



October 16, 2012

John Faust
Office of Environmental Health Hazard Assessment
1515 Clay Street, Suite 1600
Oakland, CA 94612

Sent via email: john.faust@oehha.ca.gov

Dear Mr. Faust,

On behalf of the League of California Cities and American Planning Association, California Chapter, we appreciate the opportunity to provide comments on the CalEnviroScreen Tool. As local governments we support policies to invest in our communities and encourage healthy and smart growth. This includes policies to encourage housing opportunities for all income levels; safe, reliable and efficient multi-modal transportation systems; high-quality education and school facilities; and embrace the development of strong, healthy families and socially and ethnically diverse communities. We also recognize the importance of having an inclusive planning process that addresses the needs of communities and populations that have been historically underserved.

Many of our communities today use their General Plan or, more commonly, their community and specific plans to address environmental justice and issues facing disadvantaged communities, using community-based planning to address residents' wants and needs, determining which are the areas and infrastructure most in need, and then addressing these areas as funding becomes available. Additionally, it is common to employ the federal EPA Guidelines for Environmental Justice when working on a project that is subject to NEPA.

While local government has been asked to comment and invited to participate in the public hearings on this tool, there has frankly been very little direct involvement with local government on how this tool can and should be used. This is an especially critical point when local government is potentially one of the key implementers of this tool in the future. We have offered and will continue to request a meeting specifically with local government planners, decision makers and attorneys to walk through the potential concerns with CalEnviroScreen at the local level.

We're also concerned about the confusion over the definition and use of the term "cumulative impacts". It's defined and used in this document one way and used in a very different way for purposes of land use and planning. While this is not uncommon to see terms defined in different ways for various purposes, in this context when you specifically note that your tool might be used to determine cumulative impacts under CEQA, is especially concerning, when cumulative impacts under CEQA is an automatic trigger for a full- Environmental Impact Report, and the data you present as cumulative impacts is specifically noted that "the data and ranking generated by this tool CANNOT be considered as a substitute for an analysis of the cumulative impact of any specific project for which an environmental review is required by CEQA."

An even more fundamental concern we have is the potential for redlining of communities. While the data and information contained in the tool may ultimately be helpful, it just as easily could be used to redline communities and areas of the state as being too expensive or too difficult to permit, or too environmentally challenged and thus viewed negatively by banks and investors because of the information contained in the tool. If that's the case, we will have accomplished exactly the opposite of the goal of this tool and provided a disincentive to help the communities that most need it.

We believe that it is critical to understand the status and capacity of local government at this time when we have recently lost one, if not the most, valuable financial tools. Redevelopment is gone. Along with that, local government has largely lost its liability protection under the Polanco Act for brownfield redevelopment as well as the most significant form of financing for brownfield cleanup. While three bills went to the Governor's desk this year to assist with financing, all three were vetoed by the Governor. (SB 214 Wolk, AB 2144 Perez, SB 1156 Steinberg). In looking at a tool to address environmental justice issues, it must also be recognized that local governments have to be equipped with real tools to deal with real challenges in our communities. Absent tools like redevelopment, many of our communities will fall behind their more affluent counterparts.

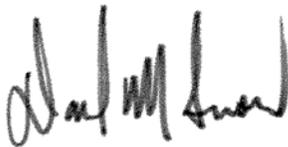
As local governments heavily invested in the future health and vitality of our communities, we strongly recommend further review of this tool by the local government and planning communities and would implore you to provide more specific guidance on how this tool is intended to be used by local governments in California. Without very specific guidance on how the tool should be used, we are concerned that it will become yet another weapon used in CEQA and land use litigation---something that none of us want to see.

To that end, we stand ready to work with you and offer our members expertise to develop the use of this data in an appropriate and meaningful manner.

Sincerely,



Kyra Emanuels Ross
Legislative Representative
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