



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

SINCE 1966

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Carolyn Flowers
Office of Environmental Health Hazard Assessment
P. O. Box 4010
Sacramento, California 95812-4010

VIA ELECTRONIC MAIL TO: CalEnviroScreen@oehha.ca.gov

Re: Draft Communities Environmental Health Screening Tool: CalEnviroScreen Version. 3.0

Dear Ms. Flowers,

I am writing in response to the press release and workshops requesting public comment on the update to California Communities Environmental Health Screening Tool (CalEnviroScreen 3.0) released on September 6, 2016. California Rural Legal Assistance, Inc. (CRLA) is an organization that works side-by-side with the low-income communities facing the most severe impacts from environmental pollution in California. CRLA commends CalEPA for its ongoing commitment to developing a comprehensive tool that measures and displays the overlapping burdens and vulnerabilities that these communities face. We offer the following comments.

Data Gaps

CRLA indicated its concerns in comments on CalEnviroScreen 2.0 regarding data gaps in a number of CalEnviroScreen indicators that may result in highly-burdened rural and low-income communities being excluded from consideration as “environmental justice communities” or “disadvantaged communities.” We renew those concerns here.

California agencies and other entities continue to rely on CalEnviroScreen scores to determine eligibility or preferential treatment in access to benefits or when administering grant programs. The CalEnviroScreen scores of some of the most highly-burdened communities, however, may not fully represent their level of vulnerability or burden. This is due to factors such as undercount and marginalization from the American Community Survey (ACS) and Census enumeration, lack of monitoring programs within rural and low-income communities, unique local environmental burdens or population characteristics, or the fact that many of the issues that have



the most severe impact on disadvantaged communities, such as substandard housing and inadequate infrastructure, are not monitored by state agencies.

OEHHA should incorporate into its guidance a requirement that agencies provide alternative methods to qualify as a disadvantaged community such as through the use of the criteria established by the California Transportation Commission in its 2017 Active Transportation Program Guidelines,¹ or by demonstrating an environmental hazard not captured by CalEnviroScreen, rather than relying solely on CalEnviroScreen ranking in determining a community's eligibility for preferences, set-asides, or other benefits.

OEHHA should explore statistical methods to address data gaps in CalEnviroScreen, and potentially create an indicator titled Data Gaps that would assign geographically-based data reliability scores representing the extent to which significant data gaps exist in a given census tract. You will find below comments regarding additional data, including local data, including in CalEnviroScreen, that OEHHA should consider to improve its representation of disadvantaged communities.

Groundwater Threats Indicator

Several of the concerns that were mentioned in our review of CalEnviroScreen 2.0 remain, so we reiterate them below. Our primary concern is the over-reliance on the State Water Resources Control Board's GeoTracker Database as the sole source of data, despite the fact that it excludes important data on groundwater threats faced by disadvantaged communities.

First, by relying entirely on GeoTracker, the existing indicator captures only point sources of pollution, therefore excluding such non-point sources as failing septic systems or application of agricultural chemicals. Non-point pollutants may actually pose a greater risk to human health because they cannot be feasibly "cleaned up" and because dependence on largely unregulated and unmonitored domestic wells is widespread in many rural areas. OEHHA could alleviate the adverse effect by incorporating information that is widely available on non-point source pollutants into the Groundwater Threats indicator. Such action also would improve consistency with and/or supplement data included within the Drinking Water indicator. Such data is available through GAMA GeoTracker, from the California Department of Housing and Community Development and the Department of Pesticide Regulation, and from local environmental health and code enforcement departments.

Second, GeoTracker no longer contains up-to-date Permitted UST data. Local permitting agencies keep current UST information in a separate database, CERS, to which GeoTracker does

¹¹ Available at http://www.catc.ca.gov/programs/ATP/2017/Final_Adopted_2017_ATP_Guidelines.pdf

not have access.² OEHHA should incorporate UST data from the CERS website to ensure that current and accurate UST data is utilized in CalEnviroScreen.

Finally, GeoTracker does not contain sufficient data on dairies and Concentrated Animal Feeding Operations (CAFOs) to accurately depict the environmental burden that they pose on groundwater in disadvantaged communities. Proximity to dairies and CAFOs poses multiple threats to many low-income communities and communities of color, including such impacts as soil contaminant leachate, high levels of nitrate threatening groundwater, and the odor nuisance of chemically treated manure slurries. The GeoTracker database includes almost no data on dairies and CAFOs. GeoTracker, for example, shows only two dairy facilities in the Fresno area that were reported LUST cleanup sites, despite the fact that Fresno County is one of the top dairy-producing counties in the state

OEHHA should incorporate data on existing dairies and Concentrated Animal Feeding Operations (CAFOs) into the groundwater threats indicator in order to fully represent the burden these facilities pose on DACs. Existing sources can provide dairy data to be utilized. The Central Valley Water Board (CVWB) has ordered a Monitoring and Reporting Program (MRP) which requires groundwater monitoring of dairies in compliance with the Dairy General Order of 2007 and in accordance with SWRCB's State Anti- Degradation Policy. All dairies are required to produce Annual and Summary Representative Monitoring Reports to determine compliance with the groundwater limitations of the Order. The CVWB also has ordered documentation of many discharges of waste from existing milk cow dairies to surface water and has taken some appropriate actions in such cases. Inclusion of these data in the Groundwater Threats indicator would yield a far more comprehensive picture of environmental risk in areas with significant numbers of dairies.

Lastly, the current Groundwater Threats Indicator does not distinguish between communities that have access to imported water, such as the city of Los Angeles, and communities that rely solely on groundwater to meet their drinking water needs, such as many rural DACs. This indicator would better represent the pollution burden on DACs if it was weighted to indicate which communities depend on threatened groundwater for their drinking water needs.

Hazardous Waste Generators and Facilities Indicator:

The draft report of Cal EnviroScreen 3.0 states that 97% of toxic chemicals released nationwide originated from small hazardous waste generators and facilities, yet version 3.0 of the tool only includes data from large quantity generators and facilities. (pgs 83-84) Excluding data from small generators and facilities from CalEnviroScreen 3.0 thus excludes the facilities causing the majority of hazardous waste pollution, which risks underestimating the pollution burden on

² <http://cers.calepa.ca.gov>

impacted communities. OEHHA should include all available data from small and large hazardous waste generators and facilities in its calculations to ensure that the pollution burden reflected in CalEnviroScreen is as accurate as possible.

The existing Hazardous Waste Generators and Facilities indicator also excludes facilities located further than 1,000 meters from any populated census block. (pg 84) Limiting the data set in this manner assumes that hazardous waste generators and facilities located more than 1000 meters from a populated census block will not have a measurable impact on that community. Hazardous waste facilities can have an adverse impact on communities located more than 1000 meters away. Anxiety about potential exposure to hazardous materials via accidental releases, as well as the stigma associated with living near a hazardous waste facility, create chronic stress that leaves residents more vulnerable to other health risks. Residents are also exposed to increased actual and potential health risks resulting from the transport of hazardous wastes to waste facilities located more than 1000 meters away if transport routes run near or through their community.

Rural communities also experience adverse health impact from hazardous waste facilities located nearby despite a 1000-meter buffer. Wind patterns can carry air pollution generated at these facilities and contaminated dust far beyond 1000 meters. Kettleman City, a low-income, majority-Latino, unincorporated community in Kings County. Kettleman City is located 3.5 miles from the Kettleman Hills Facility, the largest hazardous waste treatment, storage and disposal facility in North America. The Kettleman Hills facility was operating at its normal capacity in 2007 when Kettleman City residents experienced a sudden and unexpected increase in birth defects and related infant deaths that affected nearly a quarter of Kettleman City births. Residents also experience significant respiratory health problems. Residents believe these are associated with the waste facility, although a specific cause has not been determined.

CalEnviroScreen 3.0 rates Kettleman City as a zero for the Hazardous Waste Generators and Facilities indicator, despite its close proximity to the 1600-acre hazardous waste facility, presumably because the facility is located more than 1000m from the city. The tool therefore does not appear to accurately reflect the pollution burden that this rural disadvantaged community bears as a result of this facility.

OEHHA should reevaluate the 1000m data limitation and consider expanding the hazardous waste data to include facilities located more than 1000m from populated census tracts, communities close to or within hazardous waste transportation routes, and communities that might be affected due to wind patterns. Inclusion of this data would more accurately reflect the additional physical and emotional stressors, and environmental risks, that communities face when living near hazardous waste disposal facilities.

Toxic Release Data Indicator

The existing Toxic Release Data includes data for California TRI air releases for years 2011-2013, but does not include data for releases to land and water. (pg 57) Exclusion of land and water releases from toxic facilities in the data set provides an incomplete picture of the environmental burdens that impacted communities may bear.

Kettleman City and the Kettleman Hills facility again provide an example of the way that the current dataset may underestimate the pollution burden on rural, minority communities. The Kettleman Hills facility was operating at its lowest capacity in more than 13 years (due to a lawsuit) yet still averaged an annual TRI release of 2,228,272.6 pounds between the years of 2011-2013, the years represented by CalEnviroScreen 3.0 data. The average annual TRI release was 16,408,743 pounds at its regular operating capacity, represented by years 2007-2009.³ The TRI releases occurred on land, so none of these releases are reflected in Kettleman City's CalEnviroScreen score despite being reflected in Kettleman City's overall TRI profile.⁴

OEHHA should include data on TRI land and water releases to provide a more comprehensive representation of the multiple pollution burdens that disadvantaged communities may face.

Cleanup Sites Indicator

Cleanup Sites located more than 1000m from a populated census block are excluded from the current data set. (pg 68). Resembling the effect of nearby hazardous waste sites, the location of cleanup sites near communities can create additional stressors due to the fear of potential contamination and exposure risk even if the sites are located more than 1000m from a populated census block. This stress can lead to increased vulnerability to other environmental and health stressors, particularly in low-income communities already burdened by a multitude of pollution burdens and/or population vulnerabilities. OEHHA should reevaluate the 1000m data limitation and consider expanding the cleanup sites data set to include facilities located more than 1000m from populated census tracts.

Use of Census Bureau data

Indicators in draft CalEnviroScreen 3.0 are based in whole or in part on data from the Decennial Census or from the American Community Survey. We raised concerns about relying solely on these sources during the version 2.0 comment period, and renew our concerns for version 3.0.

The Decennial Census and American Community Survey data are known to differentially undercount migrant and seasonal farmworkers, racial and ethnic minorities (particularly

³ https://iaspub.epa.gov/triexplorer/tri_factsheet.factsheet?&pzip=93239&pyear=2014#pane-1

⁴ https://iaspub.epa.gov/triexplorer/tri_factsheet.factsheet?&pzip=93239&pyear=2014#pane-1

members of indigenous groups), low-income people, renters, children, large households, people with disabilities, linguistically and culturally isolated groups and communities, LGBTQ individuals and other hard-to-count special populations who tend to reside in communities that suffer concentrated poverty and lack of infrastructure, decent housing, and related services. Census and ACS data on housing conditions are not captured in sufficient detail to make them fully reliable, and ACS data on unemployment fail to capture seasonal unemployment, such as that experienced regularly by a significant portion of California farmworkers. Census figures consistently skew data on poverty levels in rural areas due to the large size of census tracts; inclusion of other available data sources (e.g., local government data) could be used to supplement the Census Bureau data utilized in the current draft of CalEnviroScreen 3.0.

Air quality indicators: Ozone and PM2.5

We recognize that OEHHA has taken steps to improve the accuracy of the air quality indicators in CalEnviroScreen 3.0 by including data from two additional air monitors, and by using satellite data to improve coverage of the PM2.5 indicator. We remain concerned that, like the CalEnviroScreen version 2.0, draft 3.0 relies on a methodological assumption that existing air quality monitors are reliable up to a radius of 50 kilometers. Version 2.0 excluded ozone concentrations for census tracts more than 50 km from the nearest air monitor, and version 3.0 includes this data. We remain concerned that this methodological assumption can lead to inaccurate readings in the most rural and disadvantaged communities and, consequently, inaccurate overall scores for some of the most pollution-burdened areas.

Not all air quality monitors in the network maintained by the California Air Resources Board (CARB) are designed to monitor air quality effectively on a large spatial scale. Federal regulations designate monitors as operative at one of seven scales: microscale (measuring up to 100 meters), middle scale (measuring 100 meters to 0.5 kilometer), neighborhood scale (measuring 0.5 to 4.0 kilometers), urban scale (measuring 4-50 kilometers), regional scale (measuring tens to hundreds of kilometers) and national and global scales. Only monitors ranked as regional are designed to measure rural areas beyond 50 kilometers, and then only when the geography is reasonably homogenous.⁵

The current draft somehow assumes that monitors can read accurately beyond their designated efficacy. The closest air monitor to the Eastern Coachella Valley is located in the city of Indio (approximately 48 km from the southeastern--most parts of the Eastern Coachella Valley) and is rated as a neighborhood spatial scale. Despite the fact that this monitor should be used to effectively read data within 0.5-4 kilometers, the current draft would include it to represent air quality 48km away in Indio.

⁵ Cal ARB 2016 Annual Network Plan Draft, pg 8. Available at: <https://www.arb.ca.gov/aqd/amnr/amnr2016.pdf>

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These data gaps, with a significant adverse effect on rural DACs, can be addressed if OEHHA reviews the spatial scale for which each CARB air quality monitor is rated and reduce the radius of presumed accuracy based on these ratings. OEHHA should consider the use of a data gaps indicator that reflects areas where data is unreliable or unavailable.

Low birth weight indicator

The 3.0 draft excludes from its dataset live births that are not correlated with a known residential address, and excludes births associated with a P.O. Box. We renew our concern that this method will result in the exclusion of data from marginalized rural areas, as a significant proportion of rural residents rely on post office boxes due to factors such as housing instability and housing that lacks secure, private mailboxes. This is particularly true in mobile home parks and agricultural labor camps. Exclusion of P.O. Box data will disproportionately exclude data on farmworkers and other disadvantaged rural populations.

OEHHA should include data linked to P.O. boxes to ensure fairness and accuracy.

The current Low Birth Weight Indicator data set also excludes census tracts with fewer than 100 live births during a seven-year period. It is understandable that OEHHA prioritizes the use of accurate data, yet exclusion of census tracts with fewer than 100 live births during a seven-year period will primarily exclude data from the most rural and disadvantaged parts of California. OEHHA must continue exploring options that would allow data from the most sparsely-populated rural areas to be included in the low birth weight indicator without compromising its accuracy, such as by lowering the number of live births used for this indicator.

Asthma indicator

The discussion in the “Summary of Changes” correctly analyses the fact that the use of ER visits as a proxy for asthma rates underrepresents the prevalence of asthma in rural communities. The steps that OEHHA took to analyze potential methods for compensating for this challenge are positive, but we note that the asthma indicator was not modified in draft 3.0. OEHHA should continue exploring methods for increasing the accuracy of the asthma indicator in order to best represent rural communities.

Pollution burdens not currently considered in CalEnviroScreen

The inclusion of rent-adjusted income and heart attack prevalence in the 3.0 draft is key and creates a better representation of the overlapping vulnerabilities many pollution-burdened communities experience. This representation can be improved through the inclusion of additional health and pollution burdens in CalEnviroScreen’s indicators. Gathering data to represent these burdens will require supplementary investigation at the local level, but much of the information needed to measure these burdens is available. Including more localized data will

provide a more thorough snapshot of California's most marginalized communities. Some types of data may not be immediately apparent as pollution burden data, but, taken together with the data already utilized in CalEnviroScreen, represent a fuller, more accurate understanding of environmental justice.

Useful additional indicators should include:

1. Lack of access to healthy and sustainable transportation infrastructure, including safe walking and biking routes. Possible datasets could include traffic-related pedestrian and bicycle fatalities or injuries, or data used in local government Active Transportation Plans.
2. Exposure to untreated wastewater due to failing septic systems. Possible datasets could include the number and location of households not served by municipal sewer systems, particularly when multiple households reside on a single parcel such as in mobile home parks.
3. Disadvantaged Unincorporated Community infrastructure needs. SB244 requires that local governments, as part of their development planning process, gather data on the presence of disadvantaged unincorporated communities (DUCs) within their sphere of influence and determine what critical infrastructure is lacking in those communities. These data are included in general plan documents. OEHHA could review local planning documents for these data and include it in datasets for rural communities.
4. Lack of access to medical care, which increases the vulnerability of rural and low-income populations to existing pollution burdens. Possible data sources could include the OHSPD Medically Underserved Area Atlas.
5. Lack of access to public transit, as transportation equity is inherently related to access to opportunity, access to medical care, healthy food, safe housing, and employment opportunities for rural and low-income communities. Potential data sources include local and regional transportation plans that show the number of public transit lines or stops within a census tract and transportation equity analyses required for transportation funding.
6. Location of food deserts. Lack of access to healthy and fresh food increases the vulnerability of communities to other pollution burdens. Most low-income and rural communities lack sufficient numbers of grocery stores with fresh produce and healthy food options, and instead feature fast-food restaurants, liquor stores, and convenience stores with a dearth of healthy options. Lack of local grocery stores combined with transportation inequity obstacles means that many low-income people do not have access to food that supports overall wellness and decreases vulnerability to pollution exposure. Potential data sources could include generalized searches on mapping software such as GoogleMaps to locate and track the presence of grocery stores within accessible distance to census tracts.

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7. Walkability of neighborhoods and walkable proximity to services such as employment centers, retail, grocery stores, banks and other amenities. Possible data sources include Walkscore metrics.

Overall vulnerability to pollution burdens is influenced by myriad overlapping factors, so inclusion of additional environmental data beyond direct pollution exposure and population characteristics is required to create a comprehensive representation of the burden born by the least advantaged communities. OEHHA must review existing data sources and include additional data in CalEnviroScreen 3.0. OEHHA also must incorporate local data into the CalEnviroScreen data sets. Data that is available at a local level throughout the state would support the comparative nature of the CalEnviroScreen tool. OEHHA could include data from local entities such as Councils of Government, Local Agency Formation Commissions, Metropolitan Planning Organizations, city and county code enforcement and public health departments, and local governmental planning agencies engaged in general plans, housing elements and other planning documents and regional and community based research projects.

We thank you for the time and effort that your staff has invested in creating the CalEnviroScreen tool. It is a unique and essential instrument for environmental justice organizations, and one that we utilize regularly in our work. We also thank you for seeking our comments on ways the tool can be improved to better serve disadvantaged and rural communities and hope that our comments will be helpful to achieve this goal.

Sincerely,



Mariah Thompson

Staff Attorney, California Rural Legal Assistance, Inc.
Community Equity Initiative

cc: Ilene Jacobs, Director of Litigation, Advocacy, and Training, California Rural Legal Assistance, Inc.

Marisa Lundin, Co-Director, Community Equity Initiative, California Rural Legal Assistance, Inc.

Marisol Aguilar, Co-Director, Community Equity Initiative, California Rural Legal Assistance, Inc.