

**Written Testimony of Sean B. Hecht for Little Hoover Commission:  
Hearing on the Effects of the California Environmental Quality Act (CEQA)**

Hearing Date: March 16, 2023

Testimony submitted March 14, 2023

*Since February 2023, I have served as the Managing Attorney of the California Regional Office of Earthjustice, a nonprofit public interest environmental law firm. From 2003 to January 2023, I was on the faculty at UCLA School of Law, serving most recently as the Co-Executive Director of the Emmett Institute on Climate Change and the Environment and the Evan Frankel Professor of Policy and Practice. In my work at UCLA, and in law practice (private practice and the California Attorney General's Office) prior to joining UCLA, I developed expertise in CEQA as both a practitioner and independent legal analyst. I'm grateful to the Commission for inviting me to address the important topic of CEQA. My comments are my own, and do not represent official positions of my employer or any of my former employers.*

CEQA requires cities, counties, other local government agencies, and state agencies to identify, analyze, and disclose the real public health, safety, and natural resource impacts of their actions, before they act to approve projects that might have a significant impact on the environment. CEQA also requires public agencies to consider comments from the public, other affected public agencies, and outside experts. And it requires them to mitigate significant impacts to the extent feasible.

CEQA has become a flashpoint for public criticism. We have all seen the horror stories in op-eds in our newspapers. But these stories tell us little about the actual consequences of CEQA's application. I'd like to provide some context that may not otherwise be part of this conversation, and to suggest that CEQA continues to have substantial value in today's environment—so we should be careful as we consider amendments and implementation changes that would dramatically change its scope, and we should anticipate both intended and unintended consequences of those changes before acting.

**CEQA Applies Broadly to a Range of Government Decisions, Including Industrial and Resource Extraction Projects, and Has Led to Better Public Health and Environmental Outcomes**

Because there is so much media focus on CEQA in the context of housing, many people are unaware of, or overlook, the breadth of types of projects to which CEQA applies, and the importance of the law's application to those projects. So, for example, CEQA applies to decisions to undertake oil extraction near where people live. It applies to decisions to build or expand port terminals. It applies to approve massive logistics centers that attract thousands of diesel truck trips each day. And it applies to many other industrial and commercial projects that do not involve housing. CEQA also applies to many other state and local agency actions through "certified regulatory programs"—for example, timber harvest permits and pesticide regulatory

decisions. CEQA has unquestionably improved public health and environmental outcomes in its application to these types of projects.<sup>1</sup>

CEQA requires government agencies to develop more, and better, information on impacts, and it motivates applicants and lead agencies to integrate environmental solutions and mitigation at the outset. Without CEQA, we'd know much less about cumulative pollution burdens on communities, the emissions from industrial and commercial projects, and much more—and those projects would have had substantially more significant environmental impacts on residents and resources throughout the state. CEQA also ensures that the political process is informed by stakeholders who are able to participate in the process. Ultimately, there's a long list of projects that have become models for how to mitigate impacts because of CEQA, including mitigation measures for industrial and commercial projects that have become state-of-the-art and would never have been identified, much less implemented, in the absence of CEQA's application.

### **CEQA Is Often the Primary Effective Legal Tool Available to Disadvantaged Communities to Protect Themselves from Pollution-Related Public Health Harms**

CEQA is often the primary, and sometimes the only, legal tool available to historically and currently disadvantaged communities to protect themselves from actual harm to their health and well-being. This is why so many environmental-justice advocacy organizations in the state support keeping CEQA in more or less its current form<sup>2</sup> and it's also why the California Attorney General's Environmental Justice Bureau uses it as its primary tool to protect communities.<sup>3</sup> CEQA is not just a way to protect "the birds and the bunnies," though there are certainly cases in which CEQA has literally been the only reason that a species has avoided extirpation by sprawl development. Nor is it just a way for wealthy communities to block anything from being built near them—though it's true that CEQA is one of many tools, including political influence, local zoning, and local discretionary decisionmaking more generally, that can be used that way. What is getting lost in the discussion is that CEQA is, in a range of situations, the only effective legal tool available for community health protection, GHG reduction, and addressing many

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<sup>1</sup> See, e.g., examples in Planning and Conservation League, *Everyday Heroes Protect the Air We Breathe, the Water We Drink, and the Natural Areas We Prize* (2005), available at [https://www.pcl.org/media/prior-c/CEQA-Everyday-Heroes-full\\_report.pdf](https://www.pcl.org/media/prior-c/CEQA-Everyday-Heroes-full_report.pdf); Rose Foundation, *CEQA: California's Living Environmental Law: CEQA's Role in Housing, Environmental Justice, & Climate Change* (2021), available at <https://rosefdn.org/ceqas-role-in-housing-environmental-justice-climate-change/>.

<sup>2</sup> See, e.g., Letter to Legislature and Governor RE: Keeping CEQA Strong to Protect Californians' Health and Environment (April 2, 2021), available at <https://www.pcl.org/media/prior-p/Pro-CEQA-letter-to-legislature-and-governor-April-2019-3.pdf>; California Environmental Justice Alliance, *Environmental and Housing Justice Platform* (2022), pp. 4-5, 8-9, 31, available at [https://calgreenzones.org/wp-content/uploads/2021/10/CEJA\\_GZ-EHJP-Full-Platform-Final.pdf](https://calgreenzones.org/wp-content/uploads/2021/10/CEJA_GZ-EHJP-Full-Platform-Final.pdf).

<sup>3</sup> California Office of the Attorney General, *Environmental Justice*, available at <https://oag.ca.gov/environment/justice> ("CEQA requires government agencies in California to consider potentially significant environmental impacts on communities already burdened with pollution when reviewing and permitting new projects. The Attorney General is particularly concerned that land use planning and permitting decisions consider and address any additional burdens on environmental justice communities," citing and linking to dozens of CEQA comment letters filed by the Attorney General aimed at protecting public health and reducing GHG and conventional pollutant emissions.)

other impacts, including developing innovative mitigation that would never have been considered in the absence of the law.

CEQA has been around for 50 years. But it's really only in the past two decades or so that community-based environmental justice advocacy groups—communities on the fencelines of oil refineries, other heavy industrial facilities, and oil wells, and near ports and traffic corridors—have gotten effective at using CEQA to protect their communities from health harms from industrial activity. It's notable that it's only in those decades, also, that calls for CEQA reform have gotten traction in the media and in policy circles.

Looking at air quality provides some insight into this use of CEQA: after decades of clean air legislation and implementation, our air quality—while far cleaner than before—is still among the worst in the country, especially in parts of the Central Valley and the Los Angeles region, and especially in specific neighborhoods near the fencelines of facilities and near roadways and other sources of pollution throughout the state. Our poor air quality leads to thousands of premature deaths and chronic health problems such as asthma. This is, as documented by researchers including my former UCLA colleague Ann Carlson, because the Clean Air Act was not designed to protect individual neighborhoods, even where those neighborhoods suffer dramatically poor environmental outcomes.<sup>4</sup> CEQA helps to address this gap, by requiring disclosure, analysis, and mitigation of actual impacts, including cumulative impacts – impacts that might result, for example, from a cluster of oil refineries or other heavy industry in a particular community.

For example, the Port of Los Angeles, before the early 2000s, had little regard for the environmental impacts of its operations. The approval of the China Shipping terminal posed a huge additional health risk to local communities, especially the neighborhood of Wilmington, sandwiched between the Port, multiple oil refineries, freeways, train yards, and oil extraction activities. It also provided a clear picture of how the Port had inadequately assessed or mitigated impacts of its operations, and an opportunity to seek real mitigation from the Port. The CEQA lawsuit filed against the City of Los Angeles by community groups and environmental advocates proved to be a turning point: the Port, from the settlement of that case forward, committed to mitigating impacts in specific ways that helped the community.<sup>5</sup> (Unfortunately, the Port was found to have not lived up to its obligations under that agreement, necessitating another recent round of successful CEQA litigation and new remedies—again, demonstrating the value of the law as an agent for change.)<sup>6</sup> Similarly, recent settlements of CEQA cases involving large warehouses with diesel trucks, in Fontana and in Moreno Valley among other places, resulted in significant operational changes that not only protected nearby communities,

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<sup>4</sup> Ann E. Carlson, The Clean Air Act's Blind Spot: Microclimates and Hotspot Pollution 65 UCLA Law Review 1036 (2018), available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3228715](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3228715); California OEHHA, CalEnviroScreen 4.0, <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40> (including mapping tools showing cumulative pollution impacts on communities in California).

<sup>5</sup> Deborah Schoch, Port Project Suit Settled, Los Angeles Times (March 6, 2003), <https://www.latimes.com/archives/la-xpm-2003-mar-06-me-port6-story.html>

<sup>6</sup> Donna Littlejohn, Judge rules LA port violated state environmental law in 2-decade battle over China Shipping Terminal, Daily Breeze (March 13, 2022), <https://www.dailybreeze.com/2022/07/13/judge-rules-la-port-violated-state-environmental-law-in-2-decade-battle-over-china-shipping-terminal/>.

but also moved the state of the art in the trucking industry towards clean operations.<sup>7</sup> There are many such cases.<sup>8</sup>

The Clean Air Act and other regulatory requirements imposed on a new or upgraded oil refinery or large trucking logistics center do not, and cannot, guarantee that people won't be harmed by those facilities' pollution. These laws and associated regulations also don't come close to moving the needle on new technology adoption to address emissions on a large scale. Nor do these other laws educate the public about those industrial facilities' potential to harm people's health. Nor do they consider how the facility may compound existing environmental and health problems. Nor do they require mitigation of those impacts. Without CEQA, decisionmakers and the public would lack important information that describes and quantifies these impacts when they decide whether to allow yet another new facility or upgrade that would raise pollution levels, as well as important opportunities for mitigation, including adoption of new technology.

Do we really want government officials to lack basic information about the potential health impacts on local communities from building a proposed new factory, massive trucking depot, harbor terminal, or oil refinery upgrade, and to require mitigation for those impacts? Whatever one thinks of CEQA, it's the primary tool we have for ensuring that these factors are considered and the impacts are mitigated.<sup>9</sup>

### **CEQA Has Served as an Essential Tool to Address Threats to Biodiversity, Forests, and Water Supply in California**

CEQA, of course, also protects values and resources besides those directly linked to human health and well-being. Among these values and resources are our state's remarkable diversity of species and habitat types, its forested lands, and its fragile water supply. CEQA provides a unique and crucial tool to require identification of threats to sensitive species and develop mitigation, especially for projects far from urban cores. Freight logistics centers and oil, timber, and mineral extraction activities, along with sprawl housing and other types of projects, have all incorporated significant species mitigation as a direct result of CEQA review, which requires expert input from the California Department of Fish and Wildlife as well as incorporating comments from experts outside the government. Forested lands in the Headwaters Forest in

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<sup>7</sup> Earthjustice, Southern California Mega-Warehouse Will Heavily Electrify Operations, <https://earthjustice.org/press/2021/southern-california-mega-warehouse-will-heavily-electrify-operations-per-landmark-agreement-worth-up-to-47> (detailing World Logistics Center Project settlement); California Office of the Attorney General, Attorney General Bonta Announces Innovative Settlement, <https://oag.ca.gov/news/press-releases/attorney-general-bonta-announces-innovative-settlement-city-fontana-address> ("Today's settlement required the City of Fontana to adopt the most stringent warehouse ordinance in the state with dozens of new requirements for warehouse projects in its jurisdiction. These include site designs to keep trucks away from sensitive sites such as schools, hospitals, and day cares, promotion of zero-emission vehicles for on-site operations, landscaped buffers, installation of solar panels to meet 100% of energy needs for larger warehouse projects, and use of environmentally friendly building materials. The ordinance also includes a number of provisions to boost economic development and protect the health and safety of construction laborers, warehouse workers, and truckers.")

<sup>8</sup> Rose Foundation, *supra* note 1, at pp. 77-93.

<sup>9</sup> See examples cited in California Green Zones, CASE STUDIES: The California Environmental Quality Act (CEQA), <https://calgreenzones.org/ceqa-case-studies/>

Humboldt County<sup>10</sup> and Martis Valley in a high-wildfire-risk area in the Tahoe region<sup>11</sup>, among many other areas, have been saved and enhanced through CEQA review. Finally, CEQA has also protected our water supply in concrete and important ways—for example, CEQA review has prevented the private bottling of hundreds of millions of gallons of spring water from the McCloud River watershed over 50 years, saving both public water supply and important habitat in a well-regarded recreational trout fishing area.<sup>12</sup> In a world without environmental review, our state’s unique and fragile resources would be far less protected.

### **CEQA’s Relationship to Housing Is Far More Nuanced and Complex Than Its Critics Suggest**

I now want to address housing, which is what dominates the CEQA conversation these days. We need to build more, denser housing in existing communities. And some communities—especially some affluent ones—are making it really hard to do that. They use a lot of tools to do that, including local zoning and the discretion that local governments have traditionally had over land use approvals.<sup>13</sup> CEQA is among those tools. But there is plenty of sound empirical research—some of which you’ll hear about later this morning—to suggest that CEQA is not at all the major player in these efforts to limit housing, especially dense housing in existing communities.<sup>14</sup> Moreover, the recent enactment of laws that limit local discretion over housing, or provide streamlined environmental review processes, is already having an impact on housing and is providing tools to address these challenges. Finally, CEQA’s actual impact on housing is complex and not limited to the impacts on new housing that are widely-circulated, but also include other dynamics that may support existing housing as well as new density.

While you will certainly hear, in these hearings, some bad stories about CEQA’s impact on housing, including (I expect) some other empirical research results that appear to suggest that CEQA’s primary impact is to make it impossible to build denser housing in existing communities, that research is fundamentally unsound and mostly not better than anecdotes. Back in 2015, when the first Holland and Knight report was released purporting to analyze trends in CEQA review and litigation, I pointed out that the report’s breathless and harsh conclusions were simply not supported by the evidence. That continues to be the case. Unpacking their data and assumptions reveals, most significantly, that their claim that most projects targeted by CEQA

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<sup>10</sup> Darren F. Speece, From Corporatism to Citizen Oversight: The Legal Fight over California Redwoods, 1969–1999, 13 Cal. L. History J. 57 (2018), available at <https://www.cschs.org/wp-content/uploads/2018/02/Legal-Hist-v-13-Environ-Law-Articles-Corporatism.pdf>.

<sup>11</sup> Tahoe conservationists score major court victory over Martis Valley Development, Tahoe Daily Tribune (February 5, 2022), <https://www.tahodailytribune.com/news/tahoe-conservationists-score-major-court-victory-over-martis-valley-development/>.

<sup>12</sup> CEQA Workd, Protecting the Pristine McCloud River Neave Mount Shasta, <https://ceqaworks.org/protecting-the-pristine-mccloud-river-near-mount-shasta/>.

<sup>13</sup> Huntington Beach lawsuit link from AG

<sup>14</sup> Rose Foundation, supra note 1, at pp. 29-36; Moira O’Neill, Giulia Gualco-Nelson, & Eric Biber, Developing Policy from the Ground Up: Examining Entitlement in the Bay Area to Inform California’s Housing Policy Debates, 25 Hastings Environmental Law Journal 1, at 72-78, available at [https://repository.uchastings.edu/cgi/viewcontent.cgi?article=1560&context=hastings\\_environmental\\_law\\_journal](https://repository.uchastings.edu/cgi/viewcontent.cgi?article=1560&context=hastings_environmental_law_journal)

lawsuits are “infill development”—a claim repeated over and over in media—simply does not hold up to scrutiny.<sup>15</sup>

The reports define infill projects as “private and public sector projects located entirely within one of California’s 482 cities, or located immediately adjacent to existing developed areas in an unincorporated county.”<sup>16</sup> This means those papers consider any project, of any type, located within the boundaries of any California city, or next to development outside a city, to be an “infill project.” Under this definition, it is unsurprising that most CEQA cases would involve “infill.” In fact, it would be surprising if any significant number did not! The definition they used resulted in, for example, or example, a Wal-Mart in Milpitas to be classified as “infill” in their 2015 report, along with housing in Chandler Ranch, a development in suburban Rolling Hills Estates that included 114 single-family luxury homes plus a new golf course and clubhouse for the Rolling Hills Country Club.<sup>17</sup> The reports’ analysis of CEQA’s impact on infill development is thus so flawed as to be useless. By contrast, CEQA itself uses a more nuanced definition of “infill”—a definition that itself may be overinclusive, since it could include very large homes on very large lots in exurban or suburban areas, but which is much more bounded than the definition used in these reports.<sup>18</sup>

One thing is certainly true: CEQA provides a citizen check on government action, backed up by the potential for environmental advocacy groups or others to file a lawsuit seeking to vacate a project approval if the environmental review is inadequate. Unsurprisingly, this dynamic—which, in practical terms, can give communities a seat at the table to influence decisionmaking—can be frustrating to project proponents and government agencies that want to get their projects built quickly and easily, regardless of the environmental and health tradeoffs. But at the same time, there are also many thousands of projects each year that local governments find to be exempt from CEQA, based on established exemptions—including new exemptions that have been developed within the past decade that have applied to many thousands of new housing units as well as many other projects.<sup>19</sup> Within this framework, the vast majority of projects don’t get challenged by anyone at all.<sup>20</sup> And looking at how CEQA applies to housing in many parts of the state, we should ask whether we would truly prefer that

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<sup>15</sup> Sean B. Hecht, *Anti-CEQA Lobbyists Turn to Empirical Analysis, But Are Their Conclusions Sound?* (September 28, 2015), <https://legal-planet.org/2015/09/28/anti-ceqa-lobbyists-turn-to-empirical-analysis-but-are-their-conclusions-sound/>

<sup>16</sup> Jennifer Hernandez et al., *In The Name of the Environment*, available at [https://issuu.com/hollandknight/docs/ceqa\\_litigation\\_abuseissuu](https://issuu.com/hollandknight/docs/ceqa_litigation_abuseissuu)

<sup>17</sup> See these geographical links for the setting of the [Wal-Mart in Milpitas](#) and the [Rolling Hills Country Club](#), where Chandler Ranch was sited.

<sup>18</sup> Pub. Res. Code § 21061.3 (“Infill site” means a site in an urbanized area that meets either of the following criteria: (a) The site has not been previously developed for urban uses and both of the following apply: (1) The site is immediately adjacent to parcels that are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses and the remaining 25 percent of the site adjoins parcels that have previously been developed for qualified urban uses. (2) No parcel within the site has been created within the past 10 years unless the parcel was created as a result of the plan of a redevelopment agency. (b) The site has been previously developed for qualified urban uses.)

<sup>19</sup> Rose Foundation, *supra* note 1.

<sup>20</sup> *Id.*

our elected and appointed officials be in the dark about wildfire risk or water supply risk of building a new community in a remote location.

This is not to say that CEQA has no flaws, or is not sometimes used in counterproductive ways; there may well still be ways that CEQA can be improved to ensure it doesn't impede building the housing we need. But it's crucial to understand what the trade-offs actually are, and to avoid unintended consequences out of zeal to "fix" CEQA. Also, we have developed many statewide and local tools to streamline CEQA review, including SB 35/Govt. Code 65913.4's complete CEQA exemption for qualifying affordable housing projects, SB 330's Housing Crisis Act (Govt. Code 66300 et seq.), amendments to the Housing Accountability Act (Govt. Code 65589.5), SB 9 and SB 10, and many other laws including local ordinances like Los Angeles's Transit-Oriented Communities program<sup>21</sup>. These laws appear to be working already—even laws passed as recently as the last legislative session—to create more housing. Thousands of units have been built or are being built in my city, Los Angeles, mostly near transit, without CEQA incident.<sup>22</sup>

In 2023, the Attorney General both is using these laws to push local governments to build more housing (see the just-filed lawsuit against the City of Huntington Beach)<sup>23</sup> and also enforcing CEQA where it can, through comment letters and, occasionally, litigation (sometimes in tandem with private lawsuits), to protect public health and reduce GHGs.<sup>24</sup> These comments and lawsuits have been aimed at local government planning documents, warehouses and logistic centers, port complexes, and others. This is because CEQA is the best, and sometimes the only, tool available to protect public health from industrial uses, require local governments to consider GHG impacts of sprawl development, and protect the environment in other ways. The caricature of CEQA as working as the major force to prevent housing is far from the whole picture, given the complex market forces, local government priorities and political decisions, and other dynamics in play. It is local government priorities, not CEQA, that have caused housing not to be built in the City of Huntington Beach, provoking the Attorney General's lawsuit against that city—and this is true throughout the state.

CEQA has also operated at the planning level to drive local government climate action to spur better urban policy, including incorporating housing density and transit into local government planning in an era when few governments were moving forward on those efforts. In 2007, a CEQA settlement established the state of the art for local climate action planning as the Attorney General reached a landmark settlement with San Bernardino County requiring it to incorporate GHG emissions reductions into its general plan, including a greenhouse gas inventory, emissions reduction target, and plan for achieving those reductions through land use determinations and other County actions.<sup>25</sup> This settlement resulted in many more local

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<sup>21</sup> City of Los Angeles, Housing Progress Dashboard, <https://planning.lacity.org/resources/housing-reports>

<sup>22</sup> Id.

<sup>23</sup> California Office of the Attorney General, California Sues Huntington Beach For Violating State Housing Laws, <https://www.gov.ca.gov/2023/03/09/california-sues-huntington-beach-for-violating-state-housing-laws/>

<sup>24</sup> California Office of the Attorney General, Environmental Justice, available at <https://oag.ca.gov/environment/justice>

<sup>25</sup> California Office of the Attorney General, Brown Announces Landmark Global Warming Settlement, <https://oag.ca.gov/news/press-releases/brown-announces-landmark-global-warming-settlement>

governments developing climate action plans and similar tools to drive density and transit, which up until then had been adopted only by a handful of jurisdictions.

Finally, I'd like to make one other crucial point about housing: in many situations, the most accessible, affordable housing is the housing that already exists within low-income communities. Here, again, CEQA operates in a way that may be counterintuitive to those who have only heard one set of stories. One example, which I'm familiar with because of work my colleagues at Earthjustice are doing, is the Inland Valley Development Agency's San Bernardino Airport Gateway Specific Plan. This project is projected by its proponents to result in demolition of at least 760 residential units, and would cause as many as 2500 residents to lose their housing, which would be replaced by millions of feet of commercial development and hotel rooms.<sup>26</sup> These housing units—places where people live, today, and have lived for decades in some cases—are not being lost because of CEQA; to the contrary, CEQA is a tool that may enable those residents, and others concerned about the displacement, to have a voice to address the negative impacts of demolishing this housing. This situation is just one of many in which commercial development pressure, and not CEQA, is threatening existing affordable housing—while CEQA may be a tool to help facilitate the solution. Any consideration of the impact of CEQA on housing should take this dynamic into account.

### **Some CEQA Reform Efforts in the Housing Context Have Been, and Continue to Be, A Stalking Horse for Weakening CEQA's Protections in Other Contexts**

I also am convinced, and concerned, that support for CEQA reform in the housing context is being leveraged by interest groups that support wholesale gutting of CEQA as applied to industrial, commercial, and resource extraction projects. Way back in 2012, some of the same backers of CEQA reform you'll hear from today supported a bill, SB 317<sup>27</sup>, that would have effectively eliminated CEQA's requirement to analyze and mitigate impacts in a wide range of cases, and instead would require governments to demonstrate only that they have complied with existing standards and plans, period. CEQA would have become an exercise in checking-the-box to certify the project would meet Clean Air Act and other standards.

The presumption that projects that meet specified standards, or comply with other laws, might be considered to have insignificant impacts, or should be exempt even if they have significant impacts, may be an attractive one superficially. It sounds good, doesn't it? We have a lot of existing laws, and one would think that compliance with those laws would make sure our natural resources and public health are protected. But on closer examination, this type of change (including providing "safe harbors" where CEQA review doesn't need to actually analyze and mitigate impacts if standards are met, or where there is no enforcement mechanism if standards are met) pulls out bricks from the foundation of the edifice of CEQA review—and will cause the law to be ineffective at the basic tasks that it ought to be serving. As discussed above, existing laws cannot and do not fully address the impacts of projects.<sup>28</sup>

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<sup>26</sup> Inland Valley Development Agency, Airport Gateway Specific Plan Draft EIR (2022) at p. 50, available at <https://cityofhighland.org/DocumentCenter/View/2685/Draft-Plan-dated-June-2022-PDF>.

<sup>27</sup> Josh Stevens, California Development and Planning Report, Lawmakers Reject Major CEQA Reform (August 23, 2012), <https://www.cp-dr.com/articles/node-3254>.

<sup>28</sup> Ann E. Carlson, The Clean Air Act's Blind Spot: Microclimates and Hotspot Pollution

Significantly, the 2012 effort, championed then by some of today’s self-styled reformers, would not have targeted housing, or renewable energy, or transit, or other “good things” for CEQA streamlining at all; rather, it would have broadly applied its “safe harbor” provisions to industrial and resource extraction projects as well, making compliance with other laws the end-all of CEQA and rendering environmental review functionally meaningless. While that effort didn’t succeed, we should be very wary of a resurgence of attempts to use housing as the rationale for CEQA reforms that are in no way targeted just at housing. By contrast, as discussed above, we have seen successful statewide legislation, as well as local government policy, that actually facilitates building of more and denser housing, and that new policy appears to be working in many areas.

### **California Has Sustained Unprecedented Economic Growth, As Well as Multiple Housing Boom and Bust Cycles, Since CEQA’s Enactment**

Finally, I want to highlight the remarkable economic growth California has sustained, specifically, in the decades since CEQA was enacted, as well as the ways California’s challenges mirror challenges in other states with comparably large, attractive urban and suburban communities. California has had spectacular growth, including the development of the Silicon Valley industries, despite a national trend of deindustrialization over many decades that has nothing to do with environmental review statutes. There is far more use of exemptions and much more streamlining today under new laws and guidelines—and there are no more lawsuits annually—than in the decades when the state was sustaining incredible economic growth across multiple industries and building more housing. Moreover, California’s well-known lack of housing affordability mirrors challenges in other extraordinarily tight housing markets—and though that challenge has increased dramatically, that increase is similar to what we see in other regions, again in ways that are not correlated with different use of CEQA than in prior decades, and instead generally reflect cyclical trends in housing.<sup>29</sup>

### **Conclusion**

Thank you for the opportunity to provide this testimony. I am confident the Commission will consider carefully the consequences, positive and negative, of any proposed reforms to CEQA as it develops recommendations.

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65 UCLA Law Review 1036 (2018), available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3228715](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3228715); California OEHHA, CalEnviroScreen 4.0, <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40> (including mapping tools showing cumulative pollution impacts on communities in California).

<sup>29</sup> Rose Foundation, *supra* note 1, at pp. 29-61.