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February 1, 2013

VIA ELECTRONIC MAIL

CalEnviroScreen
c/o John Faust Chief, Community Assessment & Research Section
Office of Environmental Health Hazard Assessment
1515 Clay Street, Suite 1600
Oakland, CA 94612
CalEnviroScreen@oehha.ca.gov

Re: Comments on Second Public Review Draft of the California Communities Environmental Health Screening Tool (CalEnviroScreen)

Dear Dr. Faust:

California Rural Legal Assistance, Inc. (CRLA) submits the following comments on the second public review draft of the California Communities Environmental Health Screening Tool (CalEnviroScreen) released by the Office of Environmental Health Hazards Assessment (OEHHA) and the California Environmental Protection Agency (CalEPA). CRLA is a non-profit legal services organization that provides legal representation to low-income residents of rural California, including in many communities comprised primarily of farmworkers and their families. CRLA commends OEHHA and CalEPA for their attention to a broad array of environmental justice issues and for their clear awareness of the relationship between environmental conditions and human health. CRLA is prepared to support Version 1.0 of CalEnviroScreen when it is finalized in the spring of 2013. However, we would like to call the attention of OEHHA and CalEPA to certain deficiencies in the existing version of CalEnviroScreen, and we strongly urge OEHHA and CalEPA to set and follow a schedule for addressing these deficiencies in order to ensure that CalEnviroScreen truly reflects the relative pollution burdens and socioeconomic vulnerabilities of California communities. In order to ensure that vulnerable communities receive appropriate investment, including in the initial disbursement of disadvantaged community set-aside funds under SB 535, we encourage OEHHA and CalEPA to make every possible effort to address these discrepancies prior to finalizing Version 1.0 of CalEnviroScreen. In particular, as this tool will be used to allocate 25% of the available monies from cap-and-trade revenue to disadvantaged communities, CRLA seeks to ensure that rural communities have a fair opportunity to benefit from the Greenhouse Gas Reduction Fund.

OEHHA and CalEPA should ensure that environmental burdens on tribal lands bordering California communities are adequately represented in all components of the CalEnviroScreen scoring system.

Several of the datasets used in the existing version of CalEnviroScreen rely on data collected by state agencies that track environmental hazards on land that is subject to the jurisdiction to the state of California. These datasets include the EnviroStor Cleanup Sites Database (maintained by the Department of Toxic Substances Control (DTSC)), the EnviroStor Hazardous Waste Facilities Database (maintained by DTSC), the GeoTracker Database (maintained by the State Water Resources Control Board), and the Solid Waste Information System (maintained by CalRecycle). These databases do not include any information on environmental hazards located on tribal land within California, because these tribal lands are not under the jurisdiction of the state of California. However, environmental hazards on tribal lands can have very real environmental health impacts on California communities adjacent to tribal lands, and even on non-tribal members residing on tribal land (such as non-tribal families residing in mobilehome parks on tribal land; the infamous “Duroville” is in the process of closing due to federal court order, but other such mobilehome parks remain in operation in the Eastern Coachella Valley, including at least one park that is significantly larger than Duroville). In the Eastern Coachella Valley, CRLA is aware of the following sites which we believe would trigger reporting to EnviroStor, GeoTracker, and/or the Solid Waste Information System if they were located on non-tribal land, but which are currently not reported in any of these databases:

- ② Cabazon Resource Recovery Park: a one-square-mile parcel held by the Cabazon Band of Mission Indians, immediately adjacent to the non-tribal town of Mecca. Currently houses Western Environmental, Inc. (which for several years received California hazardous waste despite not meeting California statutory or regulatory requirements for the treatment and handling of this material), First Nations Tire Recycling/Consolidated Tire Recyclers (which is the subject of ongoing scrutiny by the United States Environmental Protection Agency due to over-accumulation of scrap tire material), and a biomass plant owned by Greenleaf Power (formerly owned by Colmac Energy, Inc.).
- ② Lawson Dump: On an allotment held by a member of the Torres Martinez Band of Desert Cahuilla Indians. The dump was closed by federal government action several years ago but never cleaned up. Site of occasional spontaneous fires that cause severe respiratory symptoms in residents of downwind communities.
- Duroville (Duro’s Mobilehome Park): Very large mobilehome park on an allotment held by a member of the Torres Martinez Band of Desert Cahuilla Indians; in the process of closing pursuant to federal court order. Septic system and other potential environmental threats never inspected or regulated by state or county entities.

- ② Las Chicanitas Mobilehome Park: Very large mobilehome park (several hundred mobilehomes) in ongoing operation on an allotment held by a member of the Torres Martinez Band of Desert Cahuilla Indians. The Park's septic system has never been inspected or regulated by state or county entities. The Park houses thousands of non-tribal members.
- Mount San Diego: Hundreds of tons of bio-solids received from San Diego on an allotment held by a member of the Torres Martinez Band of Desert Cahuilla Indians. Dumping was halted by federal government action several years ago, but the site has never been cleaned up. Site is located less than ½ mile from a K-12 non-tribal public school complex.

Due to the “checkerboard” division of tribal and non-tribal land in parts of the Eastern Coachella Valley, all of the above sites are located in close proximity to non-tribal lands inhabited by non-tribal members, mostly very low-income Latino agricultural workers and their families. There may well be other sites on tribal land in the Eastern Coachella Valley of which CRLA is not currently aware, and similar issues may exist in other parts of the state. CRLA recommends that CalEPA and/or OEHHA consult with USEPA Region 9 staff in order to get more information about these sites for inclusion in CalEnviroScreen. However, CRLA cautions that, due to the fact that California's environmental laws are often more stringent than federal environmental laws, USEPA may not track hazards with the same level of scrutiny that California state agencies would use if these sites were located on non-tribal land in California. For example, Western Environmental, Inc. is classified by USEPA as a solid waste facility because the material received on the site does not meet the federal definition of hazardous waste, although it is classified as hazardous waste by the state of California.

OEHHA and CalEPA should take steps to ensure that air quality data used in CalEnviroScreen adequately represents the air quality of rural communities.

Rural and agricultural areas are subject to a number of unique air quality burdens that are largely not reflected in existing data available from the California Air Resources Board. For example, the closest PM 2.5 monitor to the Eastern Coachella Valley is located in the more urbanized city of Indio, which is upwind of the Valley's agricultural areas. The monitor is classified as operating at a neighborhood scale, which is hardly adequate to assess air quality dozens of miles away in the agricultural areas of the ECV. See South Coast Air Quality Management District, South Coast Air Quality Management District 5 Year Network Assessment, July 2010, at 14. Furthermore, the South Coast Air Quality Management District (SCAQMD) has reported that the siting of this monitor is not appropriate for a particulate matter monitor. See id. at 43. Given this fact, and the fact that CARB does not report PM 2.5 data from the Indio monitor on its online Quality assurance Air Monitoring Site Information system (see http://www.arb.ca.gov/qaweb/site.php?s_arb_code=33157, last viewed 2/1/2013), it is unclear whether CRLA believes that air quality monitoring within the rural and agricultural areas of the Eastern Coachella Valley is needed in order to capture accurately the air quality experienced by residents of these areas, such as diesel emissions from farm

equipment and long-haul trucks, particulate emissions from intentionally smoky agricultural burns used to protect fields against frost, and pesticide drift

Due to the potential for strong urban bias in the Asthma-Related ED Visits dataset, OEHHA and CalEPA should identify a more equitable mechanism for measuring asthma incidence.

Many of California's rural areas are extremely medically underserved, with residents needing to travel long distances in order to access an emergency department. In some areas, Medi-Cal recipients must travel even farther in order to access an emergency department that will accept Medi-Cal. For example, in parts of the Eastern Coachella Valley, residents must drive more than twenty miles to reach the closest emergency department, located in the city of Indio; residents who rely on Medi-Cal or are uninsured, however, must travel more than eighty miles to reach the Riverside County Hospital in Moreno Valley, or risk receiving an unaffordable bill for emergency care received at closer facilities that do not accept Medi-Cal. Because of these concerns and because of numerous anecdotal reports from area residents, CRLA believes that Eastern Coachella Valley families might be unlikely to seek care at an emergency department for anything other than an apparently life-threatening medical episode. In contrast, residents of more urbanized areas are likely to have much better access to emergency departments, and in particular to emergency departments that accept Medi-Cal. Urban residents may, on average, be more willing to seek emergency medical care for somewhat less severe asthma attacks. For this reason, CRLA believes that asthma-related ED visits are not an equitable measurement of asthma incidence or severity statewide, but rather are likely to show disproportionately higher rates in urban areas where residents can seek emergency medical care with greater ease.

CRLA recommends that OEHHA and CalEPA seek out other data to give a more realistic picture of relative asthma incidence statewide, for example, data obtained by community clinics and/or data on prescriptions for asthma medications.

OEHHA and CalEPA should be cautious in their use of U.S. Census data.

Many of the Population Characteristics indicators used in CalEnviroScreen rely on data obtained from the United States Census Bureau, either via the decennial census or via the American Communities Survey. CRLA's experience, throughout the state of California, is that Census Bureau data often undercount California's rural populations, particularly low-income agricultural workers. This undercounting is attributable to a number of factors, including seasonal movement of agricultural workers, difficulty of accessing certain rural communities (particularly smaller mobilehome parks, which are located on private land and often are neither visible from public roads nor reflected in any official government databases), and census workers' unfamiliarity with local communities. CRLA understands that alternative datasets may not be available but recommends that OEHHA and CalEPA bear in mind that Census Bureau data is likely to undercount low-income farmworker populations.

OEHHA and CalEPA should commit to a strict timeline for the development of a drinking water quality indicator to be added to CalEnviroScreen; this indicator should be subject to a full public notice and comment process.

OEHHA and CalEPA have stated that they plan to add a drinking water quality indicator to CalEnviroScreen. CRLA fully supports the addition of drinking water quality, which is a significant environmental health factor in many rural areas of California, and recommends that OEHHA and CalEPA immediately publicize a timeline for the development of this indicator. Due to the complexity of issues affecting drinking water quality statewide, CRLA strongly urges OEHHA and CalEPA to release the drinking water quality indicator for public notice and comment prior to finalizing it. Public notice and comment is the best way to ensure input from stakeholders throughout the state, many of whom have high levels of expertise regarding their own local drinking water quality and are likely to be able to provide significant support to OEHHA and CalEPA in creating an indicator that accurately reflects drinking water quality concerns throughout the state.

In the next iteration of CalEnviroScreen, OEHHA and CalEPA should capture infrastructure conditions that have environmental health implications.

Many rural communities, particularly low-income farmworker communities, are plagued by infrastructural deficiencies that have severe impacts on residents' health. Concerns such as inadequate septic systems, dilapidated housing, and lack of sidewalks and streetlights take a toll on residents' health in both the short term, through exposure to untreated wastewater and vector-borne diseases, and the long term, through disproportionately low access to safe opportunities for active transportation that could increase exercise while lowering tailpipe emissions. CRLA strongly encourages OEHHA and CalEPA to incorporate such infrastructural deficiencies in the second iteration of CalEnviroScreen and to make these new metrics available for full public notice and comment. As a preliminary consideration, CRLA would like to point out that many lower-income rural residents live in mobilehomes that age significantly more rapidly than conventional buildings; therefore, age of housing stock is highly unlikely to be an accurate reflection of relative housing quality.

OEHHA and CalEPA should follow through on their commitment to compile future iterations of CalEnviroScreen at the census tract level.

CRLA appreciates that OEHHA and CalEPA recognize the necessity of increasing the precision of CalEnviroScreen by compiling data at the census tract level, rather than the census zip code level, in future iterations.

In order to enhance the robustness of CalEnviroScreen, OEHHA and CalEPA should address data gaps.

In California, many datasets are much less robust in rural areas than in urban areas. The foregoing comments have highlighted some of the most significant data gaps in rural areas, but

other gaps are likely to exist. In order to avoid premising policy and/or investment decisions on data that underreflect the environmental burdens faced by rural communities, CRLA strongly recommends that OEHHA and CalEPA prioritize the equitable collection and use of data.

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Thank you for your kind consideration of these comments. Should you have any questions, please feel free to contact Laura Massie at LMassie@crla.org.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Laura Massie', is written over a horizontal line.

Laura Massie
Attorney at Law

cc: Phoebe Seaton, Program Director, Community Equity Initiative, California Rural Legal Assistance, Inc.