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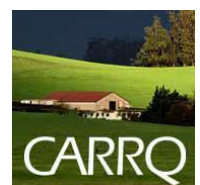


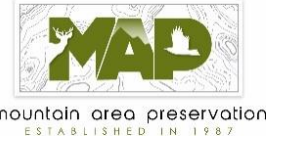
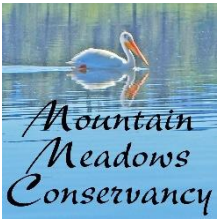
Resource Renewal Institute  
Innovations for a Sustainable Future



SIERRA NEVADA ALLIANCE

Keeping light in the range.





COMMITTEE FOR GREEN FOOTHILLS



April 2, 2019

RE: Keeping CEQA Strong to Protect Californians' Health and Environment

To the Honorable Members of the California State Senate and Assembly and Governor Newsom:

For nearly 50 years, the California Environmental Quality Act (CEQA) has protected our environment, improved the livability of our cities and communities, and kept Californians healthy and safe. CEQA plays a vital role in both preserving California's unparalleled natural resources and protecting the rights of residents to weigh in on the land use decisions that most affect them.

Development interests have long complained about California's flagship environmental law. Now they are trying to blame CEQA for the state's housing crisis. However, CEQA did not cause the housing crisis, and weakening CEQA will not solve it. Rather, if implemented properly, CEQA can be an effective tool in helping to address California's housing problems by encouraging sustainable development.

CEQA is often unfairly accused of "stopping" housing and other projects. That's not the way the law works. CEQA simply requires officials to consider environmental impacts and do what can be done to avoid or reduce these impacts, before moving forward. Major changes to CEQA would pose a significant threat to our natural environment, including critical resources like clean air and clean water, and to California's most disadvantaged communities.

The Senate Committee on Judiciary and the Senate Committee on Environmental Quality held a joint hearing on March 12, 2019 about CEQA's role in development. To aid the discussion, the legislators prepared a background paper, which made key findings regarding recent CEQA studies and the true causes of California's housing crisis.<sup>1</sup> We applaud these Committees for their efforts to dispel the myths surrounding CEQA, and strongly urge the Legislature to resist efforts to weaken this essential law.

**Studies show CEQA is not a major factor in California's housing crisis; rather, CEQA encourages sustainable development.** CEQA is not to blame for the housing crisis. A recent UC Berkeley study of five expensive Bay Area cities shows that **most cities effectively streamline CEQA review for residential projects and very few projects require full environmental impact reports.**<sup>2</sup> According to the study, the **pace of development is influenced mostly by local zoning requirements, not by CEQA.** A new follow-up study focusing on five southern California cities similarly suggests that local laws and approval procedures play a very significant role in determining the rate of entitlement of affordable housing.<sup>3</sup> The Legislature can build on recent efforts to address the housing crisis by helping cities increase zoned capacity for housing, especially affordable housing, near public transit and jobs.

Notably, CEQA contains numerous exemptions and streamlining provisions that speed up housing construction and infill-type development. For example, CEQA excludes from additional environmental

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<sup>1</sup> California Legislature, *Just the Facts: An Evidence-Based Look at CEQA Streamlining and CEQA's Role in Development* (March 2019), available at <https://tinyurl.com/CEQAkeyfindings2019>.

<sup>2</sup> Moira O'Neill, et al., *Getting it Right: Examining the Local Land Use Entitlement Process in California to Inform Policy and Process* (Feb. 2018), available at [https://www.law.berkeley.edu/wp-content/uploads/2018/02/Getting\\_It\\_Right.pdf/](https://www.law.berkeley.edu/wp-content/uploads/2018/02/Getting_It_Right.pdf/).

<sup>3</sup> Moira O'Neill et al., *Examining the Local Land Use Entitlement Process in California to Inform Policy and Process* (Feb. 2019), available at <https://www.law.berkeley.edu/wp-content/uploads/2019/02/Examining-the-Local-Land-Use-Entitlement-Process-in-California.pdf>.

review projects that are consistent with the development density set by existing EIR-certified zoning, community plans, or general plans. SB 1925 creates an exemption for infill residential development that meets size, location, use, and affordable housing criteria. Under SB 375, certain infill residential, mixed-use, and transit priority projects can qualify for streamlined CEQA review.

These streamlining measures are already working, and full-blown environmental impact reports are now relatively rare. A 2018 survey of California cities and counties revealed that between 2015 and 2017, only 6% of housing projects were reviewed by EIRs.<sup>4</sup> An earlier study showed that in San Francisco, where CEQA streamlining has been embraced, only 14 EIRs were prepared from 2013-15; in that same period, 13,237 projects were exempt from CEQA review.<sup>5</sup> Moreover, when CEQA review is required, CEQA compliance costs are only a small percent of total project costs.<sup>6</sup>

In addition, the CEQA process encourages decision-makers and the public to carefully consider the impact of proposed projects with respect to California's housing crisis. For example, CEQA requires the reviewing agency to evaluate whether the project would displace existing populations, physically divide established communities, or promote urban sprawl. These inquiries both protect existing communities and encourage infill housing alternatives.

While CEQA must adjust to changing circumstances over time, the Legislature should focus on preserving and strengthening CEQA, not weakening its protection for the environment and California communities.

**CEQA promotes environmental justice.** Many low-income communities and communities of color—long unfairly burdened by polluting industries, toxic waste dumps, pesticides, and other threats—rely on CEQA to protect themselves from air pollution, water contamination, and other public health challenges. A strong CEQA is one of the few tools these communities have to inform themselves about and weigh in on new polluting developments, refineries, coal terminals, battery factories, oil wells, and warehouse facilities with heavy truck traffic.

Low-income communities also rely on CEQA to ensure that new affordable housing is safe and healthy, and that the most vulnerable residents are not inadvertently exposed to toxic hazards and other dangers in their own home. We must resist changes to CEQA that would allow an abbreviated or weak environmental review process that fails to identify significant health impacts.

High housing costs and long commutes disproportionately affect low-income Californians. Rampant gentrification and the displacement of low-income residents and communities of color are of deep concern. CEQA affords members of these communities a voice in land use decisions that affect their future and well-being. CEQA also requires government agencies to disclose and address proposed projects' displacement effects, growth-inducing impacts, and compatibility with locally-adopted land use plans, including housing elements. Weakening CEQA would further disempower these communities.

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<sup>4</sup> Association of Environmental Professionals, *CEQA and Housing Production* (2018), available at <https://tinyurl.com/ceqa-fn03>.

<sup>5</sup> BAE Urban Economics, *CEQA in the 21st Century: Environmental Quality, Economic Prosperity, and Sustainable Development in California* (2016), available at <https://rosefdn.org/wp-content/uploads/2016/08/CEQA-in-the-21st-Century.pdf>.

<sup>6</sup> BAE 2016 at pp. 28-41.

**CEQA helps California reach its climate change goals.** In the past two years, the effects of climate change have become ever more pronounced in California and the rest of the country. At the same time, the Trump administration has walked away from the nation’s climate commitments and worked to eviscerate environmental regulation of all kinds. This is not the time for our leaders in Sacramento to voluntarily weaken the state’s most powerful environmental law. Today, more than ever, it is essential that California stand strong in reducing greenhouse gas emissions and encouraging sustainable growth.

CEQA is a key tool for decision-makers and community members alike to ensure that new projects incorporate all feasible measures to reduce their contribution to climate change. CEQA also helps ensure that local land use decisions track the state’s climate goals and promote transit-friendly development. Weakening CEQA would undermine California’s leading role in combatting climate change.

**CEQA litigation is not a major threat to development in California.** CEQA keeps government officials accountable by allowing citizens to enforce the law. Yet multiple studies have shown that CEQA litigation rates are very low and have remained essentially unchanged over many years, even as the state’s population has grown dramatically. On average, only about 200 CEQA lawsuits are filed every year in the entire state;<sup>7</sup> in 2018, only 173 suits were filed.<sup>8</sup> Typically, less than one percent of projects subject to CEQA review face any kind of legal challenge.<sup>9</sup>

There is no litigation crisis when it comes to enforcing CEQA. Accordingly, there is no reason for the Legislature to consider weakening CEQA’s citizen enforcement provisions at developers’ behest.

**CEQA works to make development safer for Californians.** Despite constant attacks from special interests, CEQA is working. The law routinely results in projects that improve protections for public health and the environment. Examples abound:

- **CEQA protects public safety:** When a developer proposed to build luxury second homes near Lake Tahoe without any effective wildfire evacuation plan, CEQA ensured consideration of wildfire risk and safety.
- **CEQA reduces climate impacts:** In the San Diego region, CEQA required the County of San Diego to improve its climate action plan and has led the San Diego Association of Governments to consider alternatives that reduce car travel and increase public transit in the region.
- **CEQA protects natural resources:** When a luxury development threatened to convert some of the last remaining open space on the Orange County coast, the Supreme Court required the City of Newport Beach to address and mitigate impacts on sensitive coastal areas.
- **CEQA protects public health:** A study by BAE Urban Economics found that rigorous CEQA review did not hinder an affordable housing project in Richmond, but rather highlighted potential environmental problems early in the process, ultimately resulting in a better project that protected vulnerable residents from air pollution, toxic soil, and water contamination on the site.<sup>10</sup>
- **CEQA advances environmental justice:** At the Richmond Chevron refinery, CEQA required the oil giant to come clean about its plans to process dirtier crudes.

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<sup>7</sup> NRDC and California League of Conservation Voters, *CEQA – The Litigation Myth* (2013), available at <https://tinyurl.com/ceqa-fn02>.

<sup>8</sup> This number is based on data received from the California Attorney General’s Office.

<sup>9</sup> NRDC 2013.

<sup>10</sup> BAE 2016.

**CEQA should be preserved and strengthened, not weakened.** Strong environmental laws like CEQA ensure that California remains a healthy place to live, work, and visit. Our state enjoys vibrant cities, unrivaled natural areas, clean air and water, and a strong agricultural sector. All of these aspects of California’s way of life and economy are worth protecting—and CEQA has been key in doing just that. Californians should not be forced to make a false choice between affordable housing and a clean environment. We can—and must—have both.

Sincerely,

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Howard Penn, Executive Director, Planning and Conservation League

Gladys Limon, Executive Director, California Environmental Justice Alliance

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Janet Cobb, Executive Officer, California Wildlife Foundation/California Oaks

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Rebecca Spector, West Coast Director, Center for Food Safety

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Duncan McFetridge, Director, Cleveland National Forest Foundation

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Bridget Beytagh, Friends of Graton

Marian Dodge, President, Friends of Griffith Park

Michael Wellborn, President, Friends of Harbors, Beaches and Parks

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Katherine O'Dea, Executive Director, Save Our Shores

Stephen Green, President, Save the American River Association

Susan Britting, Executive Director, Sierra Forest Legacy

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Tom Mooers, Executive Director, Sierra Watch

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