



*Sent via Email to cob@co.humboldt.ca.us,*

Date: December 11, 2025

To: Humboldt County Board of Supervisors  
Supervisor Mike Wilson, Chair  
Tracy Damico, Clerk of the Board  
825 5th Street, Eureka CA, 95501

CC: Director Ford, Planner Acevedo

From: Environmental Protection Information Center (EPIC) and Coalition for Responsible Transportation Priorities (CRTP)

Agenda Item: Humboldt Regional Climate Action Plan and CEQA GHG Emissions Thresholds

**Re: Please Restore The Originally Recommended CEQA GHG Thresholds of Significance, Clarify Infill Standards, & Approve the RCAP**

I. Introduction & Summary

The Environmental Protection Information Center (EPIC) is a 501(c)3 environmental nonprofit based in Arcata, California. EPIC has been defending the North Coast of California's forests, rivers, and wildlife since 1977. EPIC believes that mitigating climate change is absolutely essential to our mission as climate change poses a significant threat to North Coast ecosystems. The Coalition for Responsible Transportation Priorities (CRTP) is a 501(c)3 nonprofit focused on transportation safety, equity, and sustainability, and advocates for a transition to a zero-carbon transportation system.

A Climate Action Plan provides the scientific and policy foundation for: (1) Establishing a clear baseline of county-wide emissions; (2) Identifying feasible greenhouse gas (GHG) reduction strategies; (3) Aligning County policy with state climate laws; and (4) Determining project-level consistency with statewide GHG reduction trajectories. For that reason, it is essential that the RCAP be effectively designed to positively influence future development in Humboldt County.

While EPIC and CRTP support the adoption of the RCAP, two issues must be addressed first: setting an appropriate greenhouse gas threshold of significance, and clarifying infill development standards.



a. The RCAP Should Utilize the CEQA GHG Emissions Thresholds Recommended by Rincon

A significant change was made to the plan at the October 16th Humboldt County Planning Commission meeting that must be undone. The Planning Commission, on a 3-2 vote on this particular subject, recommended that the California Environmental Quality Act (CEQA) greenhouse gas (GHG) thresholds of significance be raised 50% above the level recommended by Rincon Consultants, Inc. (Rincon), the consultants hired by the County to write the RCAP. This change would allow projects to generate 50% more GHG emissions before that would be considered a significant environmental impact under CEQA. The RCAP allows future projects to tier to the CEQA GHG analysis in the RCAP EIR if the project's GHGs are below this threshold of significance.<sup>1</sup> That means the RCAP could inadvertently streamline projects that cause significant climate pollution – contrary to the entire purpose of the RCAP. Importantly, Rincon stated in their analysis that a higher CEQA GHG emission threshold would “allow for higher GHG emissions from development than is necessary with existing development techniques and equipment.”<sup>2</sup> Rincon based this statement on an analysis of the emission reduction strategies and thresholds adopted in other communities in California.<sup>3</sup> So, arguments that the proposed threshold would stifle development are without merit. Furthermore, adopting the recommended, stricter threshold would “better position Humboldt for an efficient pathway to achieve the long-term 2045 target and align with GHG emissions thresholds seen throughout the State.”<sup>4</sup> Instead of building projects today that emit more GHG emissions than is necessary with existing techniques and then having to retrofit those projects before 2045 to meet our net zero goal, the Humboldt Region should use CEQA GHG thresholds that encourage climate smart development starting now and moving forward.

The Planning Commission's change to the CEQA GHG thresholds was not supported by substantial evidence, conflicts with state climate mandates and net zero goal, undermines the County's planning integrity, and violates CEQA, exposing the County and future projects approvals to significant litigation risk. We ask the Board of Supervisors to undo this change and restore the original CEQA GHG thresholds of significance before approving the RCAP.

b. The Board of Supervisors Should Clarify the Definition of Infill Development Used in The RCAP

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<sup>1</sup> *California Environmental Quality Act Greenhouse Gas Emissions Thresholds and Guidance: Final Report*, Humboldt County, October 2025 at 24 available at <https://humboldt.legistar.com/View.ashx?M=F&ID=14853144&GUID=E248B4C9-7C5D-4F7C-B5E6-A4FC238C8204>

<sup>2</sup>Id at 30

<sup>3</sup> Id at 30-31.

<sup>4</sup> Id at 31.



A new definition of infill development was also added to the RCAP just prior to its consideration by the Planning Commission. The vagueness of this definition and the resulting confusion at the Planning Commission hearing result in a need for clarification by the Board of Supervisors in order to ensure that the RCAP includes a land use measure backed by substantial evidence that will reduce carbon emissions from transportation. Instead, we recommend using a version of the regulatory definition of infill found at CEQA Guidelines Section 15332. We ask the County must be totally clear that rural housing subdivisions and commercial development do not qualify as infill under the RCAP, and therefore will not qualify for CEQA streamlining.

II. The Original CEQA GHG Thresholds Of Significance Were Supported By Substantial Evidence as Required for Thresholds of Significance

Cal. Code Regs. tit. 14, § 15064.7(b) requires that thresholds of significance (1) Be supported by substantial evidence; (2) Be adopted through a public review process; and (3) Reflect the level at which the lead agency finds the environmental effect to be significant. Cal. Code Regs. Tit. 14, § 15064.7(c) further clarifies “[w]hen adopting or using thresholds of significance, a lead agency may consider thresholds of significance previously adopted or recommended by other public agencies or recommended by experts, provided the decision of the lead agency to adopt such thresholds is supported by substantial evidence.”

Cal. Code Regs. Tit. 14, § 15384(a) defines substantial evidence as “enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.” However, “[a]rgument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.” Cal. Code Regs. Tit. 14, § 15384(a) Furthermore, substantial evidence must be “credible,” “reasonable,” and based on facts, not mere speculation or unsubstantiated opinion. (Guidelines §15384(a), (b).)

Courts have further clarified that substantial evidence must be found in the administrative record and cannot be supplied after the fact. In *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* 40 Cal.4th 412, 442, (2007) the California Supreme Court explained that CEQA requires “adequacy, completeness, and a good-faith effort at full disclosure,” meaning that agencies must rely on evidence that logically supports their conclusions. Similarly, *North Coast Rivers Alliance v. Kawamura* 243 Cal.App.4th 647, 668 (2015) emphasizes that substantial evidence must consist of actual data and analysis, not assertions or assumptions. California courts treat CEQA GHG thresholds with particular scrutiny



because they must align with state climate mandates including SB 32 (Health & Saf. Code § 38566), Gov. Exec. Order B-55-18, and CEQA Guidelines, Appendix G which requires evaluation of consistency with state climate goals. In *Golden Door Properties, LLC v. Cnty. of San Diego*, 50 Cal. App. 5th 467 (2020) the Court of Appeal struck down a GHG methodology because San Diego County (1) failed to provide technical support for its significance approach; (2) relied on unsupported assumptions; and (3) could not show consistency with statewide climate targets. Together, these authorities establish that CEQA decisions, including the adoption of significance thresholds, must be grounded in a robust evidentiary foundation that demonstrates reasoned, fact-based decision-making.

Rincon calculated the GHG thresholds based on other communities across the State of California and the thresholds these communities are setting in their Climate Action Plans.<sup>5</sup> Rincon also found that adopting higher GHG thresholds would “allow for higher GHG emissions from development than is necessary with existing development techniques and equipment.”<sup>6</sup> This means Humboldt can use existing development techniques and equipment to meet the thresholds originally proposed by Rincon. Rincon’s analysis and recommended thresholds are supported by substantial evidence. Arguments that Humboldt cannot accomplish these targets are not supported by the analysis conducted by Rincon.

III. Adopting the recommended CEQA GHG Thresholds of Significance Sets Humboldt Up For Success Meeting the State Mandated 2045 Net Zero Goal

AB 1279 (2022) is now a central pillar of California’s climate policy and directly shapes how local agencies, including Humboldt County, must approach climate action planning under CEQA. Codified at Health & Safety Code §§38561.2 and 38561.3, AB 1279 requires the state to achieve carbon neutrality no later than 2045 and to attain and maintain net-negative emissions thereafter, while also mandating steep interim reductions. Because CEQA significance thresholds and Climate Action Plans must be supported by substantial evidence and aligned with statewide GHG reduction mandates, local agencies cannot adopt thresholds or strategies that are inconsistent with the statutory 2045 carbon-neutrality target. Courts have recognized that state climate laws establish the analytical framework within which local CEQA decisions must operate, particularly for GHG mitigation and consistency determinations. Thus, AB 1279 requires Humboldt County to ensure that its selected CEQA GHG thresholds, reduction measures, and planning assumptions are fully aligned with California’s legally binding decarbonization trajectory.

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<sup>5</sup>Idat 30-31.

<sup>6</sup>Id at 30.



County staff indicated at the Planning Commission meeting on October 16th that the 50% higher CEQA GHG thresholds would still allow Humboldt to meet the 2030 goal of 40% below 1990 levels. This is supported by Rincon’s analysis.<sup>7</sup> However, these significantly higher thresholds would make it more difficult for Humboldt to meet the 2045 net zero goal, because they would unnecessarily streamline development that emits more GHG emissions than current technologies and development practices allow us to mitigate. That means that these projects, built between 2026 and 2030, would have to be retrofitted after 2030 to be in line with the State’s 2045 goal.<sup>8</sup> This will come at considerable unnecessary expense to developers or the County. It is more cost effective to build projects that use currently available technologies to meet the 2045 goal today rather than retrofit projects in 4 years in order to utilize what Rincon characterized as “existing development techniques and equipment.”

IV. The Planning Commission’s Decision Was Not Based on Relevant Consideration & Therefore Violates CEQA

A CEQA significance threshold must reflect the point at which an impact becomes environmentally significant — not the point at which regulations become politically or economically inconvenient. Cal. Code Regs. Tit. 14, § 15384(a) specifically states “evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.” Instead courts have repeatedly emphasized that thresholds must be grounded in science and substantial evidence. In *Communities for a Better Environment v. California Resources Agency* 103 Cal.App.4th 98, 111–114, (2002) the court struck down standards that would have allowed agencies to “mask or minimize” significant impacts, holding that CEQA significance criteria must meaningfully disclose when harm occurs. Likewise, *Berkeley Keep Jets Over the Bay v. Board of Port Comm’rs*, 91 Cal.App.4th 1344, 1355–1358, (2001) explains that significance determinations must rest on reasoned, evidence-based methodology, not policy-driven attempts to avoid mitigation. Finally, *Lotus v. Department of Transportation*, 223 Cal.App.4th 645, 656, (2014) confirms that economic or political considerations cannot replace CEQA’s evidence-based inquiry into environmental effects. These cases make clear that significance thresholds must reflect environmental reality—not political preference. A CEQA GHG threshold must be a scientific tool for measuring environmental harm, not a mechanism for weakening environmental review to support economic development. CEQA does not permit such an approach when setting thresholds of significance.

Several Planning Commissioner comments during their October 16th meeting indicated that they voted to increase the GHG thresholds because they were worried that too low a

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<sup>7</sup>Id at 34.

<sup>8</sup>Id at 30-31.



threshold would stymie economic development, not that they believed that the recommended threshold was not supported by substantial evidence. The following are some selected quotes from the Planning Commission deliberation at the October 16th meeting:

“I think that most contractors are already doing as much as they can, you know, afford to do... unless there is an incentive... because if not, how are they going to do it unless they have a grant.” [Peggy O’neil 1:40:09- 1:40:41]<sup>9</sup>

“Wealth here is not a condition of whether or not we approve CEQA [Jerome Qirazi 1:42:46-1:42:49] “But it’s certainly a condition of whether or not we can afford to buy a house and conditioning, our meeting our thresholds on the backs of future development, again, comes back to the cost of housing. So that’s my concern.” [Iver Skavdal 1:42:49-1:43:21]<sup>10</sup>

“I don’t want to shut off future development any more than it’s, you know, any more constraints than it already has. So that’s, I’m just trying to find the right balance there. [Iver Skavdal 1:44:14-1:44:20] “You’re already looking at costs for 500 to \$1,000 a square foot if you get into commercial. And so if you say, but we want you to do more, the people aren’t going to build anything.” [Peggy O’Neil 1:44:20-1:44:33]<sup>11</sup>

These conversations indicate that the Planning Commission was impermissibly considering the potential economic effects of the CEQA GHG thresholds, not whether they were supported by substantial evidence. Remember, Cal. Code Regs. tit. 14, § 15064.7(b) requires that thresholds of significance (1) Be supported by substantial evidence; (2) Be adopted through a public review process; and (3) Reflect the level at which the lead agency finds the environmental effect to be significant. The Planning Commission failed to satisfy all 3 of these requirements in their decision to raise the thresholds of significance.

The first requirement they violated is that the threshold “reflect the level at which the lead agency finds the environmental effect to be significant.” Here, the Planning Commission considered the level at which they believed the threshold would allow additional intensive GHG development. None of the criteria allow a lead agency to raise a threshold out of concern that environmental protection may slow economic development as was the case at the Planning Commission meeting. The California Supreme Court has affirmed that CEQA thresholds must be objectively related to environmental significance not economic concerns or other policy choices. *Cal. Bldg. Indus. Ass’n v. Bay Area Air Quality Mgmt. Dist.*, 62 Cal. 4th 369, 382–83 (2015) (“CBIA v. BAAQMD”). In that case, the California Supreme Court explicitly did not permit

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<sup>9</sup> Recording of the October 16, 2025 Humboldt County Planning Commission Meeting available at [https://humboldt.granicus.com/player/clip/2123?view\\_id=5&meta\\_id=509300&redirect=true](https://humboldt.granicus.com/player/clip/2123?view_id=5&meta_id=509300&redirect=true)

<sup>10</sup> Id.

<sup>11</sup> Id.



agencies to substitute policy preferences for evidentiary support. The Planning Commission rationale—concerns that lower thresholds “shut off future development”—is precisely the type of unsupported, conclusory economic assertion that courts routinely reject.

The second requirement they violated was the need to rely on substantial evidence. Even if the County wanted to rely on economic concerns for increasing the thresholds those would also have to be supported by substantial evidence. California courts consistently hold that economic concerns may only be considered when supported by substantial evidence, and cannot substitute for environmental analysis. “Bare or conclusory economic assertions do not constitute substantial evidence.” *Flanders Foundation v. City of Carmel-by-the-Sea*, 202 Cal. App. 4th 603, 615–16 (2012). In general, CEQA determinations cannot rely on speculation or assumptions. *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*, 40 Cal. 4th 412, 442 (2007). If an agency wants to make a claim that an action is economically infeasible that claim has to be supported by substantial evidence in order to be lawful. *Preservation Action Council v. City of San José*, 141 Cal. App. 4th 1336, 1356–57 (2006) Here, the Planning Commission’s economic analysis (which they relied on to raise the thresholds) was not based on substantial evidence and therefore violates CEQA.

Finally, the Commission violated the requirement to use an adequate public review process because the CEQA threshold they selected (50% above what was recommended by Rincon) was not analyzed in the RCAP or in the EIR. That meant that the public was not adequately consulted and there was not an adequate public review process of these higher thresholds.

V. The Planning Commission’s Decision Will Have A Substantial Environmental Impact That Was Not Considered in the EIR and Therefore Violates CEQA.

At the Board of Supervisors meeting on December 16th, not only will the Board vote to approve the RCAP be, but it will also vote to certify the Environmental Impact Report (EIR) for the RCAP. That EIR considered the environmental impact of a “project” that included the RCAP which relies on the thresholds of significance recommended by the consultants. The RCAP relies on those thresholds of significance because implementation of the RCAP includes streamlining future projects that do not meet the thresholds of significance identified. There were opportunities in the EIR for the RCAP to consider alternatives to the project and one of those alternatives could have been to utilize 50% higher CEQA GHG thresholds. However, the RCAP EIR did not analyze this alternative because it was not proposed until extremely late in the development of the RCAP. That means that Humboldt County has not meaningfully analyzed the GHG impacts of allowing the RCAP to streamline additional GHG intensive



development under the higher thresholds adopted by the Planning Commission. As discussed above, this was done without adequate justification.

Lead agencies cannot select or revise thresholds of significance in a way that reduces environmental protection without justification. Courts have repeatedly held that agencies must demonstrate, with substantial evidence, that a chosen threshold meaningfully informs whether a project may cause a significant impact. *Communities for a Better Environment v. California Resources Agency*, 103 Cal.App.4th 98, 114-118 (2002) invalidated CEQA Guideline amendments that would have allowed agencies to mask significant impacts, emphasizing that significance determinations cannot be weakened without analysis. Likewise, *Berkeley Keep Jets Over the Bay v. Board of Port Comm'rs*, 91 Cal.App.4th 1344, 1355–1358 (2001) underscores that agencies must base significance determinations on reasoned, evidence-based methodology, not policy preferences. And in the GHG context, *Cleveland National Forest Foundation v. SANDAG*, 3 Cal.5th 497, (2017) confirms that agencies must meaningfully evaluate climate-related impacts using evidence-based thresholds.

Here, Humboldt has not meaningfully evaluated the climate related impacts of increasing the thresholds by 50% above the level recommended by Rincon and analyzed in the EIR. The County put forward no analysis that increasing the GHG thresholds by 50% would not have a significant environmental impact. Nor did the County put forward any analysis that meeting the thresholds proposed by Rincon was infeasible. Instead, the County's presentation and discussion at the Planning Commission indicated that this change was proposed primarily to ease GHG intensive development. Adopting these higher thresholds of significance for this reason, without any evidence supporting it, would contravene CEQA caselaw as well as CEQA's core requirement of informed, evidence-based decision-making.

#### VI. The Planning Commission's Decision Is Counterproductive to the Purpose of the RCAP

The RCAP is intended to serve as Humboldt County's roadmap for achieving meaningful and measurable greenhouse-gas reductions consistent with state law, including AB 32, SB 32, and AB 1279's requirement that California reach carbon neutrality by 2045. Raising the threshold without evidence effectively weakens the County's primary tool for identifying and mitigating significant emissions, allowing larger sources of pollution to escape scrutiny. Not only does this undermine CEQA's requirement that thresholds be scientifically grounded and protective, but it also directly frustrates the RCAP's core objective: to reduce, not expand, the County's GHG footprint. An arbitrary increase in the threshold moves the County further from its climate commitments and jeopardizes the credibility and effectiveness of the entire planning effort.



VII. Adopting the Thresholds Recommended by the Planning Commission Would Create Serious Legal & Practical Risks

Adopting a threshold without substantial evidence would constitute an abuse of discretion under Pub. Res. Code § 21168.5. (“Abuse of discretion is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence.” See also *CBIA v. BAAQMD*, 62 Cal. 4th at 382–83 & *Golden Door*, 50 Cal. App. 5th at 517–20.)

This could lead to the RCAP itself being challenged in court which would lead to years of litigation that doesn’t benefit anyone. In addition, it could lead to individual projects relying on the, now faulty analysis in the RCAP being challenged in court which would create uncertainty for developers and the County. If the County is trying to provide a benefit to developers, adopting a legally defective threshold of significance does not do so.

VIII. The Definition of Infill and the Application of Infill-Related Measures Must Be Clarified

A new definition of infill development was included in the RCAP just prior to its consideration by the Planning Commission. The new definition was a lightly modified quote from an informational webpage maintained by the Governor’s Office of Land Use and Climate Innovation (LCI): “building within unused and underutilized lands within existing development patterns, typically but not exclusively in urban areas” (<https://lci.ca.gov/planning/land-use/infill-development/>). While we agree with the need for a specific definition of infill, this definition is too vague to serve the purpose, and would potentially allow high-emission, high-VMT development to qualify as “infill.” Instead, we recommend using a version of the regulatory definition of infill found at CEQA Guidelines Section 15332. After replacing “city limits” with “urban area” to harmonize with the rest of the RCAP and make it more applicable to the Humboldt context, the definition would read:

- a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within an urban area on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.



Also at the Planning Commission hearing, staff proposed and the Commission recommended a text amendment clarifying that RCAP Measure T-3 (the infill measure) applies countywide, not just in urban areas. This is a crucial change which we strongly support, but it must be interpreted correctly. Applying Measure T-3 countywide means that both urban and rural housing and commercial development must be assessed for consistency with the measure, and—since rural development is by definition not infill development—rural projects will be found inconsistent with the RCAP. That will ensure that rural projects will have to analyze and mitigate their GHG impacts, just as they do today, but under the newly adopted GHG significance thresholds. (If the measure were labeled as applicable only to urban areas, it could ironically allow rural projects to simply claim the measure doesn't apply and thereby avoid analyzing GHG impacts entirely.)

However, at the Planning Commission hearing, there was significant confusion over the application of Measure T-3, with some participants expressing the idea that applying the measure countywide would mean that rural development could be called “infill.” That is not true. The County must be totally clear that rural housing and commercial development does not qualify as infill under the RCAP, and therefore will not qualify for CEQA streamlining.

We ask the Board of Supervisors to adopt the more specific and rigorous definition of infill above, following the well-established definition in CEQA Guidelines, and clarify that development that does not qualify as infill under this definition will not be considered consistent with the RCAP or eligible for CEQA streamlining.

Thank you for your consideration of our comments.

Sincerely,

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