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Des Johnston: Delay tactics kill jobs

On Oct. 27, a handful of individuals announced they would be filing suit to overturn the city of Merced's certification of the Wal-Mart distribution center environmental impact report.

That's how it's done; first you scour the EIR for a flaw (real or contrived), then cry foul and finally run to the courthouse.

If hard-core project opponents don't get their way via the public participation process, they sue to get their way.

Apparently, they know what's best.

If the City Council had voted Wal-Mart down, that would have been the end of it. We would see Wal-Mart pick up its blueprints, shake the dust from its shoes, and move on. The project would be over.

That's the way the project review and approval system work, and though not always kind to business, it's fair.

We would continue to worry over unemployment, foreclosures and our tattered neighborhoods. We would be downcast, but that's where the chips would fall, and stay, because we have a democratic system that we trust and stand by.

We trust that it's good, even when it doesn't give us the votes we want. There would be no lawsuit to force the city to allow Wal-Mart to build.

Just prior to the City Council's decision to certify the Wal-Mart EIR, representatives from a coalition of local groups in favor of certifying the EIR met to ask the opponents to accept the council's decision and to promise that we would do the same.

The opponents' response came three weeks later with the filing of the suit.

So why is it that California Environmental Quality Act lawsuits, which delay or kill projects, are so easily filed and so often successful? Is this really providing the kind of check-and-balance that our system of government intends?

Whatever the answers, savvy and singularly minded project opponents know how to exploit it, and over the past 20 years, have developed an alternative process that weakens CEQA, planning laws and an otherwise reasonable public process.

Large corporations such as Wal-Mart will weather such attacks, but such suits are the death knell for smaller businesses that do not have the resources to keep up the fight.

In any case, if you listen to Tom Grave, Rod Webster, Joel Knox and Kyle Stockard, it's clear to them that they know what's best. Of course, they know better than Wal-Mart.

They also know better than EDAW (the professional environmental consulting firm hired by the city to prepare the EIR); better than the expert traffic, air quality, and hydrology engineers, scientists and analysts; better than the local, regional and state agency experts who are paid with our taxes to review the accuracy of the studies; better than the city planning staff; better than the city planning commissioners, better than the council members; better than a large majority of the residents of Merced; and better than the democratic process that we took part in when we elected our City Council to represent us and make decisions on our behalf.

This small group of opponents knows what's best; so when our silly processes fail to produce the "correct" outcomes, such outcomes must be disregarded and overturned.

They know the system failed, so it's up to them to pick up the ball where everyone else dropped it, and save us from ourselves. If you go to the Sun-Star Web site and watch the interview with the opponents (www.mercedsunstar.com/108/story/1137352-.html), they say that Wal-Mart can make this all go away, that it doesn't have to be this way if Wal-Mart would just meet their demands.

Like the bully on the playground, if you don't want to get clobbered, simply give him your lunch money.

However long it takes to resolve the suit, we expect that the opponents will have their tummies full, sleep soundly, and will not be dispossessed of their homes.

For others and our town, we will hope that Wal-Mart perseveres; that other jobs will soon fill the gap; that court domination of CEQA will be reformed; and that government of the people and by the people will eventually prevail.

Des Johnston is chairman of the government review committee of the Greater Merced Chamber of Commerce.