



Central California Environmental Justice Network

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RE: Comments to the CalEnviroScreen 2.0 tool

On behalf of Central California Environmental Justice Network please accept these comments to the proposed update of the California Environmental Screening Tool. CalEnviroScreen 2.0 is a necessary tool for the State of California and one that sets a model for advancing environmental justice throughout the country. CCEJN welcomes any request from the Office of Environmental Health Hazard Assessment to further collaborate in advancing this tool.

As a network of organizations promoting environmental justice in the San Joaquin Valley, we are extremely excited to have a tool that captures disproportionate environmental burdens and health outcomes in the state. Previously, CCEJN worked with the San Joaquin Valley Cumulative Health Impact Project (SVJ CHIP) to address and identify cumulative health impacts in the region. CCEJN also participated in ground-truthing the UC Davis Center for Regional Change mapping tool several years ago. The tool mapped areas in the San Joaquin Valley as Cumulative Environmental Vulnerability Action Zones (CEVAz). CCEJN would like to thank OEHHA for taking the initiative at the state level to conduct this grand push towards data gathering and environmental justice mapping.

CalEnviroScreen 2.0 has improved considerably since the first version of the tool. Legislators as well as state departments can now make informed decisions regarding environmental justice communities and understand the communities that they are advancing or hurting. The comments below seek to make even more improvements to the tool. These comments reflect a certain level of community expertise that we wish OEHHA to consider carefully.

1. Dairies

CalEnviroScreen 2.0 is very extensive in identifying and measuring pollution burdens. The tool provides a wide array of sources of pollution and uses databases to capture the potential risk or documented burden for the community. For this reason, we were surprised to realize that the tool does not contain a discussion on potential harms from dairies.

Dairies are a large industry within the state of California. The United States Department of Agriculture estimates that in 2013, California was home to 1.7 million milk cows, yielding an approximate 41.2 million pounds of milk per year.¹ As one can appreciate this is a considerable industry that contributes

¹ United States Department of Agriculture. *Milk Cows and Production by State and Region (2009- 2013)*. Spreadsheet retrieved from usds.gov. Retrieved on 5/12/2014

severely to several sources of pollution. Dairies contribute to air pollution as emitters of criteria pollutants like VOC's, NoX, Methane, Hydrogen Sulfide, etc.²

Dairies also play a role in water and soil pollution through the emissions of ammonia, contaminated water discharge, and general processes for managing manure and waste. On January 2014, Science Magazine published a discussion of ammonia emissions from farming that speculates that the health costs related to these activities may far overwhelm benefits previously considered. The author mentions that although several states have met the U.S. EPA's PM 2.5 requirements by regulating diesel engines and power plants, the next logical target for air quality improvement would be ammonia. To reduce health costs from ammonia, "the biggest gains could be made by keeping livestock and dairy operations away from cities."³ It isn't surprising that ammonia emissions will most directly harm those residents in close proximity to the source. In rural San Joaquin Valley, we have seen many damaging impacts of dairies within our communities.

Furthermore, waste management at dairies has been a documented concern of people living in close proximity to dairies. CCEJN has collected information on this issue through the use of the Kern Environmental Enforcement Network (KEEN), a resident reporting network of environmental hazards. In the last 6 months alone, we have seen 2 resident concerns about dairies:

- January 8, 2014 – Standing Water at Dairy – A dairy west of Shafter... has allowed water to accumulate around and through huge piles of manure. This has the potential to leach nitrates into ground water and air polluting gases (volatile organic compounds) into the air.
- October 19, 2013 – Cow Manure Smells in Lamont CA – *translated from Spanish* there is always a strong manure smell in Lamont CA. There is a stretch of a lot of dairies along Buena Vista blvd. The air takes the smell toward Lamont. Is there anything we can do about all of these dairies?⁴

CCEJN has talked to many residents who are unhappy about the concentration of dairies in their vicinity, and are also concerned about ground water contamination that may be caused by dairies. This is a problem that directly and disproportionately affects communities in the San Joaquin Valley. According to the California Department of Food & Agriculture, milk production in California heavily centralizes in the San Joaquin Valley. All 8 counties in the Valley occupy the top 8 county ranks of milk production in the state, making up approximately 80% of all California Milk production.⁵ These overwhelming statistics illustrate that dairies are a very well justified environmental justice concern for residents in the San Joaquin Valley.

CalEnviroScreen 2.0 will benefit from including dairies as a variable in the pollution burden score, as it will provide more detailed information about the hazards that harm environmental justice communities. For data collection, OEHHA can turn to the State Water Resources Board that issues discharge permits for dairies in the state. In the Central Valley, the Dairy General Order of 2007 and the SWRCB's State

² Hashemi, Masoud et al. University of Massachusetts: Air Quality Issues for Dairy Operations. Crops, Dairy, Livestock and Equine Published 11 – 44. www.umass.edu/cdl.

³ Stokstad, Erik. Ammonia Pollution from Farming May Exact Hefty Health Costs. Science Magazine, Vol. 343. January 2014.

⁴ Kern Environmental Enforcement Network (KEEN). Testimonies from residents reporting environmental hazards. www.kernreport.org/reports.

⁵ California Department of Food & Agriculture. California Dairy Statistics 2011 Data. Published in 2012.

Anti-Degradation policy, also establish a Monitoring and Reporting Program R5-2013-0122 (RMP), require dairy & groundwater monitoring.⁶ This monitoring can be a good source of information regarding how dairies affect groundwater quality

OEHHA can also turn to the California Department of Food & Agriculture that tracks the production of milk throughout all of the counties in California. Although information regarding dairies and groundwater quality will be more accessible, OEHHA must look at other data sources to encompass a cohesive analysis on dairy impacts. Central California Environmental Justice Network welcomes the idea of helping OEHHA create an index for dairies that encompasses all of the threats to air, water, and soil contamination.

2. Hazardous Waste Facilities & Generators

Hazardous Waste facilities are an extreme environmental concern in the State of California. CalEnviroScreen 2.0 features a discussion that “hazardous waste by definition is potentially dangerous or harmful to human health or the environment.”⁷ For decades environmental justice communities in rural areas have been targeted as recipients of this type of waste. We hope that as CalEnviroScreen improves, we can use the data gathered by the tool to prohibit the state from disproportionately burdening environmental justice communities with the responsibility of bearing the hazardous waste that we all create. CCEJN would like to submit the following comments about the Method for scoring these facilities.

2a. During the Method discussion, OEHHA explains that “facilities were scored on a weighted scale in consideration of the type and permit status for the facility.”⁸ This consideration does a good job at recognizing that not all hazardous waste represents the same type of threats and that permits can be indicative of the level and type of hazards. However this consideration does not take into account the volume of waste permitted for facilities. Volume is extremely important in this because more waste mathematically represents augmented risk proportionate to volume of waste accepted at a facility.

When considering a permitted hazardous waste facility the proximity indicator scales out to 1,000 meters from the outermost perimeter of the physical structure of the facility. This allows for populated census tracts to receive a score ranging from .25 to 1 depending on the relative distance to the perimeter. This buffer type adjustment of 1,000 meters is deliberate and grounded on several considerations. The problem with this buffer is that it does not scale relative to the volume of permitted waste. For example, a facility that receives 1,000 kg of hazardous waste per day would have the same buffer zone as one that receives 3,000 kg of waste per day. Given that accumulation, storage and treatment of hazardous waste in California is primarily done in rural areas, where we have the largest facilities, it is important to scale the buffer in positive correlation to the volume of the facility. By doing this, OEHHA would also be recognizing that rural areas have larger non-populated distances and much more open space. The 1,000 meter threshold is not enough because census blocks in rural areas are much larger than those in urban centers.

⁶ Central Valley Regional Water Quality Control Board, Existing Milk Cow Dairies, Reissued Waste Discharge Requirements General Order R5-2013-0122.

⁷ CalEnviroScreen 2.0. Office of Environmental Health Hazard Assessment. Page 70.

⁸ CalEnviroScreen 2.0. Office of Environmental Health Hazard Assessment. Page 70.

2b. In regards to Hazardous Waste Generators, OEHHA explains that “only large quantity generators (producing over 1,000 kg of waste per month for at least one of the three years) and generators producing RCRA waste were included.”⁹ This measure is important as it encompasses facilities that generate a considerable amount of waste or RCRA waste and sets a threshold for those facilities that would be considered and those that would be excluded.

For this measure however, OEHHA does not embark in a discussion about concentration of facilities. Concentration of facilities is important because all land use decisions are reserved to the local jurisdiction in which any facility is placed. Generally, as local jurisdictions update general plans, most hazardous waste generators would fall under the classification of “industrial” or “heavy industrial.” In many cases the local authority will group these classifications in close proximity to each other, and in many cases near low-income populations. At this point Cal-EPA does not advise local authorities about land use planning decisions, and DTSC in fact, has no language in any manifest or regulation that even considers concentration. As lead agencies file applications for permits, and facilities go through a CEQA review the facility’s EIR would be independent of cumulative impacts and reviewed as its own entity.

This creates a permitting process for both state and local jurisdictions that overlooks cumulative impact and concentration. Nonetheless, residents that live in communities where they are surrounded by several generators will be affected cumulatively. To remedy this, OEHHA can embark on a discussion about concentration that establishes a perimeter around several small hazardous waste generators and considers those small operations within the scoring criteria of one large one.

For some time, CCEJN has been advocating that DTSC take a larger role in advising local jurisdictions about local land use planning decisions that directly addresses the problem of concentration. We feel that it is irresponsible to flood any community with several generators of hazardous waste regardless of their respective size. Since we have been unsuccessful at getting that kind of language from DTSC, we hope that CES 2.0 provides the groundwork for that conversation. By not taking concentration into consideration the state is relinquishing a powerful opportunity to advance topics of cumulative health hazards.

2c. Through the Kern Environmental Enforcement Network (KEEN) and Fresno Environmental Reporting Network (FERN), taskforces that CCEJN currently chairs, we have been able to identify illegal dumping as a waste management problem that is chronic at the local level but that generally goes unrecorded at the state level. The problem of illegal dumping is unlike any other because it is transient, highly unrecorded, and varies on a case by case basis. Illegal dumping is the “act of disposing of solid waste at a location that is not a permitted solid waste disposal facility and is usually done for economic gain.”¹⁰ In many rural communities, this is a problem that plagues vacant lots, absentee landowner properties, highways, and areas that lack basic infrastructure like sidewalks, gutters, and lighting.

Low-income communities are especially vulnerable to this problem as they lack basic infrastructure. This is a problem that communities are highly aware of in part because it is a visible problem, but also because it “poses significant social, environmental, and economic impacts... California local government spends tens of millions of dollars to remove illegally dumped materials, and private property owners also incur significant costs to clean up illegal dumping. Illegal dump sites that are not abated often grow

⁹ CalEnviroScreen 2.0. Office of Environmental Health Hazard Assessment. Page 70.

¹⁰ California Recycle. Illegal Dumping: <http://www.calrecycle.ca.gov/IllegalDump/>. Retrieved on May 20, 2014.

in size and can then become illegal disposal sites.¹¹ The economic impacts of illegal dumping are severe for small rural jurisdictions, and often those costs make it impossible to provide adequate clean-up and abatement which only causes the problem to grow.

As the problem grows, so do the illegal dumping sites and proportionately the environmental problems grow right along with them. Generally, “[l]ocal government tends to view illegal dumping as a litter/nuisance abatement issue, rather than a solid waste issue.”¹² The fact that this is a solid waste issue is highly concerning to communities that are often chronically battling with illegal dumping. These dump sites are a visual nuisance, release VOC’s, harbor pests, become fire hazards, de-value properties, etc. One of the most problematic issues with illegal dumping is that no jurisdiction has a record of the occurrence of sites that contain hazardous waste among the debris. Since every local jurisdiction follows a different clean-up process usually involving workers that are untrained to handle or recognize hazardous waste, it is not illogical to assume that these sites generate a steady stream of hazardous waste into common landfills that are not equipped to handle such waste.

Currently the best way to acquire data about the resurgence of illegal dumping sites would be to consult local jurisdictions that are in charge of cleaning up those sites. Another way would be to consult and include environmental justice platforms like KEEN/FERN/IVAN wherever available. These taskforces are great at collecting data directly from residents about this problem, and can easily map places within counties in which this is a chronic problem. For example, through FERN we have identified a neighborhood in Fresno (approximately 2 km radius—Census tracts: 6019002800 & 6019002701) that has been fighting a chronic illegal dumping problem. Those census tracts are just an example of the many tracts that are undergoing a similar circumstance. CES 2.0 should identify these tracts with chronic illegal dumping and assign a score to them. It would be impossible to find every single occurrence of illegal dumping but after gathering data, many patterns will develop. CCEJN foresees that those neighborhoods with illegal dumping will have great correlation to high population vulnerability scores.

3. Communication Isolation

Under the discussion of the linguistic isolation variable, OEHHA explains that “[c]ommunication is essential for many steps in the process of obtaining health care...”¹³ This basic understanding informs the tool by finding that people who are unable to communicate in English have added vulnerability. This is a powerful recognition and actively influences how we define vulnerability. However, we feel that the quoted statement provides a glimpse at something that CCEJN has identified as a larger environmental justice concern for quite some time that is not addressed within CES 2.0: this variable is communication isolation (often referred to as technology gap).

Communication Isolation as we see it describes the lack of fair, affordable, universal access to communication services.¹⁴ For several decades we have seen that certain rural populations have displayed a delayed adoption process of general communications equipment and services as compared to urban areas of the state. The spectrum of the delay varies from community to community but it is

¹¹ California Recycle. Illegal Dumping: <http://www.calrecycle.ca.gov/IllegalDump/>. Retrieved on May 20,2014.

¹² California Recycle. Illegal Dumping: <http://www.calrecycle.ca.gov/IllegalDump/>. Retrieved on May 20,2014.

¹³ CalEnviroScreen 2.0. Office of Environmental Health Hazard Assessment. Page 105.

¹⁴ Language used by the California Public Utilities Commission as it describes their role in communications.

notable in many ways. Access to smart phones and internet for example is often delayed in minority, low-income communities, and still many of the communities that we work with often are unknowledgeable or uncomfortable accessing information via those resources. In extreme cases, we have seen that some residents lack basic telephone service, cell phone or land line. The California Public Utilities Commission has made considerable progress in upbrining and administering the Lifeline program that brings residents accessibility to basic telephone service as a legitimate lifeline for accessing medical care and basic services. Nonetheless, access to communication services continues to be a disproportionate challenge for low-income, minority communities. Lack of access to communications represents several issues of vulnerability. Most dramatically it impairs someone's ability to communicate with emergency services like health care, police, or fire. Less dramatically, but also extremely important is that people who have less access to basic telephone or internet will be further disadvantaged in retrieving general information and education. Notably, state and local jurisdictions provide the bulk of information about permits, land use decisions, hazardous incidents, etc., via cloud outlets. Lack of access to that bulk of information functionally disengages segments of the population.

We are unsure about the process for collecting this data and analyzing it. However, CCEJN welcomes the ability to work with OEHHA in the future to make this variable a reality and something that can capture important information about vulnerability.

4. Moving Forward

CCEJN is not surprised by the draft results of CES 2.0. CCEJN was formed as a result of the environmental injustices that continue to occur in the San Joaquin Valley. As residents of this region we have been aware about the disproportionate burden that our communities live with; this tool simply provides official statewide recognition of those burdens. As CalEnviroScreen improves in future years and more statewide decisions are made using this tool, we welcome those decisions that place special emphasis on top 20% communities as those areas are factually the most burdened and are so because they have been neglected for decades.

The information gathered through this tool is very important and should not be neglected for statewide decisions. Decisions made at the state level should include statewide data collected through CES and census tracts on the top 20% should be highlighted regardless of the county and/or region that they are in.

4a. Statewide funding decisions through legislation, mandates, or department budgets should reflect the needs of top 20% communities and allocate portion of funding directly to those tracts. For example, SB 535 (De Leon) that redirects Cap & Trade Funding towards environmental justice communities when implemented should place special emphasis on top 20% census tracts. The implementation of this law must be reflective of those top 20% communities. As of now, many of the transportation items for implementation within this law require a population and ridership density that is unachievable for rural areas. CES 2.0 shows that many of the top 20% communities are in fact rural areas in the San Joaquin Valley – CES 2.0 should inform legislators and departments at that time to lift population density thresholds to allow eligibility for those communities. This is something that may fall outside of the jurisdiction of OEHHA, but nonetheless as environmental justice advocates OEHHA should advise legislators using this tool. SB 535 is just one example of the potential uses of this tool.

4b. CalEnviroScreen has a great potential for informing regulations and enforcement. Much like funding conversations at the state level should involve special emphasis on top 20% communities, as Cal-EPA departments develop regulations that permitted facilities or pollutants must adhere to, there should be a special emphasis placed in top 20% census tracts. This means that as any Cal-EPA department is proposing an update to a regulation, those regulations should be stricter for areas that are disproportionately burdened, where residents already have higher cumulative impact. For example, whereas certain air emission thresholds will be acceptable for facilities located in cleaner census tracts, those thresholds should be more stringent for facilities located in top 20% communities.

Likewise Cal-EPA departments must place a special emphasis on enforcement in communities that are top 20%. This means that funding should be funneled for more inspections of polluting facilities, more inspectors should be assigned to those areas, and that the departments should place a higher priority for funding Supplemental Environmental Projects in those communities.

Central California Environmental Justice Network would like to thank OEHHA and Cal-EPA once again for developing this tool. As we move forward it is the role of environmental justice organizations as well as OEHHA to advocate for the continuous use and improvement of CalEnviroScreen. CCEJN feels that through the work we are advancing with KEEN/FERN we are able to provide incredibly useful information to advance this tool. The taskforces also allow us to provide countless opportunities for collaboration, data collection, and trend identification that can actively serve OEHHA and CalEnviroScreen. We welcome all requests for helping, and will continue to submit ideas and comments to advance this tool.

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