

CALIFORNIA
ENVIRONMENTAL
JUSTICE ALLIANCE

ENVIRONMENTAL JUSTICE AGENCY ASSESSMENT 2017



Table of Contents

I. Overview of Second EJ Agency Assessment

II. Assessment of Key Agencies

1. California Air Resources Board
2. California Department of Pesticide Regulation
3. California Department of Toxic Substances Control
4. California Division of Oil, Gas, and Geothermal Resources
5. California Public Utilities Commission
6. California State Lands Commission
7. California State Water Resources Control Board
8. California Strategic Growth Council
9. California Transportation Commission

III. Agencies to Watch

1. California Coastal Commission
2. California Energy Commission
3. California Department of Food and Agriculture
4. California Department of Water Resources
5. California Natural Resources Agency
6. California Wildlife Conservation Board

Appendix: Environmental Justice Principles for Policy Implementation at Regulatory Agencies

About the California Environmental Justice Alliance

The California Environmental Justice Alliance (CEJA) is a statewide, community-led alliance that works to achieve environmental justice (EJ) by advancing policy solutions. We unite the powerful local organizing of our members in the communities most impacted by environmental hazards — low-income communities and communities of color — to create comprehensive opportunities for change at a statewide level. We build the power of communities across California to create policies that will alleviate poverty and pollution. Together, we are growing the statewide movement for environmental health and social justice.

For more about CEJA, please visit: www.caleja.org

To contact us, please email: ceja@caleja.org

The California Environmental Justice Alliance (CEJA) is proud to release our second Environmental Justice Agency Assessment. This year, we are thrilled to have partnered with four organizations — the statewide coalition Californians for Pesticide Reform (CPR), the Center for Biological Diversity (CBD), the Community Water Center (CWC), and The People’s Senate — to assess nine state agencies, as well as highlight key issues at another six. Our members and partners who contributed to many of the assessments include: Asian Pacific Environmental Network (APEN); Center for Community Action and Environmental Justice (CCA EJ); Center on Race, Poverty & the Environment (CRPE); Central Coast Alliance United for a Sustainable Economy (CAUSE); Communities for a Better Environment (CBE); Environmental Health Coalition (EHC); Leadership Counsel for Justice and Accountability (LCJA); People Organizing to Demand Environmental and Economic Rights (PODER); Physicians for Social Responsibility–Los Angeles (PSR–LA); Strategic Concepts in Organizing and Policy Education (SCOPE).

Across the state, community groups are engaged in agency proceedings of every type, bringing the voice of residents who are most impacted by statewide regulations into the decision-making processes. This hard work has generated significant momentum to increase the understanding and responsibility of our regulatory agencies to achieve EJ.

In order for any new statewide policies, including those diversifying decision-making at state agencies, to result in on-the-ground changes in communities most impacted by pollution, there must be aggressive, equitable implementation at California's environmental, energy and transportation agencies. Without strong leadership from our regulatory agencies, these groundbreaking policies will not lead to the meaningful reduction of pollutants, reduced climate change, increased environmental benefits, and improved environmental health for communities most harmed by pollution burdens. In addition, the many ongoing issues that communities have been working on for years will continue to go unaddressed. The actions of state regulatory agencies are also a reflection of the Governor's priorities, as state agencies fall under his executive administration and leadership.

Our 2017 EJ Agency Assessment reveals that many state agencies are not successfully integrating EJ into their decision-making. Overall, many state agencies still make decisions that actively harm EJ communities and fail to meaningfully prioritize their long-standing health and quality of life needs.

Some agencies, although now having more clear commitments to EJ in their leadership or new EJ-focused initiatives, have struggled to fully integrate these stated values into final decision-making or regulatory development. Other agencies have yet to even take a step towards increased inclusion of EJ, such as the California Division of Oil, Gas, and Geothermal Resources. The ongoing operations at these agencies are actively causing harm in many low-income communities of color across the state. Another set of agencies — such as the Department of Pesticide Regulation, the State Lands Commission and the California Transportation Commission — are just embarking on an effort to improve EJ considerations or representation but have significant ongoing challenges to overcome. Even some agencies that have made efforts aimed at increasing EJ — such as the Department of Toxic Substances Control — are still failing to meaningfully incorporate community issues into their decision-making and processes and are in need of more comprehensive reform.

There are a few bright spots: After years of organizing, advocacy, internal education, and relationship-building with staff and decision-makers, both the California Public Utilities Commission and the State Water Resources Control Board have improved their inclusion of EJ principles in both their processes and final decisions. Other state agencies, such as the Strategic Growth Council, have shown and demonstrated the beginnings of what could be new models for responsible community engagement within state agencies.

Another positive sign is the growing attention on EJ issues at an increased number of state agencies, represented by our list of six agencies “to watch,” such as the California Coastal Commission and the California Energy Commission. These agencies, while often outside the arena of traditional EJ advocacy, are starting to develop new EJ policies or add new EJ expertise into their decision-making bodies. These developments demonstrate that while uneven, there is increased awareness and effort to address EJ issues at state agencies.

The growth of EJ policy implementation in more than a dozen state agencies speaks to California's emerging commitment to proactively addressing the health and quality of life needs of communities of color in managing and protecting the environment. We applaud this commitment, even as we outline many areas for improvement. The assessments in this report are made in the spirit of charting a course to improving agency actions, with the ultimate goal of improving conditions that negatively impact our most vulnerable residents. This progress is needed not just for EJ communities, but ultimately to benefit all Californians.

The sobering reality in 2018 is that the environmental health and climate crises are worsening in California, and nationally. With federal-level attacks on low-income communities and communities of color and the environment underway, we need state agencies that are dedicated to building a new culture of EJ action and inclusion within the regulatory process.

We hope this assessment continues the conversation about how regulatory agencies, which play such a powerful role in determining the health and future of low-income communities and communities of color, can improve their commitment to EJ within policy implementation.

Methodology And Agencies Included

We use eight EJ principles to assess the actions of state agencies. The principles were developed by our members and partners and are ones that, from our perspective, agencies should uphold when implementing policies to ensure that they are in alignment with EJ. CEJA looked at how well the agencies' actions conformed with each of our principles, and then assigned an assessment of "poor," "fair," or "good" for their performance. The full principles are provided at the end of this report. In our assessments, we focus on key proceedings or decisions where EJ organizations included in this report have been deeply engaged, not on the totality of decision-making within each agency.

In our first assessment released in 2016, we focused on the Department of Toxic Substances Control and the California Public Utilities Commission, which are both agencies where CEJA and our members have been deeply engaged for multiple years. Because of the growth of EJ policies and EJ leadership in the state, our second report shows full assessments for nine state agencies, and lists six others to monitor. The state agencies assessed in this report are under the Governor's executive branch and fall within the California Environmental Protection Agency (CalEPA), California Natural Resources Agency (CNRA), and the California State Transportation Agency (CalSTA).

Any statewide assessment on EJ is inherently challenging; given the depth of environmental injustices in California, many communities need immediate action and attention from statewide agencies. Agencies are often uneven in their commitment and application of EJ principles, sometimes performing well in one area but poorly in another. Our assessments focus on statewide agencies, not regional ones, and we strive to balance progress in some places while lifting up the very real challenges that must be addressed in other communities or on other issues.



II. Assessment Of Key Agencies

The following nine state agencies were seen by CEJA and our members and partners as critical implementers of — or roadblocks to — EJ policies and programs, especially in the last year. EJ advocates shine a light on key policies that these agencies were responsible for — from basic human rights like clean water and clean air, to innovations in renewable energy and sustainable development.



1. California Air Resources Board (CARB)

Organizations assessing: Asian Pacific Environmental Network, California Environmental Justice Alliance, Center for Community Action and Environmental Justice, Center on Race, Poverty & the Environment, Communities for a Better Environment, Leadership Counsel for Justice and Accountability, Physicians for Social Responsibility–Los Angeles, Strategic Concepts in Organizing and Policy Education

“The California Air Resources Board (CARB) is charged with protecting the public from the harmful effects of air pollution and developing programs and actions to fight climate change.”^[1] It implements the state’s clean air programs to reduce pollution from vehicle tailpipes to industry smokestacks. CARB is the state’s leading climate agency that develops climate mitigation plans for the biggest greenhouse gas (GHG) sources, coordinates other

state agencies to meet climate targets, and guides the investment of billions of dollars for climate projects. In 2017, CEJA and our members were engaged in several key processes at CARB, and our assessment is based on CARB’s process and decisions for these four issue areas.

Scoping Plan. The 2030 Scoping Plan outlines how CARB will achieve the state’s 2030 GHG emission reduction targets, established by SB 32. It was a two-year process of projecting emissions reductions from the transportation, industry and energy sectors to meet 2030 climate targets. CARB re-convened the EJ Advisory Committee (EJAC), which hosted dozens of workshops in EJ communities that culminated in a robust list of EJ recommendations.

Cap and Trade Program. Cap and trade remains one of the largest focal points of CARB’s climate policies and consideration of the program was included in the Scoping Plan process. The program has a set of well-documented EJ issues, outlined by both community groups and leading academics.

AB 197 Implementation. Passed in 2016 along with SB 32, AB 197 requires, among other things, that CARB prioritize direct emission reductions when implementing climate programs, which have the most potential to achieve benefits in EJ communities. In the final Scoping Plan, CARB determined that through implementation of existing programs, including cap and trade, they are complying with the mandate of the law.

AB 617 Implementation. In late 2017, CARB began implementation of AB 617, a bill enacted with the stated intent of addressing the air quality crisis in many EJ communities. The new Office of Community Air Protection (OCAP) at CARB is now in the process of an extensive implementation process, with significant EJ community engagement.

CARB EJ Assessment

Principle	Assessment	Reasoning
Prioritize and value prevention, human health, and improving quality of life	Poor	<p>Costs to industry and of implementation have been driving factors in decision-making in the Scoping Plan, cap and trade, and AB 197. Most EJAC Scoping Plan recommendations that clearly prioritized health over costs were not included in the final document. CARB also prioritized industry concerns over health by failing to enact new direct emissions reductions required under AB 197. CARB has ongoing challenges in providing accurate and timely co-pollutant and GHG inventories, also required under AB 197, that make it difficult to track how human health and quality of life are improving under these programs.</p> <p>AB 617 is still early in the implementation process, but CARB will have to prioritize clear, public health-based criteria and new regulatory measures within community emission reduction plans to demonstrate a commitment to improving health in the new program.</p>
Do no harm	Poor	<p>Early data show that GHG emissions in EJ communities are increasing under cap and trade, and CARB has failed to provide a clear roadmap for addressing these issues. By not fulfilling the mandate to prioritize direct emissions reductions as required under AB 197, CARB is perpetuating the development of hot spots. Despite well-documented air quality hotspots, CARB has not acted on the existing data and early warning signs. AB 617 has emerged as the main vehicle for addressing air quality hotspots, but it is unclear if the process will result in the regulatory changes that communities have demonstrated the need for.</p>
Prioritize environmental justice communities	Poor	<p>CARB's final Scoping Plan relies on cap and trade to achieve the majority of our 2030 GHG reduction goals, despite strong opposition and concerns from EJ groups. There has been little to no implementation of AB 197, which was meant to prioritize EJ communities. Although AB 617 is now in place, CARB still has a responsibility to address EJ concerns in all other programs. The first several months of AB 617 implementation have not clearly prioritized EJ community feedback, and have not been clearly linked to community priorities for localized air quality improvements. If AB 617 is to be a main tool to address EJ air quality concerns, it must clearly support community-identified solutions.</p>

Meaningful community engagement	Poor / Fair	Community engagement improved with the Scoping Plan workshops held in accessible locations, translation, new kinds of materials, and ways to engage residents to make it interactive. Early AB 617 rollout has included meetings, calls, and workshops, but they have not clearly enabled community participation or decision-making. Decisions around initial program funding for air districts did not engage community groups.
Responsiveness	Poor / Fair	<p>Although a lot of workshops on the Scoping Plan were held, CARB overall didn't integrate many key recommendations in the final document. However, CARB did include a number of provisions in their final Scoping Plan resolution that were responsive to community concerns, such as increased air emissions inventory mapping, ongoing work with OEHHA regarding the impacts of GHG reduction programs in EJ communities, and efforts to identify strategies that will reduce GHGs and provide air quality co-benefits.</p> <p>CARB is putting in many resources towards AB 617 implementation and has done a lot of listening, but it remains to be seen what it will do with that information, much of which they already had.</p>
Transparency	Poor / Fair	Adding two EJ members has had a positive impact on CARB, as the public and staff now hear more about EJ. The Scoping Plan process was challenging, with a lack of communication on shifting timelines and very little time to review the final draft. CARB has given no substantive reasoning nor had any public process on their approach to AB 197 implementation. Staff has not given substantive information about AB 617 implementation plans, and initial program funding was distributed to air districts with no public process.
Accountability	Poor	CARB has yet to clearly outline how they will address negative impacts from cap and trade, which is not covered under AB 617. In addition, they have not taken action on AB 197 in a substantive way, nor taken action on critical climate and air quality issues in EJ communities, such as moving an Indirect Source Rule forward. It is unclear whether CARB will be accountable to community priorities in AB 617.
Proactivity	Poor	CARB seems to be relying on AB 617 as the main means of proactively addressing EJ issues, but there are many issues in other programs. CARB has not yet been proactive in addressing many sources of air pollution in EJ communities, such as tackling direct impacts of fossil fuel extraction and production. Especially given the new and unclear nature of AB 617, it is insufficient to rely entirely on AB 617. It is unclear how well community feedback and priorities will be included in the AB 617 process.

2. California Department of Pesticide Regulation (DPR)

Organizations assessing: Californians for Pesticide Reform, Center for Environmental Health, Center on Race, Poverty & the Environment, Pesticide Action Network, Physicians for Social Responsibility—Los Angeles

The mission of the California Department of Pesticide Regulation is to protect human health and the environment by regulating pesticide sales and use, and by fostering reduced-risk pest management. DPR's work includes pesticide product evaluation and registration; statewide licensing of pesticide professionals; evaluation of health impacts of pesticides through illness surveillance and risk assessment; environmental monitoring of air, water, and soil; field enforcement (with the assistance of fifty five county agricultural commissioners) of laws regulating pesticide use; residue testing of fresh produce; and encouraging development and adoption of least-toxic pest management practices through incentives and grants. Our analysis of DPR is based on three specific regulatory and quasi-regulatory proceedings, as well as a series of exposure incidents in the spring and summer of 2017.



Schools Regulation. DPR's Pesticide Use Near Schoolsites regulation was implemented in January 2018 after three years of deliberation. The regulation was developed in response to a 2014 California Department of Public Health (CDPH) report on pesticide use close to schools, which found that Latino students were 46 percent more likely than white students to attend schools with any pesticides of concern applied nearby, and 91 percent more likely to attend schools in the highest quartile of use. The final regulation prohibits the most drift-prone application methods during school hours within a quarter-mile of public schools and daycares, but it has done nothing to address the disparate burden faced by Latino school children.

Chlorpyrifos Risk Assessment. Chlorpyrifos is a neurotoxic pesticide that the U.S. Environmental Protection Agency (EPA) determined posed an unacceptable health risk to children nearly two decades ago, leading to a ban on residential use. But DPR continued to allow the use of chlorpyrifos on fields, leaving children in agricultural farmworker communities at continued risk. In November 2016, the EPA recommended a national ban on chlorpyrifos use on all food crops — a ban the Trump administration refused to finalize. Since then DPR has released a draft risk assessment that ignores the EPA November 2016 findings and allows exposure levels much higher than what the EPA considered safe for young children and pregnant women.

1,3 Dichloropropene (Telone). In 2011 the EPA ruled against DPR in its first-ever ruling of racial discrimination on a civil rights complaint, finding that Latino students were disparately affected by methyl bromide fumigation. Since then, DPR has done nothing to reduce the disparate exposure for Latino school children to the carcinogenic fumigant Telone, a methyl bromide replacement. Due to health concerns, DPR had actually banned Telone in California in 1990 but allowed it back under pressure from Telone manufacturer Dow a few years later—subject to a special use cap that DPR put in place unlawfully, and delegated responsibility to Dow to track use. Allowable use was then increased by instituting “banking,” whereby growers could exceed the use cap by rolling over unused allocations from prior years. Last year, over objections from its sister agency OEHHA, DPR reworked the Telone cancer risk calculation and relaxed the allowable air level fourfold (from .14 ppm to .56 ppm). This allowed DPR to increase the use cap and thereby eliminate the need for banking.

Drift Incidents. From May to September 2017, five pesticide drift incidents in Kern, Monterey, Santa Cruz and Merced counties affected hundreds of farmworkers, sickening dozens and sending several to the hospital for treatment. County agricultural commissioners, acting on behalf of DPR in each county, are required to investigate any reported incidents of drift. To date, only two of the five investigations have been completed and resulted in fines for the agribusinesses involved.

DPR EJ Assessment

Principle	Assessment	Reasoning
Prioritize and value prevention, human health, and improving quality of life	Poor	DPR's oversight of pesticide poisoning incidents have failed to ensure that investigations are completed in a timely manner or that significant fines are assessed for violations; DPR co-sponsored legislation (AB 1419) in 2017 to increase fines for drift incident violations and provide greater oversight and enforcement, but the bill failed. DPR has failed to ban chlorpyrifos, producing a weak draft risk assessment of chlorpyrifos that disregarded the scientific basis for the EPA's proposed ban, and is now being reviewed by the Scientific Review Panel for Toxic Air Contaminants. Before regulating a pesticide, DPR quantifies the cost to industry but not human and environmental health costs of continued pesticide exposure. In fact, DPR staff have admitted they don't know how to conduct such an assessment. Compared to other agricultural economies, California lags far behind in helping farmers adopt profitable, non-hazardous pest control methods. DPR has a school Integrated Pest Management program and a grant program for research into health-protective pest management, but they are small programs facing huge unmet needs.
Do no harm	Poor	DPR has a regrettable history of decisions that exacerbate environmental injustice, including increasing permitted usage of the carcinogenic fumigant Telone. DPR's deeply flawed draft risk assessment of chlorpyrifos has severely undercut the EPA recommendation for a ban. Any decision may take years to finalize and may be less health protective than the EPA's recommended ban, which was rescinded by the Trump administration.
Prioritize environmental justice communities	Poor	By continuing to permit the application of dangerous pesticides and fumigants, including the methyl bromide replacement Telone, near California's rural schools, DPR continues the pattern of discrimination documented by the EPA and CDPH. By focusing on mitigating acute rather than chronic daily exposure, the department fails to protect communities of color from long-term pesticide exposure. DPR just filled an EJ staff position, but not the high level of authority that advocates sought; it's too early to know if it will improve DPR's EJ priorities.

Meaningful community engagement	Fair	After sustained pressure, DPR held a number of community forums, with interpretation, around the state during consideration of its new rule on pesticide use near schools; but the final regulation did not address concerns about chronic exposure or weekend and night-time pesticide use near schools that community participants raised, who doubted that community voices were heard. DPR did not provide interpretation for a 2017 chlorpyrifos advisory meeting, and community members were inappropriately scolded for straying from DPR's public engagement framework.
Responsiveness	Fair	DPR typically responds to community concerns and questions, but recommendations from community members are rarely incorporated into regulatory decision-making, as illustrated by the new schools regulation's failure to address chronic pesticide exposure. DPR was responsive to requests to improve statewide pesticide air monitoring, resulting in more monitoring sites in areas of intensive pesticide use.
Transparency	Fair	DPR posts important documents on its website, but many are technical and not community-appropriate (not user-friendly and primarily in English only). DPR has a history of working with the pesticide industry behind the scenes. Their public communications preclude challenges to their narrative framing, as some media outlets receive press releases ahead of the public, leading to stories that favor DPR's analysis and which give short shrift to public critique.
Accountability	Poor	DPR doesn't have a governing board or other accountability body. The pesticide industry often has far more opportunities for input on decisions than the public—a clear imbalance of access and undue influence. In the two most important recent policy actions (pesticide use near schools and revision of Telone use restrictions), preserving options for the use of pesticides in California fields seems to be prioritized over protection of public health.
Proactivity	Fair	DPR recently added a senior EJ position but it is too soon to know if it will improve partnerships between the department and communities. DPR worked with CPR coalition members to improve its community-level statewide air monitoring program; but the data analyses and summaries still misleadingly discount pesticide detections. DPR partnered with the Central California Environmental Justice Network on three public workshops on enforcement. DPR has produced some pesticide safety materials in indigenous languages with community group input.

3. California Department of Toxic Substances Control (DTSC)

Organizations assessing: Center on Race, Poverty & the Environment and the People's Senate

The Department of Toxic Substances Control is tasked with protecting California's people and environment from the harmful effects of toxic substances by restoring contaminated resources, enforcing hazardous waste laws, reducing hazardous waste generation, and encouraging the manufacturing of chemically safer products. After years of mismanagement, senior staff and leadership turn-over, and high-profile toxic disasters exposing hundreds of thousands of residents to hazardous substances, the EJ community and the legislature has demanded accountability and reform from DTSC. The Legislature created the Independent Review Panel (IRP) in 2016 to review and provide recommendations on DTSC's permitting, enforcement, public outreach, and fiscal management. The IRP issued its final report and sunsetted in January of 2018. The IRP concluded that the Governor and the Legislature should consider a DTSC governing board or other structural change to enhance transparency and accountability as well as monitor its ongoing initiatives and decision-making. However, since the release of the IRP's recommendations, few have been adopted.

DTSC EJ Assessment

Principle	Assessment	Reasoning
Prioritize and value prevention, human health, and improving quality of life	Poor	Despite years of efforts to encourage DTSC to address widespread community concerns, residents continue to report that no on-the-ground improvements have been made. Meanwhile long delays in decision-making, inadequate enforcement, and a reluctance to address site-specific concerns have resulted in unnecessary toxic risks and exposures in EJ communities around the state.
Do no harm	Poor	DTSC failed to meet mandatory deadlines to develop criteria to address cumulative impacts and community vulnerability in its permitting decisions. It failed to secure clean-up funding for half of the state's orphan toxic sites. And it has continued to allow facilities with expired permits — including Phibro-Tech, whose permit expired in 1996 — to remain operational.
Prioritize environmental justice communities	Fair	DTSC's Office of Environmental Justice and Tribal Affairs has increased staffing in Los Angeles and Sacramento. DTSC has begun a new program focused on serious environmental violations committed by metal recycling facilities located in disadvantaged communities. However, DTSC reports that only 40 percent of its inspections, investigations, and enforcement activities take place in the most burdened communities despite the vast majority of hazardous sites being located in these areas.
Meaningful community engagement	Poor	Despite some improved relationships between a few impacted residents and the Office of Environmental Justice and Tribal Affairs staff, DTSC has no process for impacted residents to voice concerns or ensure community issues are addressed.

Responsiveness	Poor	DTSC's ad hoc processes to engage residents has been unreliable and inefficient at addressing community concerns. DTSC's attempts at establishing consistent practices to inform and engage with community residents have failed.
Transparency	Poor	DTSC does not have a consistent and readily accessible way to convey important information to impacted residents. Although DTSC updated Envirostor, its online database of impacted sites, in 2017, the website remains difficult to use, outdated, and in English only. Since the IRP sunsetted in 2018, the public has no open forum in which to raise issues or concerns.
Accountability	Poor	DTSC continues to be one of the only permitting and regulatory departments at the CalEPA without a governing board or other accountability body. Decisions are made behind closed doors with little opportunity for public input or transparency in how decisions are made. DTSC hears and decides all appeals of its decisions, a clear conflict of interest.
Proactivity	Poor	Despite efforts to reform different program areas, DTSC continues to fall behind on deadlines for agency mandates, fails to make timely decisions, and fails to engage impacted residents.

4. California Division Of Oil, Gas, and Geothermal Resources (DOGGR)

Organizations assessing: Center for Biological Diversity, Center on Race, Poverty & the Environment, Communities for a Better Environment

The Division of Oil, Gas, and Geothermal Resources is the state's primary oil and gas regulator that supervises the "drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities attendant to oil and gas production."^[2] In doing so, it is responsible for permitting new and ongoing oil and gas facilities and the expansion of oil field operations, in which it has the duty to "prevent, as far as possible, damage to life, health, property, and natural resources."^[3]



Numerous studies have shown that EJ communities are disproportionately affected by oil and gas development. DOGGR has continued to permit new and ongoing oil and gas production activities in EJ communities,

including the expansion of operations in those communities, such as in South Los Angeles and Kern County. It rarely, if ever, conducts any environmental review under the California Environmental Quality Act before issuing these approvals, and is fighting against any legal requirement to do so in court. To our knowledge, DOGGR has denied few, if any, permits or approvals for oil and gas activities, including well stimulation. And it does not apply any requirement or limitation on any operation for the purpose of protecting EJ communities or public health. For instance, in 2015, the California Council on Science and Technology recommended science and health-based setbacks between sensitive receptors and well stimulation operations. DOGGR refuses to apply this requirement to any of its hundreds of well stimulation discretionary approvals issued every year. These oil and gas projects continue to harm EJ communities through exacerbating air pollution in the most polluted regions in the nation, contaminating surface and groundwater, and creating noise, light, vibration, and odor pollution.

DOGGR EJ Assessment

Principle	Assessment	Reasoning
Prioritize and value prevention, human health, and improving quality of life	Poor	There is no value placed on prevention, human health, or improving quality of life. DOGGR has not adopted science-based setback distances to protect EJ communities, ignoring the recommendations of scientists and public health experts. Rather, DOGGR continues to prioritize its encouragement of fossil fuel development and production.
Do no harm	Poor	DOGGR has allowed widespread harm to occur. DOGGR continues to permit oil and gas operations that contribute significantly to air quality degradation in polluted air basins and degrade aquifers, including many that are currently protected under the Safe Drinking Water Act.
Prioritize environmental justice communities	Poor	DOGGR has taken no action to address the disparate impacts of oil and gas on California EJ communities. It has failed to produce an environmental impact report to assess those impacts resulting from several of its regulatory actions.
Meaningful community engagement	Poor	Public comments are routinely ignored in DOGGR's rulemaking process. Permits to drill and inject wastewater are granted without public notice or hearings. DOGGR does not require companies to disclose what chemicals will be used in these operations, and DOGGR refuses to conduct environmental review to assess health impacts.
Responsiveness	Poor	The public's opposition to oil and gas projects have been ignored. Public comments are routinely ignored in DOGGR's rulemaking processes.
Transparency	Poor	DOGGR fails to collect or publish critical information on chemicals used, where spills have occurred, or what the health impacts of a given project will be.

Accountability	Poor	DOGGR has made promises to implement reforms to improve regulations and enforcement, but these reforms and regulatory proposals remain unfinished and unadopted.
Proactivity	Poor	DOGGR has not shown any meaningful proactive steps toward protecting EJ communities.



5. California Public Utilities Commission (CPUC)

Organizations assessing: Asian Pacific Environmental Network, California Environmental Justice Alliance, Center on Race, Poverty & the Environment, Central Coast Alliance United for a Sustainable Economy, Communities for a Better Environment

The mission of the California Public Utilities Commission is to regulate services and utilities, protect consumers, safeguard the environment, and assure Californians' access to safe and reliable utility infrastructure and services.^[4] They regulate

privately owned electric, natural gas, telecommunications, water, railroad, rail transit, and passenger transportation companies, in addition to authorizing video franchises. There are five governor-appointed Commissioners, who ensure that consumers have safe, reliable utility service at reasonable rates, and are protected from fraud. The CPUC made decisions on three key programs related to EJ communities in the last year.

Solar on Multifamily Affordable Housing (SOMAH). In December 2017, the CPUC released a final decision on the Solar on Multifamily Affordable Housing (SOMAH) program. Created by the passage of AB 693 (Eggman), this new program will bring \$1 billion over 10 years for rooftop solar to low-income renters. The new program is intended to bring 300 megawatts of new solar projects with the potential to serve more than 150,000 low-income renters at more than 2,000 affordable housing properties across the state. SOMAH is a ground-breaking new program that invests in communities most impacted by fossil fuels, will lead to economic savings for tenants, and brings us closer to achieving energy equity in California.

CPUC and CEC Disadvantaged Communities Advisory Group. In August 2017, the CPUC and the California Energy Commission (CEC) released a joint proposal to establish a new advisory group consisting of representatives from disadvantaged communities (DACs) who will provide advice on state programs proposed to achieve clean energy and pollution reduction. In March 2018, CPUC appointed eleven individuals to the Disadvantaged Communities Advisory Group, including representatives of grassroots EJ organizations.

Integrated Resource Plan (IRP). The IRP proceeding is integral to implementing SB 350 to meet the state's 50 percent renewable energy target by 2030 and will set requirements for all energy providers (or load-serving entities, LSEs) under CPUC to file plans by June 2018. In February 2018, the CPUC issued a landmark decision that requires utilities and other energy providers to consider DACs most impacted by air pollution and climate change as central to their future planning efforts rather than as an afterthought. The CPUC defined DACs as the top 25 percent of communities in the state with the highest pollution and socio-economic burdens. As the CPUC found, existing natural gas plants in the state are disproportionately located in and thus disproportionately impact DACs.

CPUC EJ Assessment

Principle	Assessment	Reasoning
Prioritize and value prevention, human health, and improving quality of life	Good	The IRP decision requires that utilities examine the air pollution impacts of its resources on DACs and describe how they plan to minimize air pollution. To do this, utilities must develop and apply evaluation criteria to ensure consideration of air quality and impacts on DACs. It also requires consideration of whether new or long-term contracts with natural gas plants are necessary or whether the need can be met by other less-polluting resources. It further requires that utilities planning for new resources or long-term contracts seek input from DACs that could be impacted by the potential resources.
Do no harm	Fair	The IRP decision requirements to consider air quality and community input are essential for ensuring that communities most impacted by air pollution and climate change are not further left behind.
Prioritize environmental justice communities	Good	<p>In the SOMAH Final Decision, DACs and low-income communities are the focus of the program. Some of the features of the SOMAH program include: eligibility of properties with five or more dedicated affordable housing, where most (80 percent) of the tenants are low-income (60 percent of area median income) or located in a DAC; more than half the savings must go to tenants, but landlords may benefit for common area electricity costs; units in Community Choice Aggregators (CCAs) can participate; and required job training and a focus on local jobs.</p> <p>It is encouraging that the CPUC and the CEC has taken the initiative to establish the DAC Advisory Group, that two CEJA members were appointed to it, as well as many allies from equity-focused organizations representing the geographic diversity of the state. We hope to see prioritization happen in substantive decisions as well to ensure that the gap between DACs and the rest of the state can start to be closed.</p>
Meaningful community engagement	Fair	In 2017, CEJA hosted Energy Equity Tours in key EJ communities throughout the state: Richmond, Southeast Los Angeles, the Inland Valley, and the National City and Barrio Logan areas of San Diego. All CPUC Commissioners attended at least one of these tours, except for President Michael Picker (but his staff attended). We appreciate the Commissioners taking time to participate in the tours and to meet with community directly. We would like to see more initiative taken by the CPUC to engage with community; this may include local visits to community organizations, more local hearings throughout the state, and better translation and interpretation in various languages. Through the DAC Advisory Group, we are hopeful that much more meaningful community engagement will occur.

Responsiveness	Fair / Good	The IRP Final Decision's treatment of DACs, which would change how they are considered in procurement decisions from being an afterthought to a core consideration. This decision goes farther than any other previous CPUC one. It explicitly requires consideration of DACs and impacts to them for all LSEs in the state. It also requires consideration of air quality impacts, including cycling emissions, as well as whether recontracting of natural gas facilities is necessary or whether the need can be met by other resources. The decision takes our recommendation to use a DAC definition of the top 25 percent of communities identified statewide by CalEnviroScreen. We hope the CPUC is responsive during the community engagement process.
Transparency	Poor / Fair	We are happy to see that the IRP requires the LSEs to serve their IRPs in a transparent process. However, CPUC still has an opaque decision-making process. Timelines of hearings and decisions are often shifted without sufficient notice, making it difficult to engage in the process and even more difficult for community members to participate in the hearings. Further, Commissioners usually agree to ex parte meetings instead of scheduling all-party meetings that give parties a chance to hear and respond to each other's points.
Accountability	Poor / Fair	Although CEJA is thrilled about the SOMAH decision, the IRP decision, and the DAC Advisory Group, it remains unclear who the CPUC is ultimately accountable to. Because the Commissioners are appointed by the Governor, they still are beholden to him. There must be more clear accountability to state residents who the CPUC is supposed to serve, and more requirements for reporting and enforcement to ensure that DAC requirements are met.
Proactivity	Fair	Since 2016, we have seen the CPUC improve in proactive partnerships including through new Commissioners. Their attendance in our Energy Equity Tours and inclusion of many of our comments and recommendations in the final decisions of the SOMAH and the IRP are promising. The CPUC should take greater initiative in proactively partnering with community-based organizations, especially in EJ communities.

6. California State Lands Commission (SLC)

Organizations assessing: Center for Biological Diversity, Center on Race, Poverty & the Environment, Communities for a Better Environment

The State Lands Commission has jurisdiction over tidelands and state waters. These lands are often the site of large oil and gas facilities, such as refineries and marine terminals that receive oil tankers. SLC's mission is to provide "effective stewardship of the lands, waterways, and resources entrusted to its care through preservation, restoration, enhancement, responsible economic development, and the promotion of public access."^[5]

This assessment is based on SLC's role in leasing lands to oil and gas companies and permitting oil and gas activities on public lands and in the Pacific Ocean. Many refineries and ancillary facilities like marine terminals are located on land controlled by the SLC. In many cases, EJ communities are in close proximity to these polluting facilities. For example, CalEPA's CalEnviroScreen health screening tool identifies the Martinez area around the Tesoro marine terminals and refinery as having some of the state's worst scores for releases of toxic chemicals. Residents in the area, more than half of whom are low-income communities of color, suffer from high rates of asthma. Unfortunately, in 2015 the SLC approved the lease renewal for this Tesoro project without EJ and health considerations.

Recognizing a need to dust off its old EJ Policy and review how it could improve, the SLC Commissioners and staff committed to overhaul its EJ Policy and processes. They started 2018 by hearing from several groups about EJ issues related to state lands—including ports, oil and gas, and tribes. They are working on a community engagement process with EJ organizations, especially the members of the Environmental Justice Working Group, to get feedback on their draft EJ Policy before approving it by the end of 2018. In addition, SLC has recently adopted two resolutions opposing offshore drilling activities on state lands. While concrete action remains to be seen, these resolutions present some promise to address EJ impacts to offshore drilling workers and associated lifecycle impacts in regards to the transportation, refining, and eventual consumption of these extracted fossil fuels in and around EJ communities in California.

SLC EJ Assessment

Principle	Assessment	Reasoning
Prioritize and value prevention, human health, and improving quality of life	Poor	The SLC has allowed the expansion of oil refineries and marine terminals near EJ communities without addressing the adverse health impacts to those communities.
Do no harm	Poor	Air pollution from the oil refineries and marine terminals has impacted the health of nearby communities.
Prioritize environmental justice communities	Poor	SLC has not shown it prioritizes EJ communities affected by activities on state lands and state waters. In fact, the recent letter from SLC announcing its intention to deny new offshore oil and gas permits may have the effect of increasing vessel traffic to existing marine terminals.

Meaningful community engagement	Poor	SLC has not historically shown a willingness to engage in discussions with EJ stakeholders. The Commission also sought tens of thousands of dollars in litigation costs against two non-profit organizations that opposed the Tesoro Marine Terminal expansion. SLC refused to negotiate with the groups. A judge ultimately ruled those costs to be far in excess and unreasonable.
Responsiveness	Poor	SLC ignored public comments critiquing the inadequate and misleading environmental impact report for the Tesoro marine terminal expansion (2015).
Transparency	Poor	SLC has not adequately assessed the impact of oil and gas infrastructure on EJ communities.
Accountability	Poor	SLC does not have any mechanisms to hold itself or the Commissioners responsible for the harm caused by their approvals.
Proactivity	Poor / Fair	SLC has not demonstrated that they are proactively considering EJ issues when it comes to oil and gas, although somewhat addressing those issues with recent resolutions opposing offshore drilling activities. SLC's commitment to overhaul its EJ Policy in 2018, with the engagement of several EJ groups, is also a promising sign toward EJ.

7. California State Water Resources Control Board

Organizations assessing: Community Water Center, Center for Biological Diversity, Leadership Counsel for Justice and Accountability

The State Water Resources Control Board (State Water Board) is tasked with regulating the waters of California, not including percolating groundwater. Its jurisdiction spans the entire state, with nine regional water board tasked with geography-specific issues. The State Water Board's actions impact EJ communities in numerous ways, including grant funding guidelines; point of use and point of entry regulations; implementation of water affordability study as directed by AB 401 and affordability issues in general; regulation of drinking water contaminants; setting and reviewing Maximum Contaminant Levels (MCL); reviewing regulations adopted by the regional water boards when petitioned to do so; Sustainable Groundwater Management Act (SGMA) regulatory backstop; and oversight of public drinking water systems.

When it comes to their role in regulating the impacts of oil and gas operations on water resources, the State Water Board has largely failed to consider EJ concerns. It has approved numerous aquifer exemptions that would allow high-intensity oil and gas operations to expand into groundwater previously protected under the Safe Drinking Water Act. It also has not taken any action against the oil industry's practice of dumping toxic waste fluids into unlined pits, despite an independent panel of scientists calling for a phase-out years ago. Such practices have resulted in documented groundwater contamination in many parts of the state. Still, the State Water Board has taken no action.

Overall, considering the broad scope of work tasked to the State Water Board, they did a fair job in incorporating EJ interests into their processes. Oftentimes, effectiveness depends upon the division. There are several divisions at the State Water Board that work on issues that impact EJ concerns, and numerous different programs within each division. On average, the various divisions do a fair job considering EJ issues and working with advocates for EJ communities, but need to improve on oil and gas issues.

State Water Board EJ Assessment

Principle	Assessment	Reasoning
Prioritize and value prevention, human health, and improving quality of life	Fair	The State Water Board does a good job of ensuring that EJ interests are incorporated into some of their processes. Staff and the board are willing to listen, learn, and change in order to ensure that community interests are adequately addressed. Furthermore, it is always looking for new ways of outreach to communities to make sure their programs are not only designed to help communities, but also that the communities can actually access the programs. However, in several areas the Board has often been slow to utilize its authority to protect water resources that are often the source of drinking water for communities. The Board could take a more proactive role in preventing harm from oil and gas operations. It has also been hesitant to use SB 88 authority to mandate drinking water consolidations and its failure to actively enforce water quality standards against dairy operations. Additionally, the Board recently adopted an Antidegradation analysis for nitrate degradation to groundwater that does not adequately consider impacts to communities dependent on groundwater.
Do no harm	Fair	In most regards the State Water Board ensures that the projects, regulations, and guidelines they adopt will not result in harm to communities. However, there are areas where the it has failed to fulfill this goal, the most recent being adopting an Antidegradation analysis for the Irrigated Lands Regulatory Program that does not adequately consider impacts to communities reliant upon groundwater that receives the seepage from agricultural fields. The reluctance of the State Water Board to take action on unlined waste fluid pits and aquifer exemptions has unfortunately resulted in groundwater contamination near EJ communities.
Prioritize environmental justice communities	Fair / Good	The State Water Board always includes additional points in their funding guidelines for disadvantaged communities (DACs), and work to develop incentives for non-DACs to include DACs within their projects. It does need to include more inclusive and extensive follow-up on project recipients to ensure that EJ communities are effectively incorporated into the project process, and that projects proposed will in fact benefit the community, not just the region as a whole.

Meaningful community engagement	Fair	The majority of the time, the staff does a good job at reaching out to EJ groups to get feedback on proposed actions. Staff could do more to actually reach out to the communities directly, but credit should be given to the them on their engagement with groups representing EJ communities. Staff often takes recommendations from EJ groups and incorporates them into the final actions. Even if they do not take EJ recommendations, they will take the time to talk with groups to explain the reasoning behind their decisions, both in the public comment phases and after the fact.
Responsiveness	Fair	This is very dependent upon the division and even project groups within divisions. The majority of the time, the staff is responsive and will set aside time to talk through issues with a proposed action that advocates fear will either harm or not be helpful to communities. There have been incidents, however, where a proposed action will have obvious impacts to communities and yet no advocate group was contacted during the drafting and the advocate comments were effectively ignored.
Transparency	Good	Board and staff are always willing to talk with groups to clearly disclose why they are proposing an action and to explain the reasoning behind the process. Staff also routinely holds stakeholder workshops for more complex issues, allowing stakeholders to participate and help guide the process. The public is able to engage with decision makers in a public setting. However, more can be done to ensure that the public has access to data required to evaluate the effectiveness of programs to protect water quality. An example is the Onsite Waste Treatment System Policy, which does not provide for collection or public access to data on septic system failures.
Accountability	Good	Staff for the most part is open to hearing about how their (in)actions are actually impacting communities and being implemented on the ground. There are several instances where such feedback has resulted in changes in policy or implementation practices.
Proactivity	Fair	On many issues the State Water Board is very proactive in addressing EJ issues, from improving funding programs in order to be more effective in reaching communities to providing strong feedback to the Department of Water Resources on implementing SGMA. However, there are larger issues where it continues to push off, such as creating a guidance document on how the state's Anti-degradation analysis should be interpreted in terms of groundwater. This is something that significantly impacts communities and is not consistently and effectively used with regard to impacts to communities. Water pollution caused by the oil and gas industry remains an area of concern as well.

8. California Strategic Growth Council (SGC)

Organizations assessing: California Environmental Justice Alliance, Center for Community Action and Environmental Justice, Center on Race, Poverty & the Environment, Leadership Counsel for Justice and Accountability, Physicians for Social Responsibility—Los Angeles, Strategic Concepts in Organizing and Policy Education

The California Strategic Growth Council works to “support a healthy, vibrant and resilient California.”^[6] “SGC oversees the state’s multi-agency efforts to create sustainable communities, improve air and water quality, protect natural resources, increase affordable housing, improve transportation, and help California meet its AB 32 climate goals, among other priorities. Their vision is to “advance California’s collaborative efforts to shape how and where we grow, working to achieve equitable and resilient communities and landscapes for all Californians.”^[7] SGC also makes recommendations on the state’s policy and investment strategies and administers grants and loans.

For California Climate Investments, SGC oversees a handful of programs that provide benefits to EJ communities, including the Transformative Climate Communities (TCC) program created by AB 2722 (Burke, 2016), the Affordable Housing and Sustainable Communities (AHSC) program, and technical assistance programs. While 50 percent of AHSC funds are dedicated to disadvantaged communities (DACs), the TCC program is most notable for its 100 percent focus on serving DACs by using large-scale resources to fund multiple, comprehensive projects at the neighborhood scale that reduce GHGs and provide other important community co-benefits.

From 2016 to 2018, CEJA engaged in statewide advocacy to ensure the strong implementation of the TCC program. SGC should be commended for its high level of community engagement with various stakeholders across the spectrum. Compared to other state agencies and departments, SGC was exceptional in their outreach efforts and communications with community groups and EJ advocates. SGC has also demonstrated a strong commitment to the improvement of EJ communities by addressing EJ concerns from a holistic and cumulative impact perspective. While we appreciate both the staff and SGC’s work to develop a strong TCC program that adheres to the spirit and intent of AB 2722, CEJA members found that areas of improvement still exist for the agency, most notably in the areas of transparency and preventing harms for EJ neighborhoods. While the TCC program Guidelines incorporated a very high level of public and community input, the Guidelines posed some challenges for various EJ communities, from high eligibility requirements to less robust safeguards to address displacement.



SGC EJ Assessment

Principle	Assessment	Reasoning
Prioritize and value prevention, human health, and improving quality of life	Fair / Good	<p>The Final TCC Guidelines included many goals and standards that value prevention, human health, and improving quality of life. The Guidelines force applicant proposals to meet objectives for achieving significant GHG reductions, improving public health and environmental benefits, and expanding economic opportunity and shared prosperity; demonstrate multiple EJ strategies for place-based transformation in high-need communities; use CalEnviroScreen (CES) to develop plans to serve DACs; create public health goals using public health data related to climate change risks and exposures; and meet an additional goal of expanding economic opportunity and shared prosperity for project area residents.</p> <p>However, the selected Los Angeles implementation grant did not prioritize health or improving the quality of life for low-income communities and communities of color.</p>
Do no harm	Fair	<p>SGC incorporated a significant amount of EJ comments for their TCC program requirements, with inclusion of a Community Engagement Plan (CEP) and a Displacement Avoidance Plan (DAP) when proposing plans for large-scale, neighborhood-based transformation. Requiring community engagement and employing anti-displacement safeguards are crucial for programs to ensure that local communities are not being harmed by the program.</p> <p>Despite this, community groups in Los Angeles are extremely concerned with a TCC grant award to a proposal that local groups loudly criticized for leading to evictions of local residents and ignoring public health concerns.</p>
Prioritize environmental justice communities	Good	<p>SGC successfully carried out AB 2722's intent by focusing on EJ communities throughout the development of the TCC program Guidelines, with strong focus of grants on the "Most Disadvantaged Communities;" applications were also required to include a majority top 25 percent CalEnviroScreen communities and were eligible to disadvantaged unincorporated communities.</p> <p>Although the program focused on funding regions that need it the most, it was still difficult for EJ community proposals to be competitive for the funds; high project readiness requirements limited certain EJ communities' competitiveness.</p>
Meaningful community engagement	Fair / Good	<p>In addition to requiring a multi-step CEP within the TCC Guidelines, it contained additional opportunities to promote meaningful community engagement.</p> <p>A majority of EJ communities, who often lack the resources to apply for grants, had neither the capacity nor the resources to apply for first round TCC grants due to the program's strict eligibility requirements. In response, SGC reached out to lead agency applicants to encourage them to work more with EJ community groups that were involved in the proposals, but that did not always lead to authentic community engagement.</p>

		<p>Despite challenges with the TCC program, SGC provides a good model for community engagement in program development that other state agencies and departments should follow. California's TCC and AHSC programs are known to contain some of the most comprehensive community engagement requirements compared to other state programs, and SGC has helped coordinate efforts to discuss ways to better include equity and community engagement in all California climate investments. SGC can be helpful in anchoring efforts to increase the capacity of communities to successfully apply for California Climate Investment grants.</p>
Responsiveness	Good	<p>SGC was very responsive to feedback during all rounds of public comment on the TCC Program Guidelines and included a very high amount of feedback in the final documents. They were also very responsive to requests from community members and groups for in-person meetings, forums, community tours, or calls to discuss the program.</p> <p>In AHSC, they responded to concerns about leaving out disadvantaged rural communities, made their transit connectivity requirement flexible to allow communities with limited transit service to compete, scored applicants with more affordability depth higher, and added points for including anti-displacement and jobs.</p>
Transparency	Fair / Good	<p>SGC staff were very open to talking about their plans for the development of the TCC program with community groups and other stakeholders. However, in the process to score the final TCC Implementation Grant proposals, last minute technical amendments were included, adding requirements that negatively impacted local EJ groups. Despite the last-minute technical amendments however, some EJ groups felt that SGC staff were always clear about what they would and wouldn't do while developing the program. We hope this level of transparency continues during the implementation phase of the plans.</p>
Accountability	Good	<p>Although not perfect, SGC was very inclusive of public comment during the process to create the TCC guidelines, demonstrating a thorough and inclusive process for incorporating public input that other state programs should model. SGC was also responsive to critiques and feedback during meetings and calls. It will be important that SGC has strong processes and systems to hold TCC project awardees accountable for addressing any negative project outcomes.</p>
Proactivity	Good	<p>SGC reached out to build relationships with community groups and coalitions such as CEJA to ensure the success and high quality of the TCC program. They also reached out to potential applicants to conduct site visits, meet with community groups and residents, ask questions, and go on tours of the project areas. SGC also reached out to groups to request additional feedback on guideline development when written comments were not as clear.</p>

9. California Transportation Commission (CTC)

Organizations assessing: Center for Community Action and Environmental Justice, Leadership Counsel for Justice and Accountability

The California Transportation Commission was established in 1978 out of a growing concern for a single, unified California transportation policy. The CTC has eleven voting members and two non-voting ex-officio members; nine are appointed by the Governor, one by the Senate Rules Committee, and one by the Assembly Speaker; and the two ex-officio members are usually the respective chairs of the transportation policy committee in each house. CTC programs and allocates funds for the construction of highway, passenger rail, transit and active transportation improvements throughout California. CTC also advises and assists the Secretary of the California State Transportation Agency and the Legislature in formulating and evaluating state policies and plans for the state's transportation programs. They actively initiate and develop state and federal legislation that seeks to secure financial stability for the state's transportation needs.

CTC's transportation policy, planning and allocations have traditionally been developed to sustain freeways and goods movement infrastructure without consideration of air quality or allocation of burdens. Unfortunately, these silos have produced barriers to achieving our ambitious climate and air quality targets. Mobile sources are primarily responsible for nitrogen oxide emissions which create the most significant pollution burdens on vulnerable populations. Vulnerable Californians located in close proximity to freeways are exposed to heightened burdens, such as high particulate matter and ozone exposure.

In October 2017, the Governor signed AB 179 (Cervantes) requiring the Governor, when appointing Commissioners, to use every effort to ensure that CTC's membership is diverse with expertise in transportation issues — including factors such as socioeconomic background and professional experience working in or representing disadvantaged communities (DACs). Outside of AB 179, we have yet to see transformative changes in the way they plan, prioritize, and fund the state's transportation system or how the transportation system contributes to increased criteria pollutants in the most vulnerable communities.



CTC EJ Assessment

Principle	Assessment	Reasoning
Prioritize and value prevention, human health, and improving quality of life	Poor	The ongoing detrimental transportation impacts in EJ communities are not substantially incorporated into CTC's decision-making, unless statutorily required. Even then, CTC has been recalcitrant in implementing statute to its fullest extent to provide vast improvements to human health and quality of life. The only exception may be in the Active Transportation Program (ATP), one of the smallest budgeted programs, in which CTC is statutorily required to set aside at least 25 percent of the funds for DACs.
Do no harm	Poor	CTC has maintained and perpetuated harm to existing EJ communities by maintaining and expanding freeways, roadways, and freight facilities. Freeway expansion has displaced communities and increased freight efficiencies that place higher burdens on EJ communities by multiplying truck traffic and diesel (PM 2.5 and ozone) concentrations in the most heavily burdened communities in the state.
Prioritize environmental justice communities	Poor	CTC has made little to no effort in addressing historic or current practices and policies that maintain widespread transportation-related inequalities. The only exception may be in the ATP, one of the lowest-budget programs in the agency, in which CTC is statutorily required to set aside at least 25 percent of the funds for DACs. EJ communities have been silenced by the lack of transparency in project selection practices implemented by local County Transportation Commissions.
Meaningful community engagement	Poor	There is absolutely no meaningful community engagement aside from stakeholder engagement on some occasions (like the ATP). Stakeholder meetings are during standard working hours, no translation at meetings, and the material is often inaccessible to those who are not a part of regional transportation agencies. In addition, the CTC has made little to no effort in engaging burdened communities outside of formal meetings. EJ communities on the front line of the goods movement industry have been completely omitted from decision-making processes. Many projects are programmed and developed independent of community input, as it has not been a requirement for projects related to efficiency improvements and freeway expansions that negatively impact EJ communities in freight corridors.

Responsiveness	Poor	While CTC listens to concerns from engaged stakeholders, it does not respond in a concerted fashion to address the concerns of EJ communities. The Commissioners struggle to understand the need for greater transparency in terms of how state transportation funds benefit DACs. Commissioners often relate benefit to geographic distribution of funds, but this is an erroneous assumption. For example, investments in freeway expansions and improved freight efficiency actually create burdens not benefits to EJ communities.
Transparency	Poor / Fair	CTC updated its website to better communicate the programs it oversees, including posting all workshops, deadlines for comment letters, and guidelines for all programs, and has engaged stakeholders on implementation of ATP. However, there is little transparency in development or implementation of most CTC policies including development of the majority of SB 1 programs. Transportation planning is often done in a silo, failing to consider burdens on local communities and only looking to increase goods movement. Decision-making is not accessible to the residents most impacted by CTC decisions.
Accountability	Poor	There are currently no mechanisms in place to hold the Commissioners or staff accountable to its actions or commitments, outside of the deadlines prescribed by statute.
Proactivity	Poor	In October 2017, CTC staff convened discussions with a number of EJ and transportation advocates to better understand their issues and how the CTC can address them. In 2018, CTC staff stated they would continue to convene a small workgroup of EJ and transportation advocates to further this work; it remains to be seen if they will follow through. CTC has not taken action on the low-income barriers study that could have positive implications for EJ and lower-income households and areas.

III. Agencies to Watch

Environmental Justice communities are starting to see EJ policies and programs emerge in these agencies. It is important to monitor the agencies to ensure they are aware of and follow the our EJ principles.

1. California Coastal Commission (CCC)

The California Coastal Commission's mission is to protect and enhance California's of coast and oceans. It plans, regulates and coordinates environmentally-sustainable development on 11,000 miles of our coast, including coastal development permit decisions. Its programs include public education on coastal resources, protecting water quality from pollution and preventing oil spills. In 2016, the Legislature passed AB 2616 that gave CCC authority to consider EJ in its permit decisions. CCC staff proactively reach out to environmental justice organizations if they believe an issue on their agenda may be relevant to EJ, and in 2016, they unanimously opposed the Puente power plant in Oxnard. In 2017, Governor Brown appointed the CCC's first-ever EJ seat. Although CEJA was disappointed to not have leadership directly from an EJ organization appointed, CEJA looks forward to the new EJ seat's potential to prioritize environmental justice issues. CCC is currently developing its Environmental Justice policy, with staff doing some outreach to EJ groups.

2. California Energy Commission (CEC)

The California Energy Commission was established in 1974 and consists of five commissioners appointed by the Governor. It is the state's primary energy policy and planning agency, with a stated commitment to reduce energy costs and environmental impacts of energy use (such as greenhouse gas emissions) while ensuring a safe, resilient, and reliable supply of energy. A big EJ campaign was waged in Oxnard against a proposed natural gas power plant, the Puente power plant. CEC staff included a specific EJ analysis in its review of the proposed plant. CEC and the proceeding Committee held several rounds of in-person hearings in the impacted community of Oxnard, and in a location and during times that were mostly accessible to community members. The hearings explored alternatives to, and environmental impacts of, the plant. CEC and the Committee listened attentively to community testimony, which was extremely clear and well-presented. In 2017, the Committee issued an unprecedented statement that it intended to deny the plant. The community is now looking forward to Southern California Edison's Request for Offers focused on procuring renewable energy proposals to power the area.

While CEC is recognized for their efforts in the Puente power plant proceeding, looking forward, CEC should strengthen its community engagement process in the Electric Program Investment Charge (EPIC) program. CEJA has not seen strong community engagement opportunities embedded in the EPIC process and there has been limited outreach to community-based organizations (CBOs). CEJA intends to monitor the level of community engagement CEC integrates into the program as it implements AB 523 (Reyes, 2017) which directs a total of 35 percent of EPIC funds to disadvantaged and low-income communities. We hope to see the implementation of AB 523 involve technical assistance in the application process, better cultivation of cross-sector teams, and requirements (or, at the minimum, stronger incentives through scoring criteria) for CBO involvement in order to assist groups with less technical experience and resources to better take advantage of clean energy innovation opportunities.

3. California Department of Food and Agriculture (CDFA)

The California Department of Food and Agriculture has had a mixed EJ track record over the past year. Importantly, CDFA leadership and staff publicly supported AB 1348 (Aguiar-Curry), the 2017 Farmer Equity Act, which codified into state law the definition of Socially Disadvantaged Farmers and established resources and a departmental focus on supporting this group of farmers, in order to counter a historical legacy of discrimination. On a number of other fronts, however, CDFA has fallen short of upholding EJ values. A California court had to



step in to halt CDFA's invasive species program, which had allowed pesticide spraying anywhere—including at schools, organic farms, and backyards around the state—anytime, without further environmental review or input from the public. The court found CDFA had failed to adequately review health and environmental impacts, including the risk of contaminating water supplies, or provide adequate notice of pesticide spraying. CDFA's Office of Pesticide Consultation and Analysis continues to favor industry by quantifying the impact to industry if particular pesticide restrictions are put in place, while failing to quantify the public health and environmental costs of failing to prevent exposure that disproportionately risks the health of rural communities of color. CDFA has not tracked how their climate-smart agriculture programs are being spent in socially disadvantaged communities, making it impossible to determine if the department is in compliance with the requirements of SB 535 that at least 25 percent of Greenhouse Gas Reduction Funds go to disadvantaged communities. Finally, CDFA has been a staunch supporter of heavily polluting dairy digesters in the face of significant local community opposition, especially from communities identified by CalEnviroScreen as disproportionately burdened.

4. California Department of Water Resources (DWR)

As the regulating agency for the Sustainable Groundwater Management Act (SGMA), the Department of Water Resources plays an important role in ensuring EJ communities are protected in its implementation. SGMA requires that all beneficial users of groundwater are included in the process of creating and implementing groundwater sustainability agencies (GSAs) and groundwater sustainability plans (GSPs) for the sustainable



management of the state's groundwater. Groundwater is an essential source of domestic water needs for many communities across the state, but this is especially true for the Central Valley, where 90 percent of communities rely upon groundwater for drinking water sources.

Unfortunately, we're already seeing many groundwater sustainability agencies failing to engage EJ communities in the SGMA process, failing to do outreach and education so communities can effectively participate, requiring unaffordable upfront costs for a community to join the GSA board, and in general ignoring or minimizing the impacts of poor groundwater management to those dependent upon shallow groundwater wells. DWR is tasked with ensuring GSAs are upholding SGMA principals and requirements, and thus far it does not appear to feel its role is to be an effective watchdog, leaving EJ communities without a champion at the regulating agency level.

5. California Natural Resources Agency (CNRA)

The California Natural Resources Agency's mission is to restore, protect and manage the state's natural, historical and cultural resources for current and future generations using creative approaches and solutions based on science, collaboration and respect for all the communities and interests involved. CNRA leads and coordinates California's climate adaptation and natural resources climate policy, as outlined in the Safeguarding California Plan: 2018 Update. This state roadmap identifies what state agencies are doing and will do to protect communities, infrastructure, services, and the natural environment from climate impacts. The 2018 update includes prominent climate justice sections that were developed by several EJ representatives in the Climate Justice Working Group (CJWG). Agency staff were engaged and responsive to the recommendations of the CJWG. We will monitor how well they include recommendations from the CJWG in their adaptation program.

6. California Wildlife Conservation Board (WCB)

The California Wildlife Conservation Board's mission is to protect, restore and enhance California's natural resources for wildlife and public use and enjoyment in partnership with conservation groups, government agencies and people of the state. In 2016, SB 1089 required the WCB to add four public members with interest and expertise in land acquisition for conservation purposes, including but not limited to experience with activities that benefit disadvantaged communities. Given the WCB's lack of experience with EJ and disadvantaged communities, it will be worth monitoring if they choose a true EJ community member and produce land acquisitions that will benefit DACs.

Footnotes:

1. California Air Resources Board. Available at: <https://ww2.arb.ca.gov/about>
2. California Division Of Oil, Gas, and Geothermal Resources. Available at: Cal. Pub. Res. Code, § 3106(a).
3. California Division Of Oil, Gas, and Geothermal Resources. Available at: Id.
4. California Public Utilities Commission. Available at: <http://www.cpuc.ca.gov/aboutus/>
5. California State Lands Commission. Available at: <http://slc.ca.gov/About/Overview.html>
6. California Strategic Growth Council. Available at: <http://www.sgc.ca.gov/vision/>
7. California Strategic Growth Council. Available at: <http://www.sgc.ca.gov/about/>

Appendix: Environmental Justice Principles for Policy Implementation at Regulatory Agencies

CEJA, our members and partners have developed the following principles to assess whether agencies are effectively integrating environmental justice into their policy implementation and regulatory proceedings. We assess whether state agencies are meeting these basic guidelines for effective integration of environmental justice into policy development and implementation.

(1) Prioritize and value prevention, human health, and improving quality of life: These needs must be given full weight in decision-making, not overlooked in favor of business interests or cost effectiveness, as is often the case, and particular concern must be given to the health and well-being of residents in highly impacted neighborhoods.

(2) Do no harm: Regulatory agencies must commit to actions that do not further harm environmental justice communities. The most egregious decisions are those that actively exacerbate environmental health and justice inequalities, and these are unfortunately all too common.

(3) Prioritize environmental justice communities: There is a long-standing history of pollution burdens and environmental hazards disproportionately impacting low-income communities and communities of color, which is well documented by communities themselves, as well as academic and state agency studies. It is simply not sufficient to look at impacts of policies moving forward; there is a historic legacy and burden the regulatory agencies have a responsibility to proactively address. There is an ethical, environmental and public health imperative to ensure that environmental justice communities are prioritized for targeted resources and programs, and receive special consideration within regulatory decision-making by state agencies.

(4) Meaningful community engagement: Residents in environmental justice communities must have the ability and opportunity to inform design and implementation for policies that impact their health and quality of life. Many agencies use a flawed “decide, announce, defend” process whereby an agency determines and releases documentation on a policy devoid of any community input, engages with environmental justice communities in public discussions after the fact, and ultimately moves forward with implementing their initial proposed policy without incorporating significant feedback from environmental justice communities. Other times, community organizations and members are engaged in dialogue but agencies do not alter any decisions even after hearing significant feedback. Environmental justice communities must be engaged early, often, and in a meaningful way.

(5) Responsiveness: Agencies must respond, and be willing to address, community concerns once they have been articulated rather than simply noting them in the public record. Without a clear commitment to responsiveness, community engagement efforts become a “check box” rather than a meaningful attempt to work with stakeholders in policy design and implementation.

(6) Accountability: As the public stewards of a clean and healthy environment for all Californians, state regulatory agencies must be accountable for any and all (in)actions and commitments made from policy or project inception through implementation, all decision-making processes, and all relevant impacts from their (in)actions, commitments, and decision-making processes, including benefits and harm.

(7) Transparency: Agencies must be clear in: (a) detailing the processes by which all decisions are made and regularly reviewing the processes to ensure accessibility by communities most impacted by environmental hazards; (b) disclosing all factors and stakeholders that inform and influence all decisions affecting all policies and projects; and (c) describing decisions made, in addition to upholding the principles of engagement and responsiveness outlined above.

(8) Proactivity: To be truly stellar on environmental justice issues, regulatory agencies need to work proactively and in partnership with environmental justice communities and organizations to develop innovative ways of addressing key environmental justice issues in communities.



CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE

About the California Environmental Justice Alliance (CEJA)

CEJA is a statewide, community-led alliance that works to achieve environmental justice by advancing policy solutions. We unite the powerful local organizing of our members in the communities most impacted by environmental hazards – low-income communities and communities of color – to create comprehensive opportunities for change at a statewide level. We build the power of communities across California to create policies that will alleviate poverty and pollution. Together, we are growing the statewide movement for environmental health and social justice.

Acknowledgements

Primary Authors: Mari Rose Taruc and Amy Vanderwarker. We would also like to thank our members, partners, and collaborating organizations: the People's Senate, Center for Biological Diversity, Community Water Center, and Californians for Pesticide Reform for providing invaluable contributions to this assessment. We would also like to thank Resources Legacy Fund for their generous support of this report.

Contact Information

1904 Franklin Street, Suite 610
Oakland, CA 94612

ceja@caleja.org | www.caleja.org

REPORT COLLABORATORS

