

12

Principles
of American
Democracy
Standards
12.2.2. and 12.2.5.



This Land Is Our Land

California Education and the Environment Initiative

Approved by the California State Board of Education, 2010

The Education and the Environment Curriculum is a cooperative endeavor of the following entities:

California Environmental Protection Agency
California Natural Resources Agency
Office of the Secretary of Education
California State Board of Education
California Department of Education
California Integrated Waste Management Board

Key Leadership for the Education and Environment Initiative:

Linda Adams, Secretary, California Environmental Protection Agency
Patty Zwarts, Deputy Secretary for Policy and Legislation, California Environmental Protection Agency
Andrea Lewis, Assistant Secretary for Education and Quality Programs, California Environmental Protection Agency
Mark Leary, Executive Director, California Integrated Waste Management Board
Mindy Fox, Director, Office of Education and the Environment, California Integrated Waste Management Board

Key Partners:

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Office of Education and the Environment

1001 I Street • Sacramento, California 95812 • (916) 341-6769
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Lesson 1 In Pursuit of Life, Liberty, and the Common Good

Key Unit Vocabulary	2
Promoting the Common Good	3

Lesson 2 Civic Virtue: Is It in You?

Who Should Act for the Common Good?	6
Decision-Making Scenarios	7

Lesson 3 So, You Want to Own a Gas Station

Buying a Gas Station	12
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Lesson 4 Whose Beach Is It Anyway?

<i>Nollan v. California Coastal Commission</i>	16
<i>Nollan v. California Coastal Commission</i> : Case Review	20

Lesson 5 Reconciling: When Common Goods Collide...

Public Hearing Directions	23
What Is the Common Good?	26

Key Unit Vocabulary

Lesson 1

Benefit: Something that is viewed as helpful, useful, or otherwise desirable.

Byproduct: Something, such as waste materials or chemicals, produced when something else is manufactured or consumed.

Civic virtue: Willingness to put the public interest or common good ahead of individual interests.

Commission: Group of people officially authorized to perform a particular function.

Common good: Something that benefits the greatest number of people, balancing self-interest with the needs of the greater community.

Conditional Use Permit (CUP): A document that allows a city or county to consider special uses of land that may be essential or desirable to a particular community but are not allowed within a zoning district.

Cost: The money, time, effort, loss, or sacrifice made to obtain something or achieve a goal.

Easement: A limited right to use another's land for a special purpose.

Eminent domain: The right of government to take private property for public use or benefit.

Environmental Impact Report (EIR): A report, required by the California Environmental Quality Act (CEQA) of 1970, that requires "major" actions or projects to be assessed as to their potential effects on the environment prior to being implemented.

Liberty: Freedom.

Mitigate: To change something so that it is less damaging or harmful.

Public access: A means of approaching, entering, exiting, or making use of land by members of the public.

Public hearing: Meeting held by a public body to gather information and perspectives from citizens.

Rights: Powers or liberties to which a person is entitled, justified by law, faith, or reason.

Promoting the Common Good

Lesson 1 | page 3 of 3

Name: _____

The scoring tool below will be used to score your presentation.

Promoting the Common Good Scoring Tool

Component	3 points	2 points	1 point
Environmental topic	Accurately describes an environmental topic that relates to the common good.	Describes an environmental topic that relates to the common good.	Identifies an environmental topic that relates to the common good.
Factors related to individual rights/liberties, laws, the common good	Identifies several factors (individual rights/liberties, laws, common good) that are considered in making related decisions.	Identifies some factors (individual rights/liberties, laws, common good) that are considered in making related decisions.	Identifies one factor (individual rights/liberties, laws, common good) that are considered in making related decisions.
Proposed solutions	Uses identified factors to propose several reasonable solutions that address individual rights and respect for rights of others (common good).	Uses identified factors to propose some reasonable solutions that address individual rights and respect for rights of others (common good).	Proposes a reasonable solution that addresses the enjoyment of individual rights and respect for the rights of others (common good).

Who Should Act for the Common Good?

Lesson 2

Name: _____

Instructions: In the last lesson, you analyzed an environmental topic in terms of how it relates to the common good. You also looked at possible conflicts with individual rights and liberties and proposed solutions that balance individual rights/liberties and the common good. In this lesson, you will share your proposals in a small group.

As you share your proposals and listen to the ideas of others, complete the chart below:

	Group member 1	Group member 2	Group member 3	Group member 4
What actions did the group member propose?				
Who should take the actions proposed?				
What factors would government, individuals, or businesses consider in taking these actions?				

Decision-Making Scenarios

Lesson 2 | page 1 of 5

Name: _____

Part 1

Instructions: For each scenario below, identify the decision facing the student, the options available, and the costs and benefits of each option. Consider individual rights, liberties, and interests, as well as the environment and the common good. If you faced this decision, what would be most important to you—the common good or your own rights, liberties, and interests? (1 point each)

Scenario 1

Tanisha is about to graduate from high school. She is ranked second in her class and has won many awards for academics and citizenship. She has been accepted at several universities. She has narrowed her options to one college that is about 40 miles from her home. It is a good school, but her second choice, which is located more than 3,000 miles away, has a better program in her major. She has never been away from home, so she knows she will want to come home for every holiday—and maybe an occasional weekend.

1. What decision is Tanisha facing? What options are available?

2. What are the costs and benefits of each option in regard to the environment and the common good?

3. What are the costs and benefits of each option in regard to individual rights, liberties, and interests?

4. If you faced this decision, what would be most important to you—the common good or your own rights, liberties, and interests?

Decision-Making Scenarios

Lesson 2 | page 2 of 5

Name: _____

Scenario 2

Ramon is a star football player and wrestler. He likes nothing better than to take a long, hot shower every night when he gets home from practice. Sometimes he is in the shower so long that he runs out of hot water. Ramon's sister loves to remind him that water is in short supply in California and he should be able to take a shorter shower. She does not realize that a good shower is not just for cleaning—it helps relieve his sore muscles. His mom sometimes complains about the water bills, but Ramon can usually talk her into backing him up. She's proud of his athletic achievements.

1. What decision is Ramon facing? What options are available?

2. What are the costs and benefits of each option in regard to the environment and the common good?

3. What are the costs and benefits of each option in regard to individual rights, liberties, and interests?

4. If you faced this decision, what would be most important to you—the common good or your own rights, liberties, and interests?

Decision-Making Scenarios

Lesson 2 | page 3 of 5

Name: _____

Scenario 3

Taylor and Kyoko get lunch at the grocery store near the school every day. They do not have a lot of money, so they shop carefully. They have noticed that organically grown fruits and vegetables are more expensive than other produce. They have also noticed that some fruits packaged in plastic trays with plastic covering are more expensive than fruit that can be bought individually with no packaging. They also like the prepackaged lunches that come in plastic trays with plastic wrapping and a cardboard outer container. There would be less packaging if they bought cheese and meat in the deli, but it would cost more, and they'd have to buy crackers separately. All in all, it would be a hassle.

1. What decision are Taylor and Kyoko facing? What options are available?

2. What are the costs and benefits of each option in regard to the environment and the common good?

3. What are the costs and benefits of each option in regard to individual rights, liberties, and interests?

4. If you faced this decision, what would be most important to you—the common good or your own rights, liberties, and interests?

Decision-Making Scenarios

Lesson 2 | page 5 of 5

Name: _____

The scoring tool below will be used to score your essay.

Decision-Making Scenarios Scoring Tool

Component	4 points	3 points	2 points	1 point
Decision and options	Thoroughly describes the decision to be made and both options that are available.	Satisfactorily describes the decision to be made and both options that are available.	Describes the decision to be made and describes only one of the options available.	Describes the decision to be made or one of the options available.
Cost and benefits in regard to the environment and the common good	Thoroughly describes the cost and benefits in regard to the environment and the common good.	Satisfactorily describes the cost and benefits in regard to the environment and the common good.	Describes the cost and benefits in regard to the environment or the common good.	Describes the cost or benefits in regard to the environment or the common good.
Cost and benefits in relation to individual rights and interests	Thoroughly describes the cost and benefits in relation to individual rights and interests.	Satisfactorily describes the cost and benefits in relation to individual rights and interests.	Describes the cost or benefits in relation to individual rights and interests.	Describes the cost or benefits in relation to individual rights or interests.
Personal perspective: common good versus individual rights and interests	Provides a thorough personal decision discussing the choice between common good and individual rights and interests.	Provides a satisfactory personal decision discussing the choice between common good and individual rights and interests.	Describes a personal decision and mentions common good or refers to personal rights or interests.	Describes personal decision with no mention of common good or personal rights and interests.

Buying a Gas Station

Lesson 3 | page 1 of 4

Name: _____

Part 1

Instructions: Draw a t-chart in the space below. Write “Costs” at the top of one column, and “Benefits” at the top of the other. Then, fill in the t-chart with your group’s ideas about the costs and benefits of owning and managing a gas station in California.

Name: _____

The scoring tool below will be used to score your letter.

Buying a Gas Station Letter Scoring Tool

Component	3 points	2 points	1 point
Explanation of decision	Accurately explains several examples of costs and benefits of gas station ownership as they relate to individual rights and the common good.	States decision; states some costs and benefits of gas station ownership as they relate to individual rights and the common good.	Provides decision with few or no supporting details.
Explanation of laws and regulations	Explains laws, regulations, and/or policies that affect natural resources and support the common good.	States laws, regulations, and/or policies that affect natural resources and support the common good.	Mentions but does not describe laws, regulations, and/or policies that support the common good.
Description of influences on individuals and communities	Describes how laws, regulations, and/or policies influence individuals and communities.	States that laws, regulations, and/or policies influence individuals and communities.	Minimal description of how laws, regulations, and/or policies influence individuals and communities.

Name: _____

Part 1: Mr. and Mrs. Nollan Build Their Dream Home

For years, James and Marilyn Nollan leased a beachfront property in Ventura County, California. The site near Santa Barbara, about two hours drive north of Los Angeles, is popular for swimming and sunbathing. A quarter mile to the north lay the Faria County Park, a public beach; 1,800 feet to the south was “The Cove,” another public area. The property’s oceanside boundary had been determined based on the mean high tide. Between the shoreline and the main portion of the property stood an eight-foot-high concrete sea wall. Between the sea wall and the water, even at high tide, was a strip of sand that constituted a private beach belonging to the property leased by the Nollans.

The land contained a bungalow, which the Nollans regularly subleased to others. After years of use as a rental property, the 504-square-foot house needed replacing. Meanwhile, the Nollans had decided to purchase the lot. The owners agreed, on condition that the Nollans demolish the bungalow and build a new home there. In accordance with this desire and with state law, the couple went to the California Coastal Commission to request a coastal development permit. They submitted an application on February 25, 1982. They proposed demolition of the bungalow and its replacement with a three-bedroom house comparable to those in the neighborhood.

The commission told the Nollans it would grant their application if they agreed to allow the public an easement, the right to pass through their property. This easement would allow pedestrians to use the portion of the Nollans’ property between the high-tide line and the seawall as a walkway to move between the public beaches on either side.

What Do You Think?

1. Why would the California Coastal Commission require an easement for the public?

2. What authority does the commission have to impose such a requirement?

3. What are the rights of the Nollans?

What Would You Do?

If you were the Nollans, would you comply with the Coastal Commission’s requirement to allow the public an easement to pass through your property or would you protest to the commission about this requirement? Be prepared to give reasons to support your decision.

Name: _____

Part 2: The Nollans Protest

The Nollans protested, and the California Coastal Commission overruled their objections. On June 3, 1982, the couple filed a petition with the Ventura County Superior Court. They asked the court to issue an injunction ordering the commission to reconsider its decision. The court agreed with the Nollans' claim that the commission could not impose the restriction on their development in the absence of proof that building their house would actually have a clear and negative impact on public access to the beach. The court remanded the case to the Commission for a full hearing.

At the hearing, officials for the commission announced that the new house would add to "a 'wall' of residential structures." They said this wall would "psychologically" prevent the public "from realizing [that] a stretch of coastline exists nearby that they have every right to visit." Providing the public with an easement across the Nollans' property was, they said, the only way to offset this "burden" on public access. The Nollans then filed a supplemental petition with the Superior Court, this time arguing that the commission violated the Takings Clause of the Fifth Amendment; courts had ruled that the Fourteenth Amendment extended that protection to the states.

Again the Superior Court ruled for the petitioners. It ordered the commission to strike the permit condition.

What Do You Think?

1. What were the commission's arguments in regard to the common good?

2. What did the Superior Court decide in regard to the Nollans' rights?

What Would You Do?

If you were on the Coastal Commission, would you strike the permit condition or would you continue to argue for public access by appealing the decision of the Superior Court? Be prepared to give reasons to support your decision.

Name: _____

Part 3: The Coastal Commission Appeals

The California Coastal Commission appealed to the California Court of Appeals. Meanwhile, the Nollans, without notifying the commission, tore down the bungalow. They built their house and bought the property, all in fulfillment of the agreement they had with the property’s earlier owners—but without the approval of the commission.

The Court of Appeals reversed the ruling of the Superior Court. It ruled in favor of the commission, basing its opinion on its reading of the California Public Residence Code, Annotated. The precedent for its ruling on the constitutional question came from an earlier California case involving similar issues.

The Nollans did not agree with the reversed ruling and took their appeal to the U.S. Supreme Court. The appeal raised only the constitutional issue: Did the permit requirement constitute a property taking in violation of the Fifth and Fourteenth Amendments?

What Do You Think?

1. Why did the California Coastal Commission pursue this case in the court of appeals?

2. What constitutional argument did the Nollans use?

What Would You Do?

If you were a justice on the U.S. Supreme Court, would you find the permit requirement in violation of the Fifth and Fourteenth Amendments, or would you agree with the California Court of Appeals ruling that the easement requirement did not violate the Takings Clause of the Fifth Amendment, as incorporated by the Fourteenth Amendment? Be prepared to give reasons to support your decision.

Name: _____

The Results of the Case

The U.S. Supreme Court voted five to four to reverse the decision of the California Court of Appeals. They found that the California Coastal Commission's permit requirement to build a public pathway through the Nollans' private property violated the Takings Clause of the Fifth and Fourteenth Amendments.

Justice Scalia delivered the opinion for the majority. He began by pointing out that the outright taking of an uncompensated, permanent, public-access easement would violate the Takings Clause. However, he said, conditioning appellants' rebuilding permit on their granting such an easement would be lawful land-use regulation if it substantially furthered governmental purposes that would justify denial of the permit. Such was not the case in the Nollans' situation, however, "since the condition does not serve public purposes related to the permit requirement."

One of the reasons for the Commission's demand had been that the public could not see the beach and therefore would not be fully aware of their right to walk on it. How, Scalia asked by implication, would an easement across the beach side of the property make it easier to see the beach from the road, on the other side of the house? He further dismissed the commission's claim that the access requirement was part of a "comprehensive program" by the state to increase public access to the beach. If this was so, Scalia indicated, the state would have to pay the cost for this, and not "compel coastal residents alone to contribute to the realization of that goal."

Scalia addressed the question of whether the condition of an easement constituted "taking." If the commission had truly been interested in whether people could see the beach from the road, Scalia suggested, it might have issued limitations on the height of the house—which would have been perfectly lawful. He characterized the purpose as "the obtaining of an easement to serve some valid government purpose, but without payment of compensation." This, Scalia held, was "an out-and-out plan of extortion."

In a five to four decision, there were obviously dissenting views. Justice Brennan's was the longest and most forceful, arguing that states should have more flexibility to make rules affecting private property.

Nollan v. California Coastal Commission: Case Review

Lesson 4 | page 3 of 3

Name: _____

The scoring tool below will be used to score your work.

Nollan v. California Coastal Commission: Case Review Scoring Tool

Component	3 points	2 points	1 point
Description of effects on land use and ownership	Accurately describes how laws, regulations, and policies affect land use and ownership.	Describes that laws, regulations, and policies affect land use and ownership.	Minimal description of laws, regulations, and policies affect land use and ownership.
Description of balancing rights and liberties and the common good	Accurately describes how decisions result from the need to balance individual rights and liberties and the common good.	Describes that decisions result from the need to balance individual rights and liberties and the common good.	Minimal description of the need to balance individual rights and liberties and the common good.
Description of how decisions affect individuals and communities	Accurately describes how decisions affect individuals and communities.	Describes that decisions affect individuals and communities.	Minimal description of how decisions affect individuals and communities.

Public Hearing Directions

Lesson 5 | page 1 of 3

Name: _____

Instructions: Your class will be reenacting a public hearing before the California Integrated Waste Management Board (CIWMB). Half the class will represent the CIWMB. The other half will represent the community. Four community members will testify at the hearing.

One of the CIWMB members, Susan Markie, is the permit manager who will run the meeting.

Order of Events at the Public Hearing

1. Ms. Markie calls the meeting to order and makes a two-minute opening statement describing the issue before the CIWMB.
2. Ms. Markie opens the meeting for public testimony.
3. Ms. Edwards testifies for up to two minutes. The Board members ask one question. Ms. Edwards or other community members have one minute to respond.
4. Mr. You testifies for up to two minutes. The Board members ask one question. Mr. You or other community members have one minute to respond.
5. Ms. Kind testifies for up to two minutes. The Board members ask one question. Ms. Kind or other community members have one minute to respond.
6. Mr. Abram testifies for up to two minutes. The Board members ask one question. Mr. Abram or other community members have one minute to respond.
7. Ms. Markie thanks the community members who testified and adjourns the meeting.

Preparation for Board Members

1. Choose someone to be Ms. Markie.
2. Prepare Ms. Markie's opening statement (see the Background for CIWMB below).
3. Write one question for each of the people who will be testifying.

Preparation for Community Members

1. Choose students to be Ms. Edwards, Mr. You, Ms. Kind, and Mr. Abram.
2. Prepare the testimony for Edwards, You, Kind, and Abram (see the Background for Community Members on pages 2 and 3).
3. Think about questions the Board might ask and how you would answer those questions.

Name: _____

Background for CIWMB

Ms. Markie's opening statement should make the following points:

- Under state law, the CIWMB certifies local enforcement agencies (LEAs) to oversee the required actions of approved landfills. Because this landfill is for two separate LEAs—the City and County of Los Angeles—the Board is to act in the capacity of the Solid Waste Enforcement Agency.
- The proposed permit is to consolidate the two current city and county permits under one permit. This will allow the landfill to fill in the areas between the two landfills consistent with previously described and approved boundaries and limits.
- The new proposed estimated closure year will be 2037. The current permit for the city landfill says partial closure would occur in 2010. These estimations are based on current calculated volume, remaining (capacity), and estimated amount of waste received per day.
- The city and county, the Regional Water Quality Control Board, and the Los Angeles County Department of Public Works have commented on the proposal. The company has responded to these comments.

The Board's job is to make sure the landfill design and operation conform with state standards and that there is money to keep the landfill running and to take care of it after it is full.

Background for Community Members

Ms. Edwards feels the community has been over the same issue many times before. She believes the corporation that runs the landfill cares only about money, not about how livable the community is. She wants the Board to produce a new Environmental Impact Report, one that is fair and includes all opinions and perspectives; the old report, she says, was prepared by someone who wanted the project to go through. One of the main health concerns Ms. Edwards has is pollutants put in the air by diesel trucks. She believes this pollution causes many illnesses. She wants someone to look at converting heavy equipment to some kind of nonpolluting engines and to encourage people to create less trash. To Ms. Edwards, the bottom line should be the health of all communities, not greed and money.

Mr. Ed You is tired of seeing the landfill grow bigger and bigger. The site is nothing but bare earth. The tremendous winds in the area blow dust and dirt everywhere, day and night. He is tired of seeing plastic bags blow over, break, and trash the surrounding land, including O'Melveny Park. Mr. You is also concerned about the high rates of asthma and cancer in the community. He believes these rates are directly related to the dust constantly in the air. He is also outraged because the old landfill has not been properly taken care of. No final cover has been put in place, and the huge interior cut and cover slopes around the inside of Sunshine Canyon, that could have grasses and trees planted on them, remain bare.

Ms. Viki Kind moved into this neighborhood about a year-and-a-half ago from Northridge. She has asthma. When she lived in Northridge, she could keep her windows open and her asthma did not get worse. In this community, she cannot breathe and must use her inhaler more often. She wants the Board to enforce the requirements on the books; for example, she wants the parts of the landfill that should already be closed to be closed now!

Name: _____

Background for Community Members (continued)

Mr. Abram is a teacher at Van Gogh Elementary School, located less than one mile south of the landfill. Like many of the school’s staff members, he arrives at school at 6:30 in the morning and sometimes does not leave until after 6:00 at night. It’s nothing unusual. Many years ago, he took his students on a field trip to visit the landfill. It was fascinating to see the process, but what he remembers most was the model that BFI showed the students of how the landfill would look after it was closed. That model was beautiful—the mountains of trash were covered with grass and beautiful animals. That field trip was in 1989, and he thinks that things at the landfill have changed substantially since then.

Mr. Abrams, like many residents, has breathing problems. Teachers have respiratory problems—choking, asthma, wheezing, shortness of breath, and stinging and burning eyes—when teaching physical education class outdoors. Mr. Abrams is also concerned about the unusually large number of cancer-related deaths, which he is certain have been caused by the proximity to the diesel trash trucks spewing exhaust into the atmosphere, as well as by the buried toxins, and the toxic particulates wind-blown, swept, and carried by birds over to the school from the landfill. He has gathered petitions signed by 100% of the teaching staff, all members of United Teachers Los Angeles who have joined with the Los Angeles United School District here, opposing the plan to consolidate two landfills into one. In fact, the teachers still believe that this landfill needs to be closed as soon as possible, before any more people die.

What Is the Common Good?

Lesson 5 | page 1 of 3

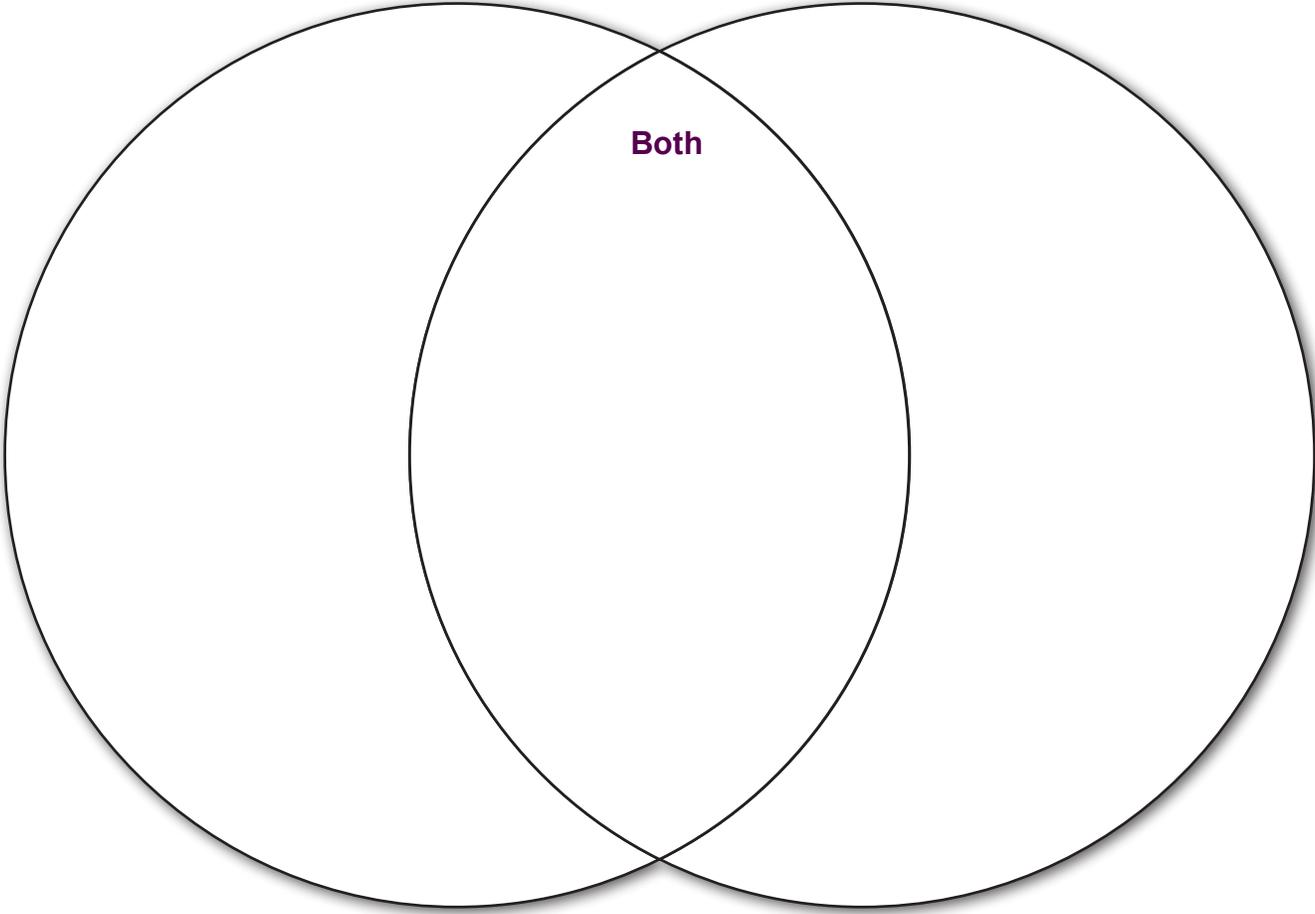
Name: _____

Instructions: Use the Venn diagram below to summarize the perspectives on the Sunshine Canyon Landfill issue.

CIWMB's Perspectives

Community Perspectives

Both



On the following page, describe what you consider to be the best solution to the Sunshine Canyon Landfill issue. Address all or some of the perspectives above in your answer. (9 points)

What Is the Common Good?

Lesson 5 | page 3 of 3

Name: _____

The scoring tool below will be used to score your work.

What Is the Common Good? Scoring Tool

Component	3 points	2 points	1 point
Factors considered in decisions	Identifies multiple factors considered in making decisions about resources and natural systems.	Identifies some factors considered in making decisions about resources and natural systems.	Identifies one factor considered in making decisions about resources and natural systems.
Influence of decision-making factors	Thoroughly describes how those factors influence decisions.	States how these factors can influence decisions.	Mentions that factors can influence decisions.
Description of balance of competing perspectives	Thoroughly describes how a decision related to the use and management of natural systems and resources can balance competing perspectives on what is considered the common good.	States how a decision related to the use and management of natural systems and resources can balance competing perspectives on what is considered the common good.	Mentions that a decision related to the use and management of natural systems and resources can balance competing perspectives on what is considered the common good.



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