Environmental lawyers and policy wonks know that the California Supreme Court's famed decision in *Nat'l Audubon Soc'y v. Superior Court*, better known as the Mono Lake case, saved California's second-largest lake from drying up. And to some extent this is true: I am working on a full-length book about the case, and so far that story seems to check out. But as a practical matter, without the California Environmental Quality Act (CEQA), the Mono Lake case would have been moot, or perhaps never would have happened at all.

Mono Lake began to dry up because the City of Los Angeles, starting in 1941, pumped water from its tributary streams into the Los Angeles Aqueduct: by the time of the Mono Lake case, the City got roughly one-sixth of its water from Mono. But in the late sixties and early 70's, the City made plans to dramatically increase its pumping to handle what it believed would be a similarly dramatic increase in water demand.

In *County of Inyo v. Yorty* (1973), the Court of Appeal held that the City's increase in pumping constituted a "project" for CEQA purposes, and it had to stop until it prepared an adequate Environmental Impact Report. Essentially, then, CEQA froze the City's pumping in place until it complied with the statute, and on the eve of the Mono Lake decision, the City's several attempts to do so had been rebuffed, leaving its previous drawdown in place.

To get a sense of how the City was planning on increasing its pumping, consider this finding from the Court's decision, referring both the original Los Angeles aqueduct and a second one that came on line in 1970:

> While the capacity of both aqueducts was known and presumably fixed irrevocably from the period of planning and design onward (666 cubic feet per second), the actual extraction of subsurface water has steadily increased from a long-term average 10.3 cfs during the 35-year period 1935 to 1969, to an estimated 89 cfs in 1963, to an existing capacity of 248 cfs in 1971, to an ultimate capacity of 415 cfs estimated in 1971, to an ultimate pumping capacity of 485 cfs estimated in October 1972. In short, while the capacity of the second aqueduct was fixed and known for a number of years before CEQA, the effect of its construction on subsurface water extraction has been a variable but steady escalation.

The Court's discussion of this point is anything but clear: it isn't clear if the increase in pumping "capacity" to 485 cfs represented actual plans to pump, but it seems that way, given its original reference to overall 666 cfs capacity (insert Satan joke here).

But think about this for a moment: if the Court's decision is anywhere near accurate, Los Angeles intended on multiplying its pumping severalfold during the 1970's — precisely the time when scientists began discovering the severe damage to the Lake and its ecosystem. By 1979, the Lake water level had fallen to unsustainable levels, tens of thousands of bird eggs had died, the brine shrimp that fed the birds had begun to disappear, and the remaining birds were no longer hatching in much of the Lake due to coyotes (no able to walk over land bridges created by the drop in water levels). The Lake seemed to be near death by 1980.

The California Supreme Court did not decide the Mono Lake case until 1983. Had it not been for CEQA requirements, the City might very well have pumped the Lake dry long before anyone even thought about using the public trust doctrine.

I don't think that this is mere antiquarianism. Right now, scholars, policymakers, and advocates debate the importance and relevance of environmental impact report requirements. It is easy to ridicule how prolix, expensive, and time-consuming they can be. Serious questions have been raised about their effectiveness. I agree with many of the criticisms, and unlike some of my Legal Planet colleagues (but like some others), I believe that policymakers should continue to look for useful exemptions to CEQA and similar statutes.

But any serious examination of environmental review statutes must include the benefits that they have produced. And on that side of the ledger, saving Mono Lake is one enormous plus.