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58<sup>TH</sup> ANNUAL LITIGATION  
SEMINAR

# THE “ABUNDANCE AGENDA” AND BEST PRACTICES REAL ESTATE DISPUTE RESOLUTION

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SPEAKING TODAY



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CALIFORNIA ASSOCIATION OF  
MEDIATION PANE



(Former) CALIFORNIA AIR RESO  
(CARB)



(FORMER) SOUTH COAST AIR QUALITY  
(SCAQMD)



Loyola law school,  
Adjunct Faculty

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# Agenda

- ABUNDANCE AGENDA for CALIFORNIA  
ESTATE and infrastructure DEVELOPMENT

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- ROLE OF ~~EXPERT~~ <sup>Appraiser</sup> IN REAL ESTATE  
DISPUTES AND MEDIATION

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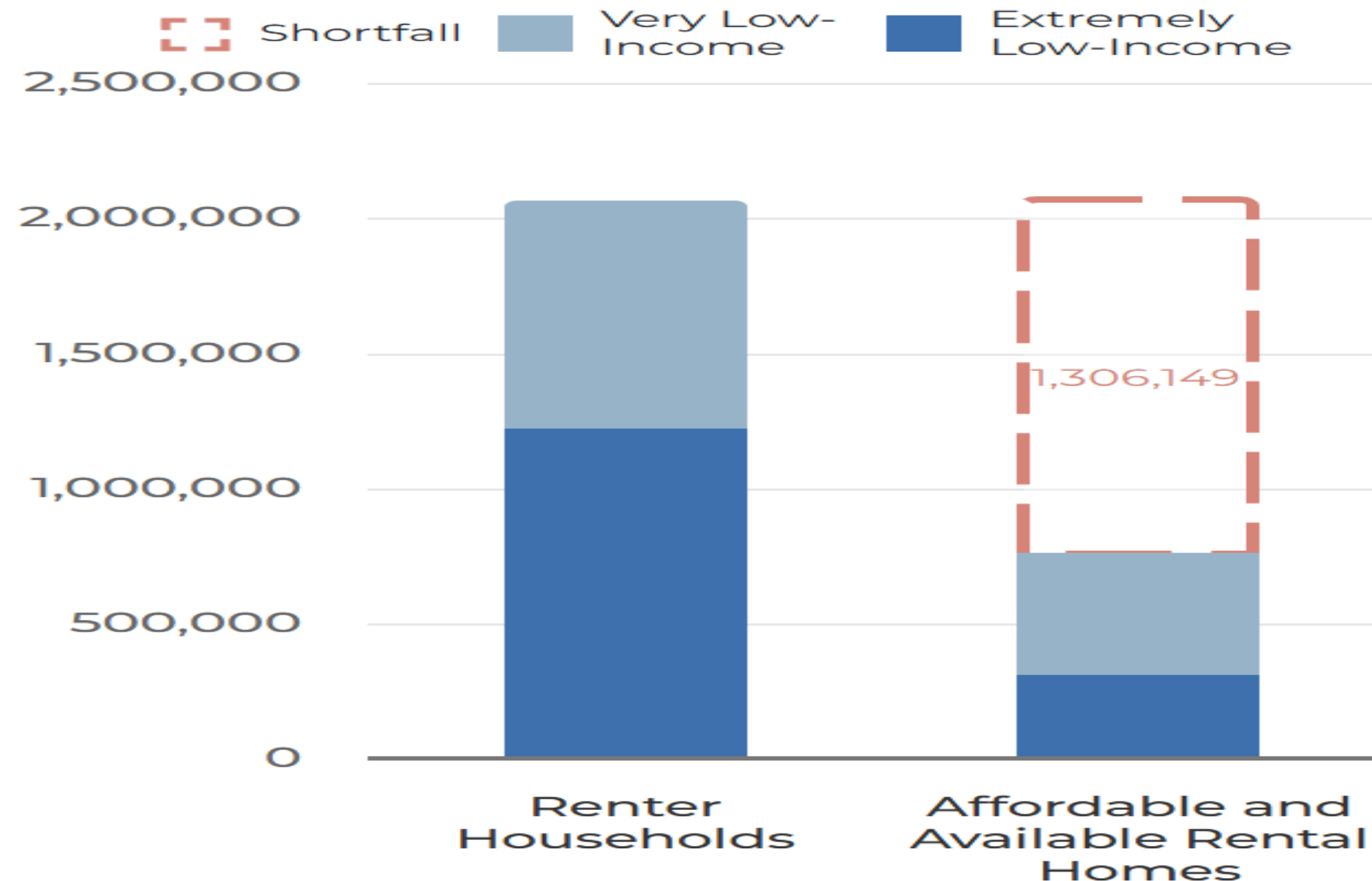
- BEST PRACTICES FOR REAL ESTATE  
RESOLUTION

# CALIFORNIA affordable housing DEMAND

## California

### AFFORDABLE HOMES SHORTFALL

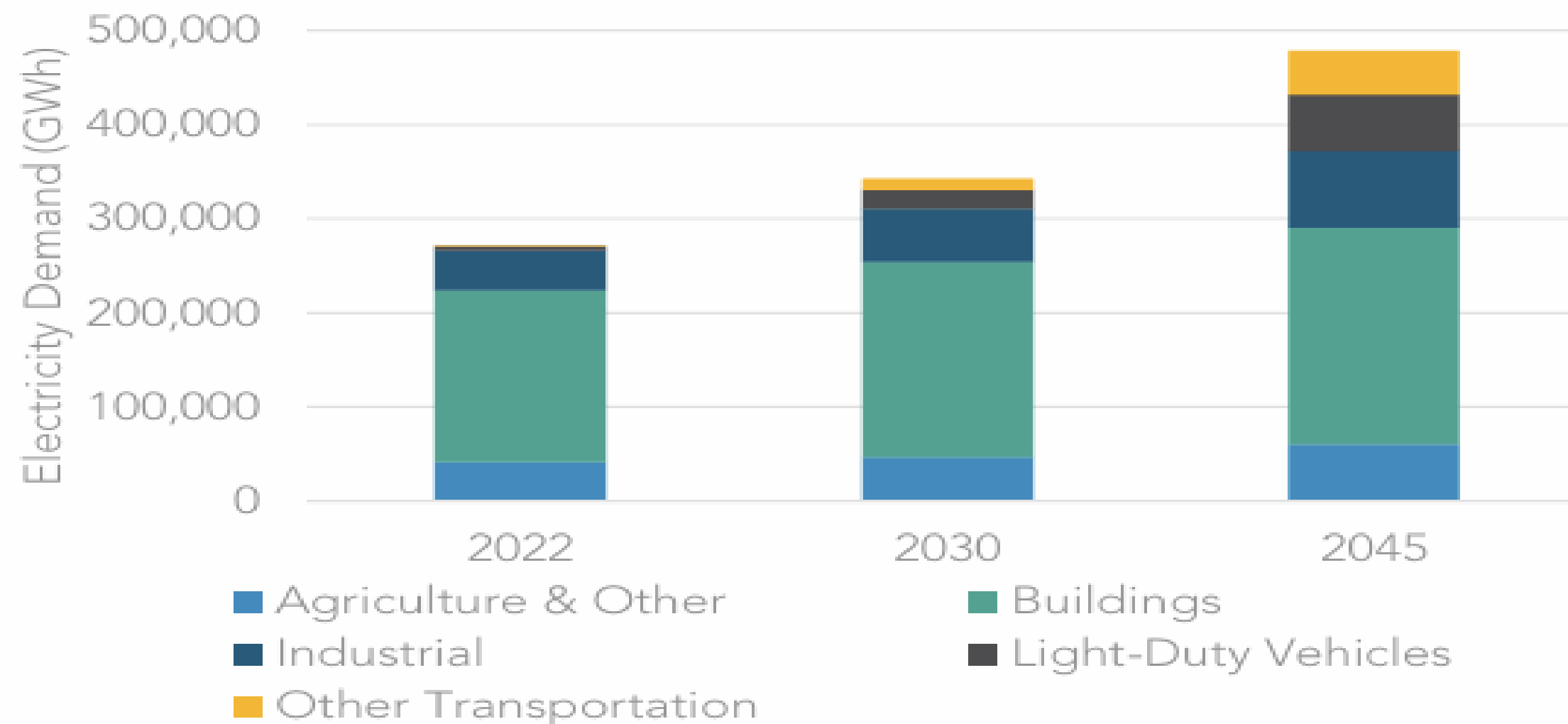
**1,306,149 low-income renter households** in California do not have access to an affordable home (2023).





# CALIFORNIA CLIMATE GOALS AND ELECTRICITY DEMAND

**Figure 4-6: Electric loads in 2022, 2030 and 2045 for the Scoping Plan Scenario<sup>373</sup>**

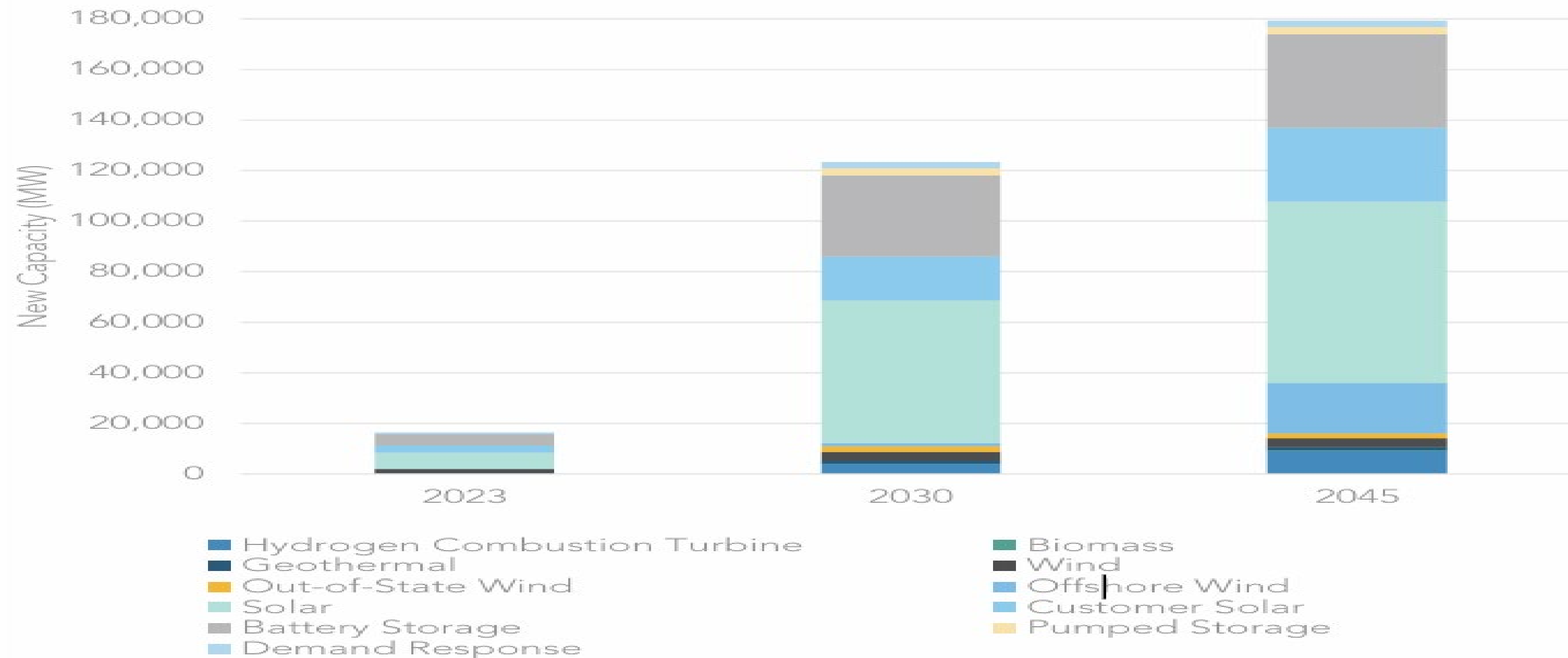


This transformation will drive investments in a large fleet of generation and storage resources but will also require significant transmission to accommodate these new capacity additions. Transmission needs include high-voltage lines to access out-of-state

# CALIFORNIA CLIMATE GOALS

## abundance of NEW ENERGY INFRASTRUCTURE

**Figure 4-5: Projected new electricity resources needed by 2045 in the Scoping Plan Scenario**<sup>372</sup>





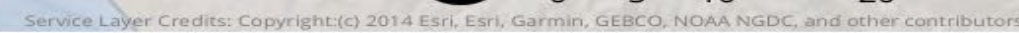


Metrolink (2045) Urban Rail (2045) Rapid Bus and Bus Rapid Transit (2045) Bus Routes (2045)

Note: Planned project alignments shown on this map are not intended to represent preferred alternatives where local planning and environmental processes are still ongoing. Maps provided in future updates to Connect SoCal will reflect locally preferred alternatives, once they are formally adopted by the local lead agency.

Source: SCAG, 2019





- Source: SCAG, 2019



# Abundance

#1  
New York  
Times  
Bestseller



Ezra Klein  
Derek Thompson

## “THE ABUNDANCE AGENDA”

- TOO MUCH FOCUS ON PROCESS INSTEAD OF RESULTS
- ABUNDANCE VS. SCARCITY MINDSET
- LAWS ARE better designed to block growth than allow it
- GOVERNMENT SHOULD BE A “BOTTLE NECK”
- “A LIBERALISM THAT BUILDS”

## County (605 U.S. \_\_ 2025)

- **U.S. Supreme Court upholds Surface Transportation Board's NEPA indirect project impacts analysis for 88-mile railway in Utah**
- *“NEPA has transformed from a modest procedural requirement into a blunt and haphazard tool employed by project opponents (who may not always be entirely motivated by concern for the environment) to try to stop or at least slow down new infrastructure and construction projects ... And that in turn means fewer and more expensive railroads, airports, wind turbines, transmission lines, dams, housing developments, highways, bridges, subways, stadiums, arenas, data centers, and the like. And that also means fewer jobs, as new projects become difficult to finance and build in a timely fashion . . . A course correction of sorts is appropriate ...” J. Kavanaugh*





# ABUNDANCE, CEQA REFORM, and a STREAMLINING

THE NATIONAL LAW REVIEW

## California Enacts Significant CEQA Reforms for Housing and Advanced Manufacturing Projects

Los Angeles Times

The environment inside and outside the Legislature has become friendlier to more aggressive proposals. “Abundance,” a recent book co-written by New York Times opinion writer Ezra Klein, makes the case that CEQA and other laws supported by Democrats have hamstrung the ability to build housing and critical infrastructure projects, citing specifically California’s affordability crisis and challenges with high-speed rail, in ways that have stifled the American Dream and the party’s political fortunes.

The idea has become a cause celebre in certain circles. Newsom [invited Klein onto his podcast](#). This spring, Klein [met with Wicks and Wiener and other lawmakers](#), including Robert Rivas (D-Hollister) and Mike McGuire (D-Healdsburg), the leaders of the state Assembly and Senate, respectively.

# REAL ESTATE, Land Use, Environmental Disputes

- TYPES OF CASES AND LITIGATION
- PARTIES
- LAND USE AND COMMUNITY BENEF



# USE OF THE EXPERT APPRAISER IN REAL ESTATE DISPUTES

## ○ **Set Goals for The Expert Appraiser**

- ▶ Developing Information
- ▶ Exchanging Information
- ▶ Confirming Information

# CREATE A PLAN FOR USE OF THE EXPERT APPRAISER

## ○ Create A Plan for the Expert Appraiser

- ▶ Tie to the Goal
- ▶ Timing is Critical
- ▶ Execute The Plan



# ROLE OF THE EXPERT during the mediation

**Set Goal for  
the  
Mediation  
Day**

**Teach and  
Tutor the  
Mediator**

**Anticipate &  
Prepare for the  
Other Side's  
Responses**

**Be An Expert  
Not an  
Advocate**

**Read the  
Room**

# Mediation AND THE MEDIAT PROCESS



INTERESTS  
NOT  
POSITIONS

WHAT'S  
BELOW THE  
ICEBERG?

CHOICE  
BATNA  
and  
WATNA

PREPARI  
TERM SH





# Thank you

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