

## Liars and Slanderers

Chris W. Clark

*JD; lecturer, City and Regional  
Planning Department, Cal Poly.*

It is disconcerting to make a presentation to decision-makers, after months of investigation and analysis, and then hear someone dispute your findings, offering nothing but contrary conjecture. Even worse is to have the decision-makers then turn to you, and say “Well?”

Well what? I just made a great case, supporting every argument with facts, and my contrarian has offered blather. Why the false equivalence, meaning why is this verbiage held to the same rhetorical level as mine? Why not just tell them to shut up?

Well, we are in a democracy, and everyone gets their say, and all sides must...ad nauseam. The California Environmental Quality Act (CEQA) demands that, we respond to every comment made about an EIR by the public. We are allowed to say that a comment does not raise a question about the sufficiency of the analysis, but rather expresses what is ultimately an opinion about the project. We are not allowed to respond, “That is a

stupid and baseless point.” Although I have to admit to having typed that many times, for the purpose of salve, only later to replace it with “The commenter has expressed a concern that...blah, blah, blah.”

Let’s clarify, this is not a statement about all commentary and criticism. Much or most of that is truly helpful. Unknown facts, curious anomalies in data, and flat out mistakes are revealed by critics. That is the purpose of the Public Draft; in fact that is the brilliance of the authors of CEQA in calling the public EIR a “draft,” a characterization that welcomes additions and changes.

But enough with the good stuff, I want to get back to the evil that we do. And the planner’s work in contending with and countering statements that are false and damaging. First, here is my catalog of types of things the public can say about projects during an EIR process:

- Additional study
- Alternative approach
- Contrasting information
- Vacuous hyperbole
- *Ad hominem*<sup>1</sup>

### Additional study

I think there are two basic ways to defeat a proposed project. Either take arms against the project and end it (usually and eventually in the courts), or delay it until it dies from the burdens of time and money. The first often leads to the latter.

Requests for additional study are an easy method for delay. This becomes akin to the child who responds to every explanation with another “Why?” There is no end to knowledge. There are no limits to explanations. There is never 100% certainty. So it is a safe gambit to request additional information.

<sup>1</sup> I’m going to stop myself here because this will turn into a well-worn list of logical fallacies. Aristotle named them first, expanding on the work of his teacher, Plato. A fun website with a compendium of these is <https://yourlogicalfallacyis.com/>. Learn these, and be able to identify them in real time—that is a worthy skill.

The Scream, by Edvard Munch; 1893-1910.



In this, and in all other instances, it is up to the decision-makers to say “Enough is enough.” That they are satisfied, within the bounds of reason and reasonableness, that sufficient support has been provided. When they turn to you and say “Well, what about that?” then they have not reached that point. It is very frustrating, but you cannot tell them that the additional studies should stop. You can say that we have exhausted the rational means of inquiry. But the decision-makers have to end it.

### Alternative approach

Opponents who are new to combat can go on-line and find lots of tactics to delay and stop the projects and plans they don't like. A classic is creating an “alternative” to the proposal. CEQA requires us to develop alternatives that would have lesser impacts than those of the proposal. Wise. Also wise is the CEQA requirement that alternatives meet the objectives of the original proposal. A proposed hospital cannot be switched with tennis courts. But no such constraint applies to opponents.

Example: a non-profit mental health organization was proposing the rejuvenation of an historic structure into housing for the mentally ill. The neighbors went nuts. But in a moment of calm, one of them proposed that the City Council consider instead turning the structure into an art center. One of the council members responded with “Well that's a good idea, too” or something like that. A proposal that had undergone many months of analysis and design, and was based upon the industry's vast experience, was countered with something made up on the fly.

Again the logical flaw of the false equivalency. This can take many forms, but here it is presenting something flimsy as the equal to something solid. Cities need art centers and they need facilities for the mentally ill. I may need a heart by-pass and I may need a beer. Humm? Note that my analogy created a false equivalency between a beer and an art center—wasn't fair, was it?

### Contrasting information

Data can be incorrect, analyses faulty, and conclusions inappropriate. All fair game. But when these are improperly challenged, then we are dealing with either ignorance or lying. Or the weird combination where someone asserts something that they neither know to be correct or incorrect. This is brutally difficult to combat. It stems from the logical problem of trying to prove the negative.

A literal case in point. During hearings before the Coastal Commission, opponents to a sewer system argued that the Commission needed to consider the presence of red-legged frogs, an endangered species. The mere mention of an endangered species was sufficient to cause one of the Commissioners to demand a delay (a month) for the hearing. I was not prepared for this question. A study had been prepared for the area some time ago about red-legged frogs. It's conclusion was, which

I regretted not knowing during the heat of the hearing, that there were none. And we unearth another problem, there are thousands of possible questions that could come your way; you may not be ready for every one. And as the (German?, Italian?) proverb says, “any fool can ask a question that even seven wise men can't answer.”

### Vacuous hyperbole

I came up with this phrase a long time ago, while sitting in a public hearing, listening to a project opponent describe a dystopian future, a post-apocalyptic horizon, beyond which life fades to meaninglessness. All this because of a parking garage.

A rule of good writing is to cool it on the use of adjectives and other means of description that influence the perception of the reader, in lieu of letting the reader's own mind create the vision. I've heard people say “this will destroy our community” when speaking of an apartment complex. Or “things will never be the same” when opposing a gas station. Projects are hideous, horrendous, and humungous. While precision is the hallmark of science and policy, exaggeration is all too common in public discourse.

Ventura was considering raising the allowed building height in the downtown, to five or six stories. Someone described this as the “Manhattanization” of the city. The Empire State Building has 103 stories, or roughly twenty times the height of the proposal. Truth is most Manhattan buildings range from 10 to 50 stories, and there are many under five. Still, it is an inappropriate description. I've been to Manhattan. Ventura is no Manhattan, nor will it ever approximate it.

You cannot say anything in response to vacuous hyperbole. Countering the assertion gives it credence. Your best defense is a raised eyebrow, or for drama, staring downward and shaking your head. But don't overuse that.

In a courtroom a long time ago, I listened to opposing council argue for a motion to dismiss my case after I had presented my evidence. The lawyer said things I thought were over the top. Then the judge turned to me and asked for my response. I said, “Are you kidding?” Based upon his honor's response to me, my advice to you is never ever say that.

### Ad hominem

An argument is flawed, not because of what is said, but who said it. It is inevitable that the reputation of the speaker influences our perception of the validity of their statements. It takes discipline to look beyond the speaker and consider just the message.

In our own work, we review projects and reports all the time. We come to appreciate the firm that does consistently good work, and are wary of those that often have mistakes or lack depth. Nevertheless, each review must be consistent, while

recognizing that some will be easier than others. Plus, these prejudices we carry are in our minds. We can manage those.

It is insidious when people stand and say that a person's word is no good. That they can't be trusted. That their proposal is flawed because they are flawed.

Again, there is no good response, other than "can we stick to the facts" or something like that. Once the attack on character is commenced, then the proceedings are unfairly colored by that. You can report that you've reviewed the material and it is, in your opinion, sound. It is fruitless, though noble, to defend the proponent.

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There are many more fallacies that rear themselves in our public deliberations. Over the course of your career, you will encounter them all. Stay calm, think clearly.

As an endnote it is important to repeat that most public discourse is fair, honest and intelligent. People care enough to stick to the matter at hand, deal with the facts, and clearly note when they voice their opinion.

But there are always a few apples riper than the others.

