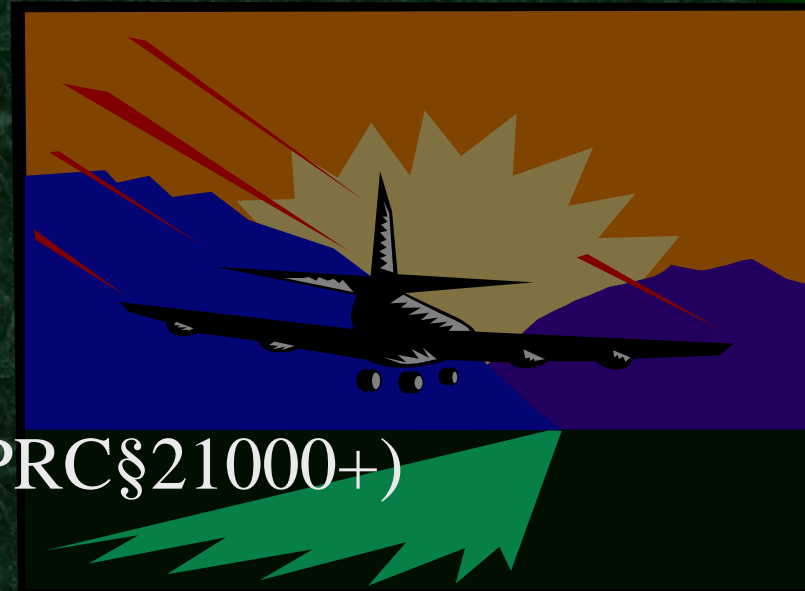
# *Will invasive plant control cause other environmental impacts?*

- What level of impact assessment is appropriate?
  - Define Project
  - Check for Exemptions (you don't have to do it)
    - Statutory exemptions
    - Categorical exemptions



# Statutory Exemptions

- *Ministerial* projects -- not discretionary
- Emergencies
- Specific activities exempted by state law
  - E.g.: Certain Aspects of Particular Airport Projects related to Certain Salt Ponds
- You'll know if you have one!
  - Absolute
  - Very Limited
  - Adopted into the CEQA law (PRC§21000+)
  - *no exceptions*



# Categorical Exemptions to CEQA

- 33 broad *classes*
  - Five apply to many invasive plant control projects
- Located in CEQA Guidelines, not law (PRC§15301)
- Updated biannually
- Not absolute
  - Do not apply if there is a potential for a significant impact



# Categorical Exemption Class 1

- Existing Facilities
  - PRC§15301. Includes maintenance of
    - existing landscaping, native growth, and water supplies (excluding the use of pesticides!)
    - wildlife habitat areas, streamflows, stream channels, to protect fish and wildlife resources
  - Removal of invasive plant growth can often fall under these categories





# Categorical Exemption Class 4

- PRC§15304. Minor Alterations to Land
  - New gardening with water efficient or fire resistant landscaping
  - Minor alterations in vegetation on existing wildlife areas which improve wildlife resources
  - Fuel management within 30 feet of structures, provided that activities will not result in the take of rare species or cause erosion





# Categorical Exemption Classes 7,8

- PRC§15307, §15308. Actions by Regulatory Agencies for Protection of Natural Resources or the Environment
  - Partial exemption for CDFG, Air Board and others



# Categorical Exemption Class 33

- Newest Category
- PRC§15333. Small Habitat Restoration Projects.
  - not to exceed five acres in size
  - to assure
    - maintenance,
    - restoration,
    - enhancement, or
    - protection of habitat for fish, plants, or wildlife

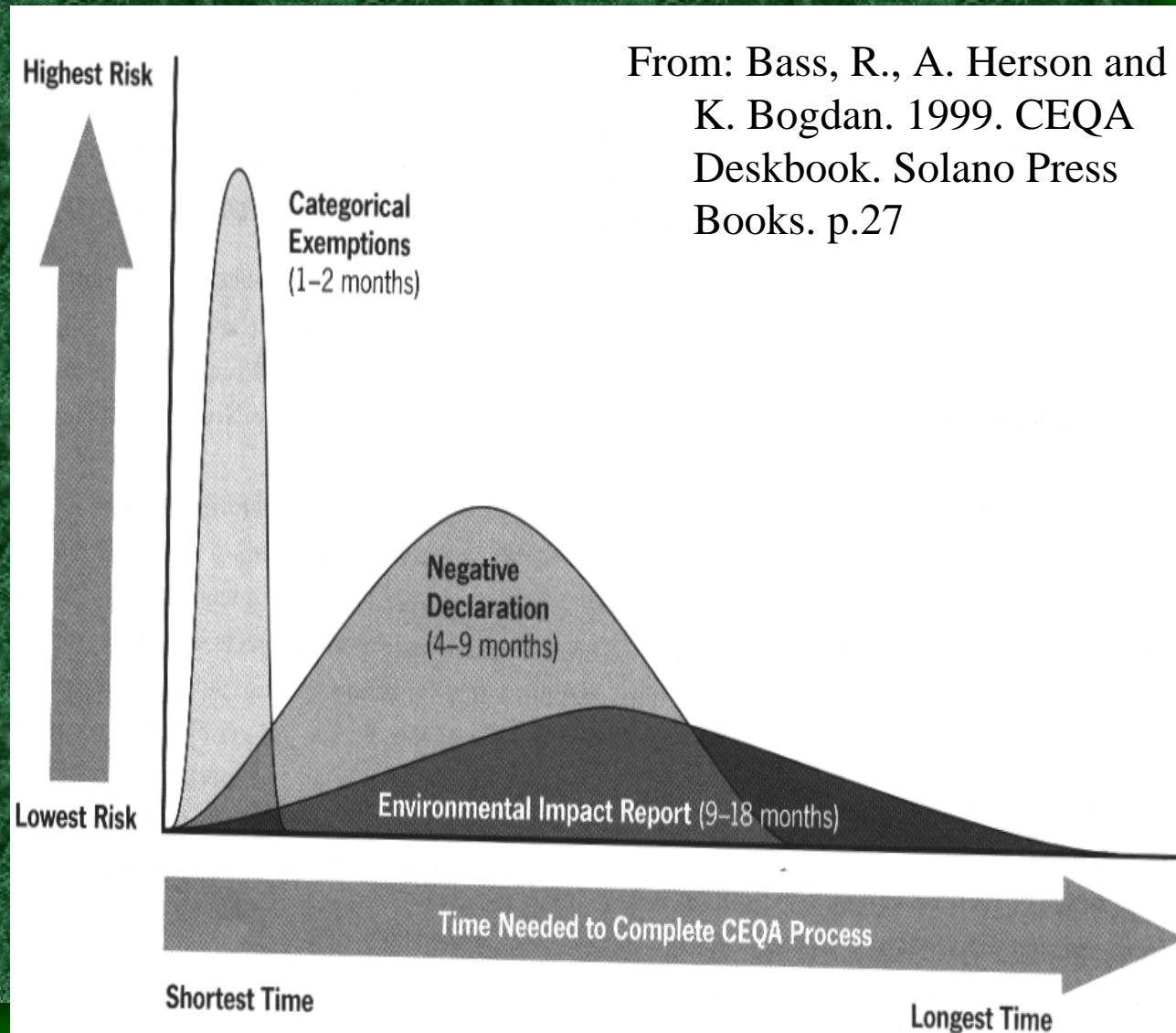


# Examples of Class 33 Exemptions

- **Revegetation** with native plant species
- **Wetland restoration** to improve conditions for species that rely on wetland habitat;
- stream or river bank **revegetation** to improve habitat for amphibians or native fish;
- projects to **restore or enhance habitat** that are carried out principally with hand labor and not mechanized equipment.
- stream or river bank **stabilization with native vegetation** or other bioengineering techniques, the primary purpose of which is to reduce or eliminate erosion and sedimentation; and
- **culvert replacement** conducted in accordance with published guidelines of the Department of Fish and Game or NOAA Fisheries, the primary purpose of which is to improve habitat or reduce sedimentation.

# The risks of rushing environmental impact assessment

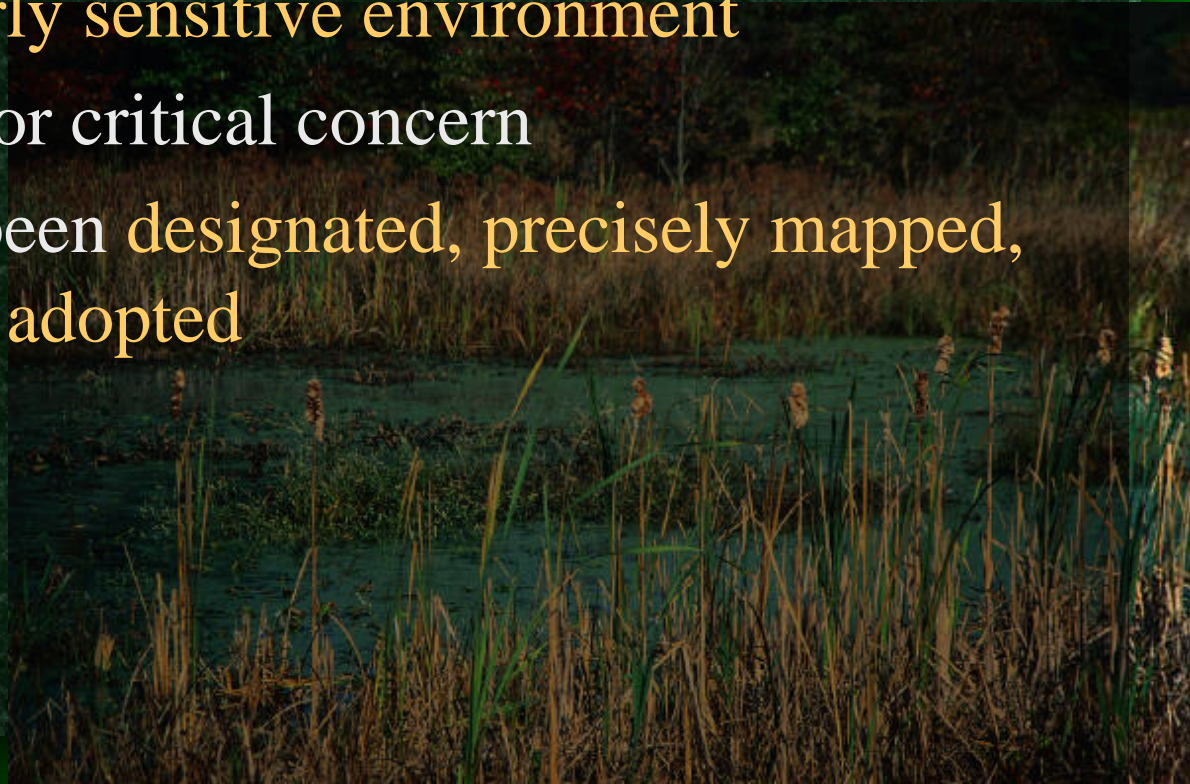
- Environmental risk +
- Risk of a bad decision +
- Risk of not disclosing to the public =
- **LEGAL RISK**





# *When Categorical Exemptions do not apply (PRC§15300.2)*

- Potential for a significant impact?
  - a) Location
    - In a particularly sensitive environment
    - of hazardous or critical concern
    - where it has been designated, precisely mapped, and officially adopted





# Significant impact in otherwise exempt project?

## b) Cumulative Impact

- successive projects of the same type
- in the same place,
- over time



## c) Significant Effect

- due to any other unusual circumstances
- Rare, threatened or endangered species?
- Hazardous materials on site?
- Other?





# Other special cases...Categorical CEQA Exemptions do not apply

## d) Scenic Highways

- official scenic resources on scenic highway

## e) Hazardous Waste Sites

- On any list compiled pursuant to PRC §65962.5

## f) Historical Resources

- may cause a substantial adverse change in the significance of a historical resource



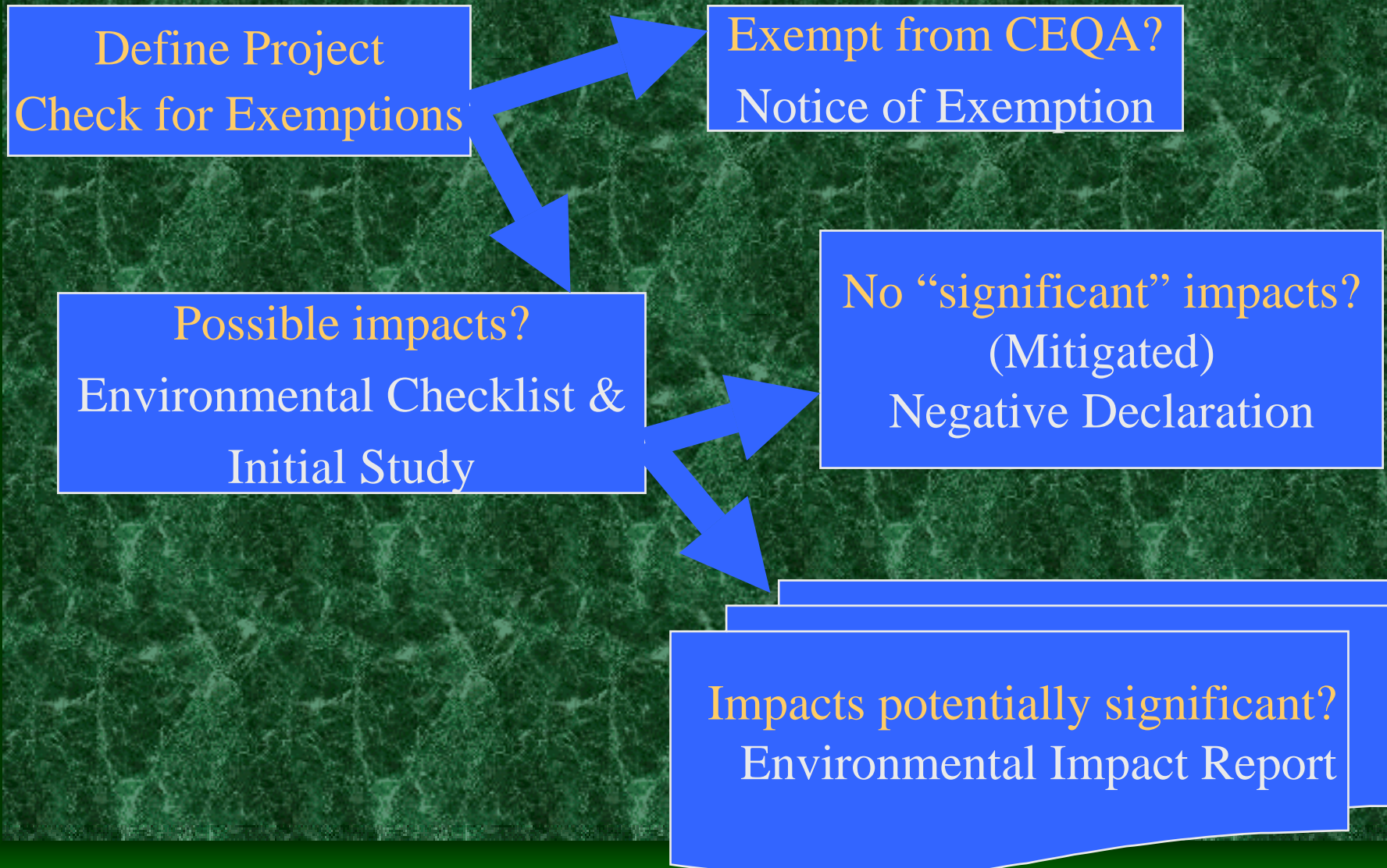


# Public Notice of Exemption

- Optional
  - reduces *statute of limitations* from 180 to 35 days
  - may be filed by lead agency or applicant



# The California Assessment Process



# *Will invasive plant control cause other environmental impacts?*

- What level of impact assessment is appropriate?
  - Possible impacts?
    - Environmental Checklist & Initial Study



# Basic Contents of an Initial Study

- Project description
- Checklist (Appendix G of CEQA)  
[http://ceres.ca.gov/topic/env\\_law/ceqa/rev/appg\\_102698.pdf](http://ceres.ca.gov/topic/env_law/ceqa/rev/appg_102698.pdf) or  
<http://www.califaep.org/initstudy.htm>
- Environmental setting
- Potential environmental impacts
  - Brief explanations to support findings
- Mitigation measures for any significant effects
- Monitoring Plans for mitigations (recommended)

# SUBSTANCE – What resources do you consider in a California EIA?

- Checklist for entire state of CA
- Each city/county may have stricter standards



# Resource Areas Relevant to Invasive Plant Control

*e.g.*: Checklist section IV – Biotics



California Tiger Salamander *Ambystoma californiense*





# Resource Area

## BIOTICS: Environmental Setting

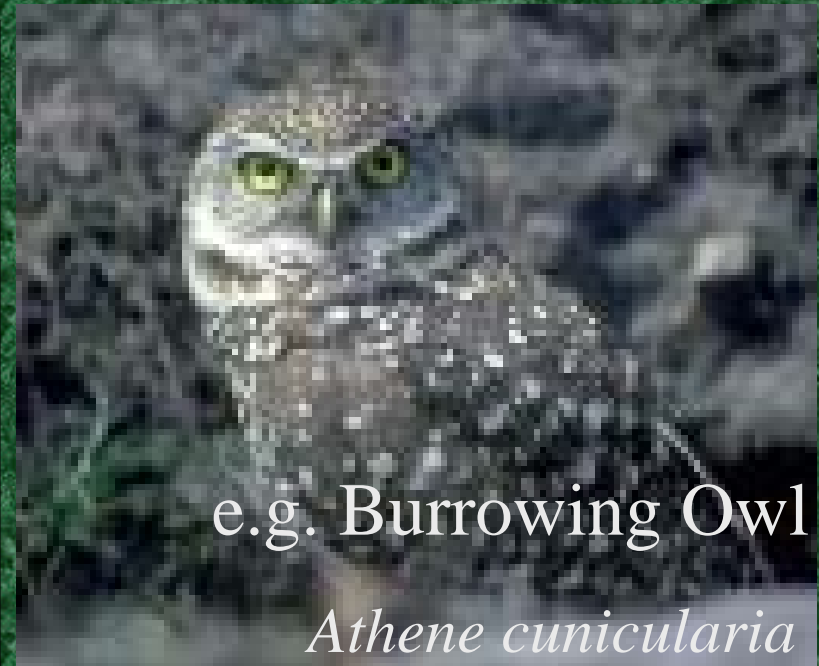
- Describe what's there PRE-PROJECT
  - Onsite and in the Surrounding area
  - At the time of project proposal
- Site visit, expert evaluation and maps
  - Species of Special Concern
  - Riparian habitat
  - Natural communities
  - Wetlands
  - Migratory corridors
  - Nests/burrows
  - Trees/local resources





Threshold of significance: Would the project:  
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species:

- in local or regional plans, policies, or regulations (General plan)
- by California Dept of Fish and Game (CDFG)
- by US Fish and Wildlife Service (USFWS)



e.g. Burrowing Owl

*Athene cunicularia*



# R, T & E Invertebrates

- T & E Inverts in general
  - shrimp, crayfish, snails, butterflies, beetles, grasshoppers and one fly
  - [http://www.dfg.ca.gov/hcpb/species/t\\_e\\_spp/te](http://www.dfg.ca.gov/hcpb/species/t_e_spp/te)
- E.g.: Bay Checkerspot Butterfly
  - *Euphydryas editha bayensis*
- E.g.: Mt Hermon June Beetle
  - *Polyphylla barbata*
- T&E Insects <http://www.mip.berkeley.edu/es>
- Mostly rely on native plants, but removal actions can have short term effects





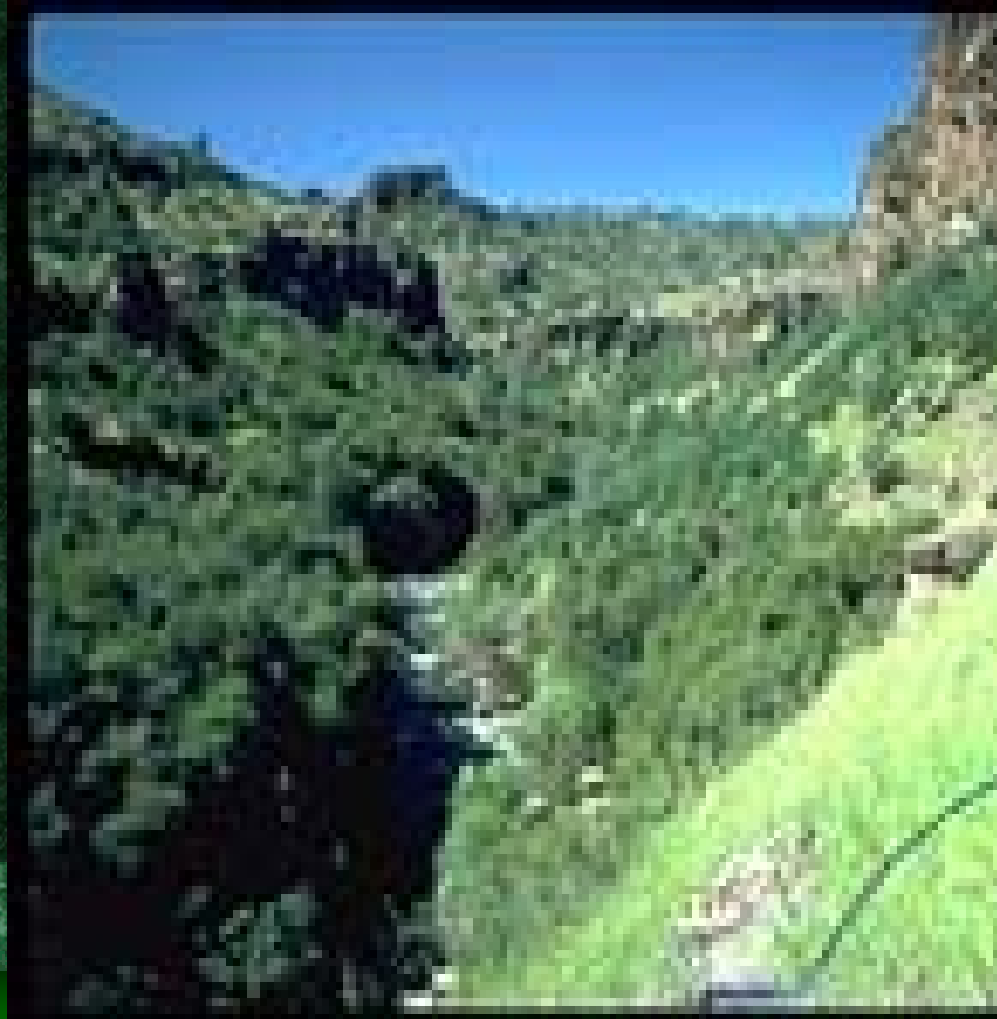
# Rare, Threatened, Endangered and other Special Status Plants

- Special Status Plants
  - <http://www.dfg.ca.gov/whdab/html/plants.html>
  - [http://www.dfg.ca.gov/hcpb/species/t\\_e\\_spp/teplant/teplanta.shtml](http://www.dfg.ca.gov/hcpb/species/t_e_spp/teplant/teplanta.shtml)
- California Native Plant Society
  - <http://www.cnps.org/>
- E.g.: Narrow-leaf  
                    Spineflower
  - *Chorizanthe angustifolia*



## b) Riparian or other sensitive natural community

- Local
  - riparian protection/setback ordinances





# Natural Communities

- Dunes
- Scrub/Chapparral
- Wetlands
- Riparian
- Oak Woodland
- Prairie/grasslands
- Pine/evergreen
- Alpine
  - <http://www.dfg.ca.gov/whdab/index.html>
  - <http://www.dfg.ca.gov/whdab/pdfs/natcomlist.pdf>



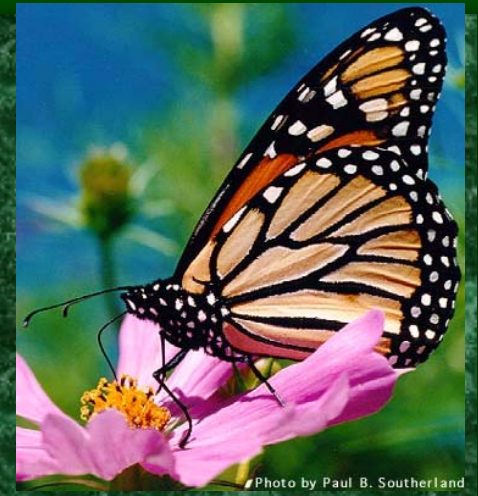
## c) Federally protected wetlands





## d) Interfere with fish or wildlife movement or breeding...

- Movement of
  - Native resident species
  - Migratory species
- Established migratory corridors
- native nursery sites
- Migratory Bird Treaty Act





# e) local biological resources

- e.g. Trees and Shrubs
  - size
  - heritage
  - historic
  - native
  - particular species
- Even invasives can be heritage!





## f) HCP or NCCP

- HCP-- Habitat Conservation Plan
- NCCP-- Natural Community Conservation Plan

# Basic Contents of an Initial Study

- Environmental setting
  - Potential environmental impacts
    - Brief explanations to support findings
  - Mitigation measures for any significant impacts
  - Monitoring Plans for mitigations (recommended)
- =====

This is what we want for  
Invasive Plant Control Anyway



# Environmental Impact Assessment and Invasive Plants

Will invasive plant control  
cause other  
environmental impacts?

What level of  
impact assessment  
is appropriate?

Will proposed projects  
contribute to invasive plant  
introduction or spread?

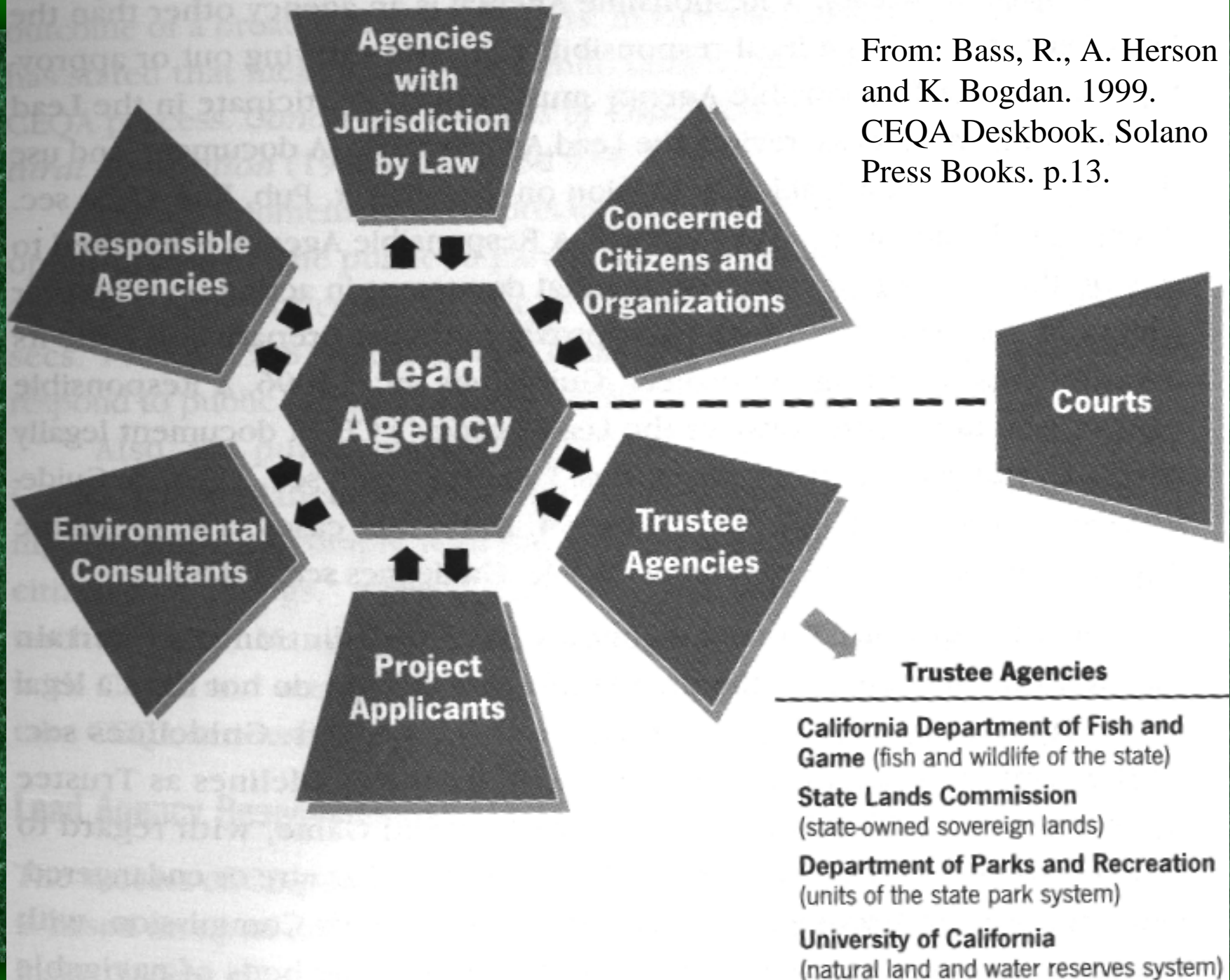
Should invasive  
plant control be  
required as mitigation?

# Many State checklist sections already encompass invasive plants

- Local plans/standards should be developed and adopted to augment the State guidelines
- Required mitigations should include invasive plant control
- Mitigations should be monitored for implementation *and* effectiveness



From: Bass, R., A. Herson  
and K. Bogdan. 1999.  
CEQA Deskbook. Solano  
Press Books. p.13.



A photograph of a sunset with a bright sun low on the horizon, partially obscured by dark, silhouetted reeds in the foreground. The sky is filled with orange and yellow clouds. The image is framed by a green border on the left and right sides.

# Make CEQA Work

## Thank you