



CALIFORNIA  
ENVIRONMENTAL  
JUSTICE ALLIANCE

# ENVIRONMENTAL JUSTICE AGENCY ASSESSMENT 2019



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## I. OVERVIEW OF ENVIRONMENTAL JUSTICE AGENCY ASSESSMENT

The California Environmental Justice Alliance (CEJA) is proud to release our fourth *Environmental Justice Agency Assessment*. This assessment is the only one in the nation to formally examine how state agencies develop, implement, and monitor policies that address environmental justice issues that impact low-income communities and communities of color. It follows issuance of CEJA's Environmental Justice Scorecard, which analyzes the voting record of state legislators on environmental justice issues. Together, these tools reflect the environmental justice principles with which our agencies should govern — principles that protect our land, air, water, and people. We create these reports as resources to hold our state agencies and elected officials accountable to the people they serve, improve environmental conditions across California, and to provide tangible opportunities to improve their work to ensure environmental justice.

This year, CEJA's members, partners, and allies assessed eight California state agencies, and highlighted key issues for an additional four. We selected these 12 because our members deeply engaged in the agencies' work in 2019.

While our *2019 Environmental Justice Agency Assessment* shows strong progress among most agencies, there is still much room for improvement, as millions of Californians still lack access to water and breathe unhealthy air. Compared to 2018, five out of seven agencies improved their scores. We attribute this shift to the new practices and priorities of Gov. Gavin Newsom's administration. Since Gov. Newsom took office, we have seen more agency leadership and staff reach out to environmental justice residents and groups seeking participation in toxic tours, guidance on upcoming rulemakings or policy documents, and general feedback on their ideas. While the average

“C” score across agencies still reflects mediocre performance and life-threatening levels of pollution in environmental justice communities, we are optimistic about moving in a better direction under the Newsom administration.

The need for continued progress is even more essential during and after the 2020 coronavirus pandemic. Evidence shows that communities most impacted by pollution are also more impacted by the virus, due to preexisting health burdens and challenges accessing quality medical care, as well as growing evidence that air pollution exposure is connected to higher death rates from the virus.<sup>1</sup> Shelter-in-place orders place significant new constraints on existing agency public processes, requiring new intentional strategies to guarantee procedural justice, particularly for communities most isolated from decision-making in Sacramento. In light of the federal government’s rollback of environmental protections, California state agencies

have an even more critical role to play in protecting public health and advancing environmental justice. All Californians deserve clean air, clean water, and the ability to meaningfully influence agency decisions that impact their daily lives.

CEJA creates our *Environmental Justice Agency Assessment* in the spirit of charting a course to improve agency culture and actions, with the ultimate goal of creating healthy conditions in our most vulnerable communities. Our climate, economic, and political realities are sobering, and the need for state agency leadership is greater than ever. We hope this assessment contributes to constructive conversations about how agencies can proactively improve the health and future of low-income communities and communities of color in California, while improving working relationships with environmental justice communities and advocates.

<sup>1</sup> Exposure to air pollution and COVID-19 mortality in the United States: A nationwide cross-sectional study, Harvard University. <https://www2.arb.ca.gov/about>. April 24, 2020.



Green Zone Community Tour led by CCAEJ in the Inland Valley.

Source: CCAEJ

## II. METHODOLOGY

Consistent with our previous reports, we used eight environmental justice principles — developed by CEJA's members and partners — to assess the actions of state agencies. We outline these principles in the Appendix.

CEJA examined how each agency's actions reflect each of the principles and assigned a performance score of “poor (1),” “poor/fair (2),” “fair (3),” “fair/good (4),” or “good (5).” We compiled the total scores of each agency out of a possible 40 points, and converted its overall score to a letter grade. For example, if an agency had a total score of 32 out of 40, we divided by 8 for an overall score of 4, or a “B.” The scores convert to a letter grade as follows: 5 = A, 4 = B, 3 = C, 2 = D, and 1 = F.

**It is important to note that we based our assessments on contributions from CEJA's member, partner, and ally organizations on the key proceedings, decisions, or programs in which they have engaged. These scores do not reflect the totality of decision-making of each agency, or what other organizations may have experienced.**

This year, we shared written draft assessments with agency staff and engaged in several follow-up conversations prior to finalizing this report. We did so in an effort to improve the report's accuracy and effectiveness, and to strengthen working relationships between agencies and environmental justice communities.

## III. AGENCY ASSESSMENT OVERALL SCORES

Name	2018 Overall Assessment Grade	2019 Overall Assessment Grade
California Air Resources Board	C-	D
California Coastal Commission	B-	B
California Department of Food and Agriculture	Not Assessed	D-
California Department of Pesticide Regulation	D	C
California Department of Toxic Substances Control	D	C-
California Geologic Energy Management Division	F	C
California State Water Resources Control Board	B	B+
California Strategic Growth Council	A-	A-
California Department of Water Resources	To Watch	To Watch
California Energy Commission	To Watch	To Watch
California Natural Resources Agency	Not Assessed	To Watch
California Public Utilities Commission	B+	To Watch



## IV. AGENCY ASSESSMENTS

### 1. CALIFORNIA AIR RESOURCES BOARD (CARB)

**Assessment Leads:** *CEJA Climate Justice Committee and CEJA AB 617 Work Group*

#### Agency Description

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.”<sup>2</sup> It is a regulatory agency tasked with overseeing and coordinating the state’s clean air programs and implementing climate policies. CARB also guides the investment of billions of dollars from the Greenhouse Gas Reduction Fund (GGRF).

#### Agency Engagement with Environmental Justice

Given that low-income communities of color are disproportionately impacted by air pollution, CARB’s actions or inactions significantly affect the public health of our state’s most vulnerable people. Mandates in state law require the agency to meaningfully include and consider environmental justice communities. In addition, specific programs under its purview focus on these communities, such as the Community Air Protection Program under AB 617 and Study of Neighborhood Air near Petroleum Sources (SNAPS). CARB states on its website that it is “. . . committed to prioritizing environmental justice in everything that we do.”<sup>3</sup> It is required to have environmental justice representatives on its board and has elected to have an Assistant Executive Officer of Environmental Justice focused on building relationships.

#### Agency’s Most Significant Improvement or Failure in 2019

In 2019, CARB failed to address long-standing issues in AB 617 program design and implementation, even after multiple requests from environmental justice communities. The agency refused to proactively assert regulatory authority

over local Air Districts for emissions reductions in disproportionately polluted areas. The challenging cross-agency interplay reflects CARB’s larger failing to work with other state, regional, and local agencies to achieve the state’s environmental and health standards and goals.

Further, CARB adopted a Tropical Forest Standard (TFS) in fall 2019 despite overwhelming opposition from local and international indigenous leaders, environmental justice groups, academics, and numerous environmental organizations. It ignored consistent evidence presented by scientists, indigenous groups, and stakeholders on the significant adverse impacts of the TFS, and moved forward in the interest of promoting an unproven market-based solution to tropical deforestation in other countries that CARB cannot enforce or otherwise govern.

On a positive note, in 2019 CARB adopted the Zero-Emission Airport Shuttle Regulation and published the annual update to “Minimizing Community Health Impacts from Freight.” In both instances, its staff worked proactively and productively with environmental justice groups. CARB also increased regulatory enforcement in environmental justice communities, which will have a direct positive impact on air quality and public health.

#### CEJA’s Recommendation for This Agency

While CARB improved its working relationships with and understanding of environmental justice communities in 2019, it took several actions that did not align with these communities’ goals and needs. It must take accountability for its failure to enact real emissions reductions in environmental justice communities, by incorporating communities’ priorities and proactively addressing conflicts in authority across sectors.

<sup>2</sup> California Air Resources Board. <https://ww2.arb.ca.gov/about>. Accessed April 1, 2020.

<sup>3</sup> California Air Resources Board. <https://ww2.arb.ca.gov/our-work/topics/environmental-justice>. Accessed April 1, 2020.



Tropical Forest Standard discussion with Gov. Newsom's Office, fall 2019.

Source: Katie Valenzuela for CEJA

## CALIFORNIA AIR RESOURCES BOARD (CARB) ASSESSMENT

Assessment regards AB 617, the Tropical Forest Standard, Study of Neighborhood Air near Petroleum Sources (SNAPS), Locomotive Indirect Source Rule (ISR), Advanced Clean Truck (ACT) Rule, Zero-Emission Airport Shuttle Regulation, and the annual update to "Minimizing Community Health Impacts from Freight"

### OVERALL SCORE: D

PRINCIPLE	ASSESSMENT	REASONING
Prioritize and value prevention, human health, and improved quality of life	Poor	<ul style="list-style-type: none"> <li>▶ CARB took some steps to improve public health by adopting the Zero-Emission Airport Shuttle Regulation.</li> <li>▶ Across its programs, the agency relies on obscure market-based solutions to climate problems, which often deprioritize human health and quality of life, and miss opportunities to adopt direct solutions.</li> <li>▶ In AB 617 implementation, CARB failed to require Air Districts to produce tangible emissions reductions in communities selected for Community Emissions Reduction Programs (CERPs); did not require assessments of health risks or goals; and completely omitted mobile sources and pesticides from the program.</li> <li>▶ CARB failed to adopt an Advanced Clean Truck (ACT) Rule adequately protective of health in environmental justice communities.</li> </ul>
Do no harm	Poor	<ul style="list-style-type: none"> <li>▶ CARB endorsed the Tropical Forest Standard (TFS), which has been shown to harm environmental justice communities domestically and abroad. The endorsement came without any mechanism for meaningful oversight and accountability, despite overwhelming evidence of the program's flawed design. The agency also began a potential effort to amend the TFS into the Cap-and-Trade regulation, which would bring further harm to environmental justice communities in California.</li> <li>▶ AB 617 implementation decisions force communities to arduously compete for resources, which drains community capacity.</li> </ul>

<b>Prioritize environmental justice communities</b>	Poor	<ul style="list-style-type: none"> <li>▶ In 2019, CARB took steps to increase regulatory enforcement in environmental justice communities.</li> <li>▶ However, the agency generally prioritizes engagement with industry and mainstream environmental organizations over engagement with environmental justice groups representing people most impacted by its decisions. It failed to adopt stronger regulations, despite demonstrated feasibility.</li> <li>▶ CARB also sided with industry and mainstream environmental groups in the adoption of the TFS. It claimed that additional indirect offset credit programs were necessary, despite overwhelming evidence that those programs not only harm tribal and environmental justice communities, but also are not needed in California's Cap-and-Trade Program. Adding insult to injury, the Assembly's CARB environmental justice appointee voted against the recommendations of environmental justice organizations throughout California.</li> </ul>
<b>Meaningful community engagement</b>	Poor-Fair	<ul style="list-style-type: none"> <li>▶ CARB made progress in some regulatory efforts, such as the Zero-Emission Airport Shuttle Regulation and the 2019 annual update to "Minimizing Community Health Impacts from Freight." In both instances, the agency worked closely with environmental justice groups.</li> <li>▶ However, many of its efforts were plagued by poor public access and engagement. Materials were not usually available prior to meetings and hearings, and language translations' consistency and quality were poor. Many CARB meetings occur in Sacramento, which makes participation difficult for residents in other parts of the state.</li> <li>▶ In AB 617 implementation, it failed to provide strong guidance on conflicts of interest, leading to regulated industries' employees sitting on community steering committees. CARB also lacked transparency in the community selection process for AB 617, specifically regarding how it selected communities for monitoring versus CERPs.</li> <li>▶ The Study of Neighborhood Air near Petroleum Sources (SNAPS) program lacks an environmental justice frame. In addition, CARB staff have been dismissive and slow to respond to community concerns about the program's goals and timeline during public meetings.</li> </ul>
<b>Be proactive</b>	Fair	<ul style="list-style-type: none"> <li>▶ CARB inconsistently integrated environmental justice into its work. While new staff at the agency created more opportunities for proactive engagement with environmental justice communities, many regulatory processes lacked significant focus on environmental justice issues or meaningful reductions in emissions. CARB is making progress, like when it decided to increase enforcement efforts in environmental justice communities, but still falls short in key areas.</li> </ul>
<b>Take an intersectional approach</b>	Fair	<ul style="list-style-type: none"> <li>▶ In AB 617 implementation, CARB demonstrated openness to new ideas, such as potentially providing community-based organizations with tools for just transition elements. Some staff also helped community-based organizations access resources from Air Districts that would normally be inaccessible, such as air quality datasets. However, CARB's efforts to collaborate across agencies to address air quality and land issues that communities requested were insufficient.</li> </ul>
<b>Be responsive</b>	Poor	<ul style="list-style-type: none"> <li>▶ CARB increased enforcement in environmental justice communities in 2019, a direct response to asks from the communities.</li> <li>▶ However, it lacks appropriate oversight of and willingness to impose its authority over Air Districts when called to by environmental justice communities. CARB uses confusion about its role in relation to the Air Districts to avoid accountability, particularly on mobile source and AB 617-related issues. It failed to ask Air Districts to ensure community needs are met.</li> <li>▶ In AB 617 implementation, CARB staff attended meetings in all selected communities due to concerns regarding power dynamics with local Air Districts. However, staff did not respond to all CERP communities' requests for intervention with their respective Air Districts.</li> <li>▶ Despite the community's recommendations, the Locomotive and Rail Indirect Source Rule failed to pursue emissions reductions in addition to monitoring.</li> </ul>
<b>Respect community expertise</b>	Poor	<ul style="list-style-type: none"> <li>▶ In the ACT rulemaking process, CARB distrusted numerical values provided by community-based organizations for strengthening the rule on zero-emissions fleet manufacturing, despite the fact that they were generated with its own data.</li> </ul>





Community rally at CEJA's Congreso in Sacramento, August 2015.

Source: Brooke Anderson

## 2. CALIFORNIA COASTAL COMMISSION

**Assessment Lead:** *Central Coast Alliance United for a Sustainable Economy (CAUSE)*

### Agency Description

The California Coastal Commission's mission is to "protect and enhance California's coast and oceans for present and future generations."<sup>4</sup> It plans and regulates 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.

### Agency Engagement with Environmental Justice

The Coastal Commission has jurisdiction over permitting in the coastal zone, giving the agency decision-making authority on projects that may impact environmental justice. It approves local coastal plans and port master plans that impact some environmental justice communities. The Coastal Commission also enforces public access to coastal areas to improve equitable access to the coast and healthy outdoor recreation for all Californians. Since environmental justice residents disproportionately lack access to outdoor recreation, the agency's actions are particularly significant.

### Agency's Most Significant Improvement or Failure in 2019

The Coastal Commission's most significant improvement was in March 2019, when it adopted a strong Environmental Justice Policy. The policy was dramatically improved from its original draft after engagement with environmental justice advocates. Environmental justice was also incorporated into the agency's current draft 2020–2025 Strategic Plan. The Coastal Commission's most significant failure was in July 2019, when it voted against staff recommendations to apply the Environmental Justice Policy to put basic limits on off-road vehicle use in Oceano Dunes. This resulted in continued pollution in the working-class immigrant community.

### CEJA's Recommendation for This Agency

The Environmental Justice Policy is new to commissioners, staff, applicants, and community stakeholders, resulting in significant confusion and debate about whether projects have environmental justice impacts. Our top recommendation is for the Coastal Commission to create clear guidance for staff on how to identify environmental justice issues, and develop mitigating factors and alternatives.

<sup>4</sup> <https://www.coastal.ca.gov/whoweare.html>. Accessed April 1, 2020.

CALIFORNIA COASTAL COMMISSION ASSESSMENT		
Assessment regards Environmental Justice Policy		
OVERALL SCORE: B		
PRINCIPLE	ASSESSMENT	REASONING
Prioritize and value prevention, human health, and improved quality of life	Fair	<ul style="list-style-type: none"> <li>▶ In 2019, the Coastal Commission voted against staff recommendations to limit heavy off-road vehicle usage on the Oceano Dunes. By postponing a decision by a year, severe air pollution will continue to impact the predominantly Latino community.</li> </ul>
Do no harm	Good	<ul style="list-style-type: none"> <li>▶ With its growing attention to environmental justice, Coastal Commission staff is proactively working to identify permitting and other decisions that could pose harm or increased pollution to environmental justice communities.</li> </ul>
Prioritize environmental justice communities	Fair	<ul style="list-style-type: none"> <li>▶ In 2019 the agency made major strides to bridge the long-standing gap between environmental justice voices and coastal policy. It adopted a strong Environmental Justice Policy and included a significant environmental justice section in its 2020–2025 Strategic Plan. While the majority of the Coastal Commission's work does not focus on environmental justice issues, it is increasingly prioritizing them.</li> </ul>
Meaningful community engagement	Fair	<ul style="list-style-type: none"> <li>▶ Coastal Commission staff invited community-based organizations to speak at its meetings about environmental justice issues. Although significant relationship building is needed, especially through grassroots outreach, its staff are beginning to connect with staff of environmental justice groups.</li> <li>▶ The staff made efforts to improve their community engagement work by attending CEJA-led webinars and workshops on environmental justice. In 2019 staff also testified in support of a CEJA-sponsored bill, AB 1628 (R. Rivas). AB 1628 modified the state's definition of environmental justice to promote the meaningful involvement of all people and other environmental justice principles</li> </ul>
Be proactive	Good	<ul style="list-style-type: none"> <li>▶ Coastal Commission staff proactively reached out to CEJA and our partner organization CAUSE about issues that may have environmental justice impacts.</li> <li>▶ Staff also reached out to support CEJA's sponsored bill, AB 1628 (R. Rivas). Most notably, a Coastal Commission staff person testified in support of the bill during a committee hearing. This demonstrates staff's support for strengthening the definition of environmental justice for the Coastal Commission and other state agencies and programs.</li> </ul>
Take an intersectional approach	Fair	<ul style="list-style-type: none"> <li>▶ After CAUSE encouraged the agency to include housing and policing issues that impact coastal access in its Environmental Justice Policy, it incorporated some language into its final draft.</li> </ul>
Be responsive	Good	<ul style="list-style-type: none"> <li>▶ After its initial draft of the Environmental Justice Policy was poorly received by environmental justice advocates, the Coastal Commission worked with stakeholders to develop a robust final version that it approved in March 2019.</li> </ul>
Respect community expertise	Good	<ul style="list-style-type: none"> <li>▶ The Coastal Commission invited CAUSE and CEJA staff to train its staff on environmental justice.</li> <li>▶ Its open support for AB 1628 (R. Rivas) showed that it respects CEJA's vision for the state definition of environmental justice, which is also now incorporated into the California Coastal Act of 1976.</li> </ul>



Blanca Escobedo, a policy advocate for Leadership Counsel for Justice and Accountability.

Source: Mel Melcon / Los Angeles Times

### 3. CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

**Assessment Lead:** Leadership Counsel for Justice and Accountability

#### Agency Description

The California Department of Food and Agriculture's (CDFA) mission is to promote and protect a safe, healthy food supply, and enhance local and global agricultural trade, through efficient management, innovation, and sound science, with a commitment to environmental stewardship.<sup>5</sup> It focuses on food safety, protection against invasive pests and disease, promotion of California's agricultural products and marketplace, and support for agricultural infrastructure. The agency has five divisions and several special programs, including climate-related programs under the Office of Environmental Farming & Innovation.

#### Agency Engagement with Environmental Justice

The CDFA does not have a formal program or consistent informal practice of directly engaging environmental justice communities. The agency has begun to take steps toward better supporting farmers of color and expanding program access. However, it has historically lacked effective and meaningful engagement with communities of color, and communities that are burdened by agricultural pollution. In 2019, working with the Department of Pesticide Regulation, the agency helped to convene the Chlorpyrifos Alternatives Working Group, which included three workshops in Sacramento, Fresno, and Oxnard that were attended by community members. This effort was in response to Gov. Newsom's announcement that California would ban the harmful pesticide. Unfortunately, overall

<sup>5</sup> California Department of Food & Agriculture. <https://www.cdfa.ca.gov/CDFA-Mission.html>. Accessed April 1, 2020.



the agency's Office of Pesticide Consultation and Analysis rarely considers the costs or harms of pesticides on people and communities, and focuses instead on the economic impacts for producers and pest control advisors.

### **Agency's Most Significant Improvement or Failure in 2019**

The Farmer Equity Act of 2017 defined the term “socially disadvantaged farmers and ranchers,” and required the CDFA to include them in the development, adoption, implementation, and enforcement of food and agriculture laws, regulations, and policies and programs. In October 2019, under the direction of Secretary Karen Ross, the newly hired Farmer Equity Advisor launched a website to provide resources to socially disadvantaged farmers. Under the direction of Secretary Ross, the Farmer Equity Advisor also began working on the required report on efforts to support socially disadvantaged farmers. At the time of writing, the report has not yet been released for public review, but the CDFA has taken some steps. For example, it is allowing more organizations to easily apply for technical assistance grants to assist socially disadvantaged farmers and ranchers and severely disadvantaged communities; streamlining healthy soils applications to ease the process for non-English-speaking farmers; assisting small, low-resource grassroots organizations to apply for Specialty Crop Block Grant funds; and increasing outreach to underserved communities and farmers. The agency is beginning to move toward a new model of technical assistance and program support that will hopefully result in tangible resources for farmers of color (as directed by statute), and address broader equity and environmental justice issues.

Unfortunately, the CDFA continues to support and fund dairy digester technology through its Dairy Digester Research & Development Program (DDRDP). While some program requirements express good intent, advocates have raised several concerns, including the program's greenhouse gas reduction accounting; massive financial subsidies for an unproven technology; the encouragement

of further dairy industry consolidation, expansion of herd sizes, and associated groundwater and air quality impacts; and promotion of the unclean fuel biomethane. These alarms raised by community-based organizations, advocates, and residents in areas of the state most burdened by dairy pollution, particularly in the San Joaquin Valley, go largely unaddressed. We recommend that the agency eliminate all funding for DDRDP and strengthen its interaction with the advocates, through meaningful community engagement, transparency, and relationships with community-based organizations.

### **CEJA's Recommendation for This Agency**

The CDFA should reconsider its investments in dairy digesters, and focus on supporting transformative programs and technical assistance models that help farmers implement agroecological practices, diversify farms, and move away from large-scale confined animal feeding operations. For example, soil health and other climate-smart agriculture investments should be leveraged to additionally reduce reliance on chemical pesticide and fertilizers, protect water quality, improve water use efficiency, support local economies and public health, improve healthy food access, support land access and long-term sustainability of land, and address local community priorities. This is for the benefit of both farmers and impacted environmental justice communities.

We support the CDFA's new efforts to prioritize program investments and technical assistance to low-resource farms and farmers of color. We urge the agency to use these efforts to also partner with environmental justice communities to better address social and environmental justice for rural and urban communities. The CDFA should continue to develop community engagement strategies that further elevate the input of communities impacted by farming, including farmworkers, as well as small-scale organic and agroecological farmers.

<b>CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA) ASSESSMENT</b> Assessment regards Dairy Digester Research & Development Program (DDRDP) and Farmer Equity Act Implementation		
OVERALL SCORE: D-		
PRINCIPLE	ASSESSMENT	REASONING
Prioritize and value prevention, human health, and improved quality of life	Poor	<ul style="list-style-type: none"> <li>▶ The CDFA's mission focuses on agricultural markets, infrastructure, and support for farmers. The agency's Dairy Digester Research &amp; Development Program (DDRDP) unfortunately is not committed to public health and fails to directly and meaningfully address the needs or impacts of industrial agriculture on local communities.</li> </ul>
Do no harm	Poor	<ul style="list-style-type: none"> <li>▶ The DDRDP threatens water and air quality in some of the most vulnerable regions of the state. Despite claims to the contrary, it does not benefit disadvantaged communities, and instead encourages the continuation of status quo polluting dairy farming. The grants and other direct support of large industrial operations that pollute local, rural, and unincorporated communities directly contradict environmental justice communities' "do no harm" value. Funding for the DDRDP is allocated by the Legislature and the governor as methane reduction investments. The CDFA, however, has discretion on how to spend this allocation, and could explore less harmful and expensive approaches to reducing methane production.</li> </ul>
Prioritize environmental justice communities	Poor	<ul style="list-style-type: none"> <li>▶ The CDFA does not prioritize or actively outreach to environmental justice communities or organizations. There are few dedicated programs, advisory councils, or other modes in place to work with environmental justice communities.</li> <li>▶ However, the Farmer Equity Advisor, who began work in 2019, is one step toward prioritizing the unique needs of farmers of color, who have historically faced discrimination and divestment. The additional assistance provided by changes to the Specialty Crop Block Grant application process helped to improve accessibility of the grant program. However, we have not seen a strong effort for the agency to include environmental justice community members who are not farmers, nor farmworkers, in its programs.</li> </ul>
Meaningful community engagement	Fair	<ul style="list-style-type: none"> <li>▶ Farmers are the CDFA's priority constituents. Environmental justice communities do not fall among its priorities for meaningful community engagement. The Farmer Equity Advisor kicked off the agency's listening sessions in 2019 in order to hear more from the public on climate-smart agriculture programs, and has expanded its outreach to farmers of color. The CDFA needs to engage directly with environmental justice communities impacted by agriculture, including farmworkers.</li> </ul>
Be proactive	Poor	<ul style="list-style-type: none"> <li>▶ The CDFA has not reached out proactively to CEJA organizations on any issues of concern.</li> </ul>
Take an intersectional approach	Poor	<ul style="list-style-type: none"> <li>▶ The Farmer Equity Act opened up conversations within the agency about the need to acknowledge and address historical racial injustice and exclusion of farmers of color. In 2019, the CDFA enrolled in the 2020–2021 Capitol Collaborative on Race &amp; Equity training program, and we look forward to seeing the results. Unfortunately, at this time most staff members seem to lack an intersectional analysis regarding injustice in current programs.</li> </ul>
Be responsive	Fair	<ul style="list-style-type: none"> <li>▶ In October 2017, Leadership Counsel for Justice and Accountability submitted a Public Records Act (PRA) request seeking portions of successful applications to the 2017 round of the DDRDP. We were seeking information to evaluate the claims made that the program benefits disadvantaged communities. It was not until March 2018 that Leadership Counsel received the majority of documents requested in the PRA; however, critical data was redacted in the response. The information provided by the CDFA was not transparent or timely, and did not allow us enough information to properly assess the DDRDP.</li> <li>▶ However, we are pleased with CDFA Director Karen Ross and staff's willingness to accept meetings with environmental justice advocates and listen to group concerns.</li> </ul>
Respect community expertise	Poor	<ul style="list-style-type: none"> <li>▶ The agency dismissed environmental justice analysis of the harm that dairy digesters can have on low-income communities and communities of color that live near dairies and has not adequately addressed the concerns.</li> </ul>

## 4. CALIFORNIA DEPARTMENT OF PESTICIDE REGULATION (DPR)

*Assessment Leads: Californians for Pesticide Reform and the Center on Race, Poverty & the Environment*

### Agency Description

The California Department of Pesticide Regulation's (DPR) mission is "to protect human health and the environment by regulating pesticide sales and use, and by fostering reduced-risk pest management."<sup>6</sup> This mandate includes evaluation and registration of pesticides, licensure of professionals, and evaluating health impacts by monitoring air, water, soil, and residue on fresh produce. The DPR is responsible for working with 56 county agricultural commissioners to enforce laws regarding pesticide use.

### Agency Engagement with Environmental Justice

The DPR's regulation of pesticides significantly impacts agricultural communities that are primarily rural, low-income communities of color. According to its Guide to Pesticide Regulation, "the law requires the California EPA and its boards, departments, and offices to:

- ▶ Ensure programs are conducted in a manner that provides fair treatment of all races and income levels;
- ▶ Promote greater public participation in the development and implementation of environmental policies; and
- ▶ Improve research data collection for environmental programs related to the health and safety of minorities and low-income populations."<sup>7</sup>

### Agency's Most Significant Improvement or Failure in 2019

Overall, the DPR's prioritization of environmental justice concerns was inadequate in 2019. For the second year in a row, it failed to adopt immediate protection measures to mitigate record-setting levels of the carcinogenic fumigant 1,3-dichloropropene (1,3-D), measured in the San Joaquin Valley in 2018. The agency did not yet respond to statewide community calls to support the public's right to know about nearby hazardous pesticide use.

However, we note some significant improvements in the DPR's performance this year under the leadership of Director Val Dolcini. Most notable was its announcement, spurred by Gov. Newsom's 2019 Executive Order, to withdraw the neurotoxic pesticide chlorpyrifos, with nearly all use prohibited in California by the end of 2020. This decision, and a marked improvement in senior management's communication, helped build trust with rural environmental justice communities. We have yet to see whether these changes will translate into improved health outcomes.

### CEJA's Recommendation for This Agency

To best fulfill its mission to protect human health and the environment, the DPR should adopt a plan with annual benchmarks to help growers reduce their use of the most hazardous pesticides, including organophosphates, fumigants, and neonicotinoids. Using its Integrated Pest Management (IPM) training program in schools and day cares as a model, the agency should shift staff and departmental resources to prioritize fostering and supporting growers' adoption of reduced-risk crop and pest management. This will better protect communities and the environment while ensuring the long-term sustainability of farming in California. As a step toward this goal, the DPR should commence statewide rulemaking to increase notification regarding nearby hazardous pesticide use.

<sup>6</sup> California Department of Pesticide Regulation. <https://www.cdpr.ca.gov/dpr/about.htm>. Accessed April 1, 2020.

<sup>7</sup> California Department of Pesticide Regulation. <https://www.cdpr.ca.gov/docs/pressrls/dprguide.htm>. Accessed April 1, 2020.





CALIFORNIA DEPARTMENT OF PESTICIDE REGULATION (DPR) ASSESSMENT		
Assessment regards regulation of chlorpyrifos, 1,3-dichloropropene (1,3-D), and AB 617		
OVERALL SCORE: C		
PRINCIPLE	ASSESSMENT	REASONING
Prioritize and value prevention, human health, and improved quality of life	Fair	<ul style="list-style-type: none"> <li>On Oct. 9, 2019, the DPR announced that nearly all use of the neurotoxic pesticide chlorpyrifos in California would end by Dec. 31, 2020.</li> <li>Communities are still working to understand when and where pesticide applications occur. The agency continues to resist developing a statewide notification requirement because of intense industry pressure to continue operations without public scrutiny.</li> <li>The DPR committed to adopt measures to address 1,3-dichloropropene (1,3-D). However, it has taken no action to immediately protect communities in response to unprecedented levels of this known carcinogen in the air in San Joaquin Valley communities.</li> </ul>
Do no harm	Good	<ul style="list-style-type: none"> <li>While the DPR did not proactively reverse prior regrettable decisions, it did not issue any notable new decisions this year that will likely further harm environmental justice communities.</li> </ul>
Prioritize environmental justice communities	Poor	<ul style="list-style-type: none"> <li>In 2018, air monitors measured the highest levels of 1,3-D ever detected in the state of California in Shafter, Kern County, and Parlier, Fresno County. In 2019, and to date, the DPR took no actions to immediately protect communities while rulemaking is underway. By not taking interim actions, it failed to protect communities of color from the serious health consequences of long-term pesticide exposure.</li> </ul>
Meaningful community engagement	Fair/Good	<ul style="list-style-type: none"> <li>The DPR is willing to meet with community members and discuss their concerns, but their recommendations have rarely been incorporated into regulatory decision-making or practices.</li> <li>The agency consistently attended Steering Committee meetings in Shafter as part of AB 617 implementation. Pesticides were a top priority for Shafter residents, who outlined a series of measures that the DPR, the San Joaquin Valley Air Pollution Control District, and CARB can take to address their concerns. As a result, the DPR recently committed to working with County Agricultural Commissioners (CACs) on measures to reduce community exposure to the carcinogenic fumigant 1,3-D in the cities of Shafter, Parlier, and Delhi. Communities await adoption of these measures.</li> <li>It launched its new CASPIR app to facilitate reporting of pesticide drift and track progress of investigations.</li> <li>The agency partnered with community organizations to launch the reporting network IVAN in Tulare. DPR staff attend monthly IVAN-Tulare meetings.</li> <li>Its “Environmental Justice Workshop” in Salinas provided an overview of the pesticide regulatory system, but did not address environmental justice issues. The Monterey Agricultural Commissioner refused to answer the community’s environmental justice questions, and by the second day refused any questions unless they were written down and vetted.</li> </ul>

<b>Be proactive</b>	Poor/Fair	<ul style="list-style-type: none"> <li>▶ The welcomed and long-overdue decision to cancel chlorpyrifos came not from the DPR but from Gov. Newsom and California Environmental Protection Agency (CalEPA), who intervened in the face of its inaction.</li> <li>▶ The agency continued to claim a lack of enforcement authority over CACs, leaving community members without recourse. However, CACs are the DPR's enforcement arms, and the DPR's enforcement authority is clear.</li> <li>▶ The agency did not act in response to its own monitoring program, failing to quickly address high levels of 1,3-D in environmental justice communities in the San Joaquin Valley.</li> <li>▶ New DPR leadership is taking steps to promote a longer-term vision for how California can adopt non-toxic Integrated Pest Management practices that will help build farm resilience in the face of climate change while benefiting local communities and the environment.</li> </ul>
<b>Take an intersectional approach</b>	Fair	<ul style="list-style-type: none"> <li>▶ Pesticides have long been excluded as a special carve-out from statewide efforts to address environmental health and climate change. In 2019, the DPR was forced to confront this siloization in the San Joaquin Valley. Under AB 617, the California Air Resources Board selected the Kern community of Shafter for a Community Emissions Reduction Program (CERP). The local Air District attempted to exclude pesticides from the plan's scope. However, the DPR committed to extend its existing monitoring, and to work with the community on a pilot effort to reduce 1,3-D emissions in three highly impacted San Joaquin Valley communities: Shafter, Parlier, and Delhi. The CERP that included these commitments was adopted in February 2020.</li> <li>▶ The DPR and the California Department of Food and Agriculture increased their collaboration as part of an effort to support research and adoption of alternatives to chlorpyrifos. However, greater collaboration across agencies and departments is needed to address the harms of agricultural pesticides. It must reorient research, technical assistance, and other forms of support to farmers to increase adoption of more ecological pest control methods that protect communities and increase crop and soil health.</li> </ul>
<b>Be responsive</b>	Poor/Fair	<ul style="list-style-type: none"> <li>▶ DPR staff responsiveness improved significantly under the leadership of Director Val Dolcini.</li> <li>▶ The agency routinely made changes to the structure, location, and timing of community meetings in response to community requests, in order to increase participation.</li> <li>▶ However, the DPR failed to quickly respond to concerns from residents in the San Joaquin Valley about 1,3-D exposure. While residents and advocates understand that new rulemaking is underway, it took no action in 2019 to protect communities during the process.</li> <li>▶ The DPR continues to resist community calls for real-time notification in advance of hazardous pesticide use near sensitive sites.</li> <li>▶ In 2019 the agency failed to respond to community calls to exert authority over CACs, a critical obstacle to effective enforcement of pesticide laws and regulations on the ground. Many CACs fail to abide by California language access and CEQA-equivalency laws. These laws require CACs to take steps to ensure that limited English-proficient speakers have meaningful access to their activities, and to review alternatives and cumulative exposures before approving use of the most hazardous pesticides.</li> </ul>
<b>Respect community expertise</b>	Fair	<ul style="list-style-type: none"> <li>▶ Three community representatives were included in a work group to identify safe alternatives to chlorpyrifos and to reduce California's dependence on synthetic pesticides.</li> <li>▶ However, these voices were drowned out by a majority presence of industry representatives hostile to the work group's mission.</li> <li>▶ By denying its authority over CACs, the DPR allows CACs to be the primary governmental decision makers.</li> <li>▶ In the absence of leadership from the DPR, CACs disrespect community expertise by failing to address calls for the public's right to know about nearby hazardous pesticide applications. CACs continue to withhold notices of intent to use the most hazardous agricultural pesticides — along with CAC approvals and denials of requests — from public websites.</li> </ul>

## 5. CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC)

**Assessment Leads: Center on Race, Poverty & the Environment, Communities for a Better Environment, and Physicians for Social Responsibility-Los Angeles**

### Agency Description

The California Department of Toxic Substances Control's (DTSC) newly modified mission is "to protect the people, communities, and the environment of California from harmful chemicals by cleaning up contaminated sites, enforcing hazardous waste laws, and compelling the development of safer products."<sup>8</sup> In 2019, the DTSC removed the reduction of hazardous waste generation from its mission. While this change more accurately reflects the agency's daily activities, it also leaves a gap in California's management of hazardous waste. Unless the DTSC acts to reduce the generation of hazardous waste at its source, low-income communities of color will remain at high risk of toxic exposure.

### Agency Engagement with Environmental Justice

The task of protecting the people of California, especially those most vulnerable to toxic exposure, relies on having an effective cleanup program, a robust hazardous waste regulatory and enforcement program, and a comprehensive hazardous waste reduction program to reduce toxic chemicals in industrial activities and commerce. Under the Newsom administration, the department acknowledged that "over the last 10 years, the DTSC's ability to carry out its mission has been compromised by administrative, organizational, programmatic, and fiscal deficiencies."<sup>9</sup> These factors, coupled with the department's culture of inefficiency and its struggle to meet statutory and fiscal mandates, have fostered community distrust in its programmatic and fiscal abilities.



We commend the DTSC for creating an Office of Environmental Equity (OEE) as a good example of an agency embedding environmental justice principles across multiple program areas. However, this structure alone cannot overcome the DTSC's larger problems. We would like it to continue prioritizing staff capacity and resources to the OEE, in order to properly serve environmental justice communities. CEJA strongly encourages the DTSC to concurrently address its structural and fiscal deficiencies by creating an oversight and accountability body, and by overhauling its fee structure to ensure that hazardous waste generators cover all regulatory costs while incentivizing hazardous waste reduction.

### Agency's Most Significant Improvement or Failure in 2019

The DTSC's most significant failure of 2019 was its funding deficit, which will have real and immediate consequences for environmental justice communities. Despite years of warning, the

<sup>8</sup> California Department of Toxic Substances Control Draft Strategic Plan 2019–2023. <https://dtsc.ca.gov/wp-content/uploads/sites/31/2019/06/DTSC-Strategic-Plan-Draft-MASTER-COPY-6-13-19.pdf>. Accessed April 1, 2020.

<sup>9</sup> California Department of Finance Budget Change Proposal. [https://esd.dof.ca.gov/Documents/bcp/2021/FY2021\\_ORG3960\\_BCP3895.pdf](https://esd.dof.ca.gov/Documents/bcp/2021/FY2021_ORG3960_BCP3895.pdf). Accessed April 1, 2020.



Hazardous Waste Control Account (HWCA) is fully depleted and the Toxic Substances Control Account is nearly depleted. As a direct result of these fiscal deficiencies, the DTSC asked the Legislature to provide a general fund backfill of \$27.5 million to the HWCA, which undermines the polluter pays principle by placing the cost burden on taxpayers.

Currently, the DTSC oversees approximately 220 contaminated sites at any given time and completes roughly 125 cleanups each year.<sup>10</sup> However, the Newsom administration estimates that there are more than 150,000 potentially contaminated sites in California that are awaiting investigation, characterization, and possible remediation. The agency's financial constraints limit its ability to cover its existing cleanup obligations at orphan sites and impedes its ability to investigate suspected contaminated sites. Correspondingly, CEJA recommends the Legislature and the Governor's Office open a robust, transparent, and comprehensive fee reform dialogue.

Despite these challenges, the DTSC is entering a critical transition time focused on increased transparency, accountability, financial solvency, and stability. These efforts aim to address long-standing organizational criticisms such as extremely long permit processing times, poor enforcement, delayed site remediation, and failure to respond to public concerns. While it is too early to tell whether the proposed reforms will turn this troubled agency around, the formation of a board with oversight responsibilities that includes fee structure reform may help to steer it in the right direction, while providing an official forum to hear and redress community concerns.

### **CEJA's Recommendation for This Agency**

As the administration and Legislature look to adopt and implement long-needed reforms, the DTSC should prioritize reducing hazardous waste generation at its source. This work could include

establishing a hazardous waste reduction goal that should account for the need to increase site remediation and should not disincentivize contaminated soil removal where appropriate. The DTSC should also adopt a statewide hazardous waste management plan that sets the course to meet the waste reduction goal and includes pathways to reduce impacts of hazardous waste on vulnerable communities, identify waste reduction opportunities, and establish our future capacity needs given waste reduction goals and opportunities.

The DTSC's current fee structure is insufficient to meet the long-term funding needs of the department. The state must complete a full accounting of funding needed to effectively manage its hazardous waste prior to setting an appropriate fee schedule, including the total funding required for the remediation of all current orphan sites as well as to investigate, characterize, and remediate or oversee remediation at suspected contaminated sites in the state. To assist in this endeavor, the DTSC should convene a working group to identify and recommend strategies to cover the significant shortfalls in its remediation program, including funding mechanisms for specific sectors such as dry cleaners, where there are substantial barriers to cover the financial burdens of remediation.

CEJA also recognizes that the DTSC needs legislative intervention to address funding shortfalls. We strongly encourage the administration and the Legislature to provide appropriate short-term funding as well as a long-term fee structure, thoughtfully structured to both raise sufficient funds to cover the agency's regulatory activities and drive reductions in hazardous waste generation. A tiered fee schedule will incentivize generators to adopt source reduction measures identified through the P2 program.

<sup>10</sup> California Department of Finance Budget Change Proposal. [https://esd.dof.ca.gov/Documents/bcp/2021/FY2021\\_ORG3960\\_BCP3895.pdf](https://esd.dof.ca.gov/Documents/bcp/2021/FY2021_ORG3960_BCP3895.pdf). Accessed April 1, 2020.

# CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC) ASSESSMENT

Assessment regards Hazardous Waste Management and Site Mitigation and Restoration

## OVERALL SCORE: C-

PRINCIPLE	ASSESSMENT	REASONING
Prioritize and value prevention, human health, and improved quality of life	Poor	<ul style="list-style-type: none"> <li>▶ In 2019, the DTSC's remediation program failed to prioritize human health over private interests. It adopted several remediation plans in areas where there was significant disagreement between the local community and the private parties responsible for the cleanup. The DTSC repeatedly sided with the interests of the responsible party rather than the community.</li> <li>▶ The agency adopted a remediation plan for the Zeneca site in Richmond that allowed the responsible party to simply place a cheap and ineffectual concrete cap over the site, rather than remove the contamination.</li> <li>▶ The Santa Susana Field Laboratory (SSFL) cleanup was supposed to be completed in 2017, but has yet to begin. The DTSC projects that the cleanup will not be completed until 2034, which is 17 years after the cleanup agreement's requirement and nearly 90 years from when the contamination first began. The DTSC's Draft Program Environmental Impact Report (DPEIR) for the SSFL cleanup violated its own cleanup agreements with the responsible parties, proposing options that could leave the vast majority of the contamination not cleaned up. In 2018, the DTSC released draft closure plans for Area IV, the nuclear area at SSFL, which also violated the cleanup agreement and could result in radioactively contaminated materials being sent to sites not properly licensed for low-level radioactive waste. The agency also disregarded community efforts to provide alternative transportation plans for contaminated soil. It produced a flawed interim report after the Woolsey Fire, denying that the fire heightened public risk of exposure to SSFL contamination.</li> <li>▶ In Delano, the DTSC did not prevent the opening and operation of a new health clinic on contaminated land where chemical vapors were seeping into buildings, despite assuring the community that no such move would take place until more extensive testing and remediation could be completed.</li> <li>▶ The DTSC should increase the weight of community input in selecting remediation measures, and include a long-term calculation of costs for temporary remediation measures such as soil caps, which have a 100 percent failure rate. It should invest time and resources to identify and test new technologies and innovations that effectively clean soil on-site.</li> </ul>
Do no harm	Poor/Fair	<ul style="list-style-type: none"> <li>▶ The DTSC adopted and has begun using a violation scoring procedure to ensure that it does not continue to permit facilities with the most egregious pattern of noncompliance. It took a step in the right direction by proposing to deny a hazardous waste permit renewal for General Environmental Management in Rancho Cordova, Calif., based on its long history of noncompliance and safety hazards.</li> <li>▶ However, despite increasing its rate and number of permit decisions overall, the agency still failed to act on the longest standing expired permit in the state, held by Phibro-Tech in Santa Fe Springs, or other controversial permits where decisions are long overdue, such as Clean Harbors in Buttonwillow, Calif.</li> <li>▶ The DTSC must prioritize permitting decisions at facilities with the most out-of-date permits. It should consider permit denial in areas of the state that are most vulnerable to environmental hazards due to the socioeconomic status of the region or the cumulative impact of multiple sources of pollution.</li> </ul>
Prioritize environmental justice communities	Fair	<ul style="list-style-type: none"> <li>▶ The Legislature passed SB 673 (Lara, 2015), which required the DTSC to adopt regulations to address cumulative impacts and community vulnerability by 2018. It has still not adopted the required criteria, but is actively working on a proposed rule. While late, this is a significant opportunity to address the historic pattern of permitting hazardous waste facilities in environmental justice communities. However, the extremely slow progress is delaying necessary changes to the DTSC's permitting program.</li> <li>▶ The DTSC should consider how to expedite completing its SB 673 rulemaking and ensure there are measures to deny a permit based on community vulnerability.</li> </ul>

<b>Meaningful community engagement</b>	Fair	<ul style="list-style-type: none"> <li>▶ In 2019, the DTSC held many stakeholder meetings across the state on its strategic plan and SB 673, among other proceedings. However, the meetings lacked meaningful community engagement factors such as child care, food, and an accessible location. In addition, because it lacks regranting authority, resource-constrained community-based organizations do not have external funding support to be able to provide valuable expertise during public processes.</li> <li>▶ The DTSC should create a clear, standardized, agency-wide policy on effective community engagement. To demonstrate that community engagement is core to its mission, this work should be on par with its scientific and technical work in pay, prestige, and valuation. The DTSC should determine what statutory language restricts state and local agencies from funding community engagement, such as technical assistance grants, food, child care, and travel stipends. Lastly, it should consider acquiring grant authority, similar to that established by AB 617 in 2017. This would enable the agency to fund community engagement activities — child care assistance, food assistance, travel assistance — through stipends and other means.</li> </ul>
<b>Be proactive</b>	Poor	<ul style="list-style-type: none"> <li>▶ The DTSC does not proactively reduce hazardous waste generation. This is reflected by its new mission, which no longer includes hazardous waste reduction.</li> <li>▶ The agency should consider restoring that mission, and should establish a goal and plan for hazardous waste reduction within its long overdue management plan. It should also reestablish the Pollution Prevention Program and reform the fee structure to further incentivize waste reduction.</li> </ul>
<b>Take an intersectional approach</b>	Fair	<ul style="list-style-type: none"> <li>▶ In 2017, the DTSC negotiated the state's second-ever project labor agreement (PLA), and initiated a promising program to train local residents to support cleanup around the former Exide site. While the training was effective, it failed to hold the PLA's third-party contractors accountable for their treatment of local workers. The local workers complained of discrimination and contractor pressure to minimize cleanup concerns. As a result, many program participants left their jobs or were not rehired.</li> <li>▶ The agency should continue to improve its implementation of local hire programs with accountability structures built into PLAs to enforce fair employee treatment.</li> </ul>
<b>Be responsive</b>	Poor	<ul style="list-style-type: none"> <li>▶ The DTSC continues to fail in its responsiveness to community concerns. It is one of the only permitting and regulatory departments at CalEPA to lack a governing board or entity to which it is accountable. Decisions are made with little opportunity for public and stakeholder input. Appeals of agency decisions are determined internally, which is a clear conflict of interest.</li> <li>▶ It should improve its responsiveness, accountability, and transparency by establishing a governing board. A board could help address community concerns, determine resource allocation questions, and monitor ongoing decision-making on projects such as Exide. A transparent and effective governing board would provide communities with a place to turn to for answers.</li> </ul>
<b>Respect community expertise</b>	Poor	<ul style="list-style-type: none"> <li>▶ The DTSC has a history of minimizing community expertise, which is exacerbated by language in federal and state remediation statutes that accords community acceptance lower weight than cost when selecting cleanup options. Its current application of these statutes provides virtually no weight to community acceptance. The DTSC should work with its legal counsel to explore its authority to interpret the statutes in a manner that would result in more weight being given to community acceptance and expertise.</li> <li>▶ The agency has worked with the Center on Race, Poverty &amp; the Environment on a civic science project that is designed to increase community capacity to collect and report data that will be useful in its enforcement and remediation programs. The second phase of the project is designed to identify ways agencies can better utilize community expertise in its programs. The DTSC should continue to work with advocates to increase its capacity to use and value community-collected data and expertise.</li> </ul>



## 6. CALIFORNIA GEOLOGIC ENERGY MANAGEMENT DIVISION (CALGEM)

**Assessment Leads:** *Center for Biological Diversity and the Center on Race, Poverty & the Environment*

### Agency Description

The California Geologic Energy Management Division (CalGEM) — formerly the Division of Oil, Gas, and Geothermal Resources (DOGGR) — oversees the exploration and development of California’s natural resources. CalGEM’s mandate is to “prevent, as far as possible, damage to life, health, property, and natural resources.”<sup>11</sup> In 2019, AB 1057 (Limón) modified its purpose to “include protecting public health and safety and environmental quality, including reduction and mitigation of greenhouse gas emissions associated with the development of hydrocarbon and geothermal resources in a manner that meets the energy needs of the state.”<sup>12</sup>

### Agency Engagement with Environmental Justice

CalGEM holds considerable discretion over decisions related to oil and gas development. Unfortunately, it has a pattern of favoring oil industry interests and regularly approving projects that have negative health impacts on low-income communities of color overburdened by pollution.

### Agency’s Most Significant Improvement or Failure in 2019

2019 presented many opportunities for CalGEM to change course from its historic practice of promoting oil industry interests at the expense of environmental justice communities. Gov. Newsom signed AB 1057 (Limón) in October 2019, amending its statutory mission to explicitly prioritize protecting public health. CalGEM also announced three actions that may reduce oil and gas impacts on public health: It temporarily halted high-pressure steam injections; suspended issuing permits for fracking operations; and



CNRA Secretary Wade Crowfoot and staff and CEJA members listen to CRPE residents during an oil toxic tour in Kern County, September 2019.

Source: Samuel Contreras

announced its intent to adopt public health and safety regulations. Gov. Newsom also appointed a new CalGEM administrator and ordered an investigation into agency staff with alleged financial conflicts of interest. We commend CalGEM not only on these improvements, but also on touring environmental justice communities in 2019 and committing to a community engagement process on the public health rulemaking. However, it is too early to tell how it will use these opportunities to effect meaningful and lasting change to protect public health.

### CEJA’s Recommendation for This Agency

CEJA members, partners, and allies recommend that CalGEM adopt a health and safety setback of at least 2,500 feet between oil and gas wells and sensitive receptors like homes, hospitals, and schools.

11 California Department of Conservation. <https://www.conservation.ca.gov/calgem>. Accessed April 1, 2020.

12 California Public Resources Code Section 3011.



## CALIFORNIA GEOLOGIC ENERGY MANAGEMENT DIVISION (CALGEM) ASSESSMENT

Assessment regards Oil and Gas Permits and Regulations

### OVERALL SCORE: C

PRINCIPLE	ASSESSMENT	REASONING
<b>Prioritize and value prevention, human health, and improved quality of life</b>	Fair	<ul style="list-style-type: none"> <li>▶ CalGEM consistently ignored its statutory mandate to “prevent, as far as possible, damage to life, health, property, and natural resources.”</li> <li>▶ When environmental justice groups met with CalGEM, it refused to conduct a study of health impacts, saying “that’s just not something we do.” CalGEM also wanted to limit a setback to new projects, leaving out communities that already suffer from existing oil and gas projects.</li> <li>▶ At the end of 2019, the governor announced that the agency would adopt new health and safety regulations, including a potential setback between oil extraction sites and communities. If adopted, this would benefit environmental justice communities.</li> </ul>
<b>Do no harm</b>	Fair	<ul style="list-style-type: none"> <li>▶ CalGEM continuously approves oil and gas projects that are harmful to human health and the environment without meaningful environmental review.</li> <li>▶ Throughout 2019, it pushed for new aquifer exemptions under the Safe Drinking Water Act, endangering underground sources of drinking water.</li> <li>▶ CalGEM adopted new injection well regulations that increased the likelihood of spills and accidents, such as the Cymric oil field spills that totaled millions of gallons.</li> <li>▶ The U.S. Geological Survey published studies confirming water contamination caused by oil and gas activity. Despite mounting evidence, CalGEM failed to take meaningful steps toward addressing these dangers.</li> <li>▶ It failed to prevent and adequately respond to the 1.3 million-gallon spill in McKittrick, Calif.</li> <li>▶ Despite these harms to environmental justice communities, the governor’s announcement to halt high-pressure steam injection permits and review well stimulation permits was a positive step.</li> </ul>

<b>Prioritize environmental justice communities</b>	Fair	<ul style="list-style-type: none"> <li>▶ CalGEM's past refusal to meaningfully address, mitigate, or fully analyze the health impacts of oil and gas exemplify the agency's historic attitude toward communities affected by oil and gas projects.</li> <li>▶ The agency still maintains that it does not need to meaningfully evaluate health impacts before issuing drilling permits.</li> <li>▶ However, at the end of 2019, the governor announced CalGEM would examine health and safety regulations, including a setback, signaling a potential change in course under the new administration.</li> </ul>
<b>Meaningful community engagement</b>	Fair	<ul style="list-style-type: none"> <li>▶ The Newsom administration did not consult environmental justice communities when appointing a new supervisor.</li> <li>▶ CalGEM offers inadequate notice or community engagement prior to key decisions impacting the health and well-being of environmental justice communities.</li> <li>▶ However, we commend that the governor and some staff have met with environmental justice groups to discuss potential public health protections.</li> <li>▶ CalGEM has done considerable outreach for its health and safety rulemaking workshops, including multiple language translation and holding workshops in times and places that are accessible to the public. We especially want to recognize its efforts to hold one workshop in Arvin, Calif., in Spanish with simultaneous English translation.</li> </ul>
<b>Be proactive</b>	Fair	<ul style="list-style-type: none"> <li>▶ The governor's staff toured communities impacted by oil production in Los Angeles and Kern counties led by local environmental justice organizations to better understand health impacts.</li> <li>▶ The governor's announcement to begin health and safety rulemaking was a positive first step.</li> </ul>
<b>Take an intersectional approach</b>	Fair	<ul style="list-style-type: none"> <li>▶ It permitted oil and gas projects in 2019 that often exacerbated health disparities between privileged and marginalized communities.</li> <li>▶ The governor's announcement to begin health and safety rulemaking presents an opportunity for CalGEM to take an intersectional approach.</li> </ul>
<b>Be responsive</b>	Fair	<ul style="list-style-type: none"> <li>▶ CalGEM failed to meaningfully respond to community input asking for stricter limits to oil and gas development.</li> <li>▶ However, AB 1057 clarified its duty to incorporate health and safety and environmental concerns in decision-making.</li> <li>▶ The governor's announcement to begin health and safety regulations was responsive to community concerns over the dangers of oil and gas.</li> </ul>
<b>Respect community expertise</b>	Poor	<ul style="list-style-type: none"> <li>▶ CalGEM routinely did not allow communities to provide input on its decisions because it did not conduct environmental reviews or health risk assessments for many oil and gas projects.</li> </ul>



## 7. CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

*Assessment Leads: Community Water Center and Leadership Counsel for Justice and Accountability*

### Agency Description

The California State Water Resources Control Board (State Water Board) is tasked with regulating the waters of the state, both surface water and groundwater. Its jurisdiction spans the entire state, with regional water quality control boards within each of the nine regions.

### Agency Engagement with Environmental Justice

The State Water Board takes numerous actions that impact environmental justice communities, including regulating drinking water contaminants and discharges; setting and reviewing maximum contaminant levels; creating grant funding guidelines; drafting and revising point of use and point of entry regulations; improving access to affordable drinking water and cleaning up wastewater, which includes implementing a water affordability study as directed by AB 401; reviewing regulations adopted by the regional water boards; acting as a Sustainable Groundwater Management Act regulatory backstop; and overseeing public drinking water systems.

### Agency's Most Significant Improvement or Failure in 2019

In 2019, the State Water Board successfully advocated for new funding and began to implement new programs that hold the potential to address the state's drinking water crisis. For example, it advocated for SB 200, which established the Safe and Affordable Drinking Water Fund in 2019. This provided critical support to community leaders who had advocated for years for permanent drinking water funding that could cover operations and maintenance costs. However, the State Water Board can and must improve on drinking water source protection, especially regulation of irrigated agriculture and dairy operations that continue to pollute groundwater with nitrates.

Meanwhile, the State Water Board continues to take a middle-ground approach to regulating industry, including dairies and agriculture. The Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) basin plans are a good example. The plans were proposed by dischargers and adopted by the Central Valley Regional Board. They contained many provisions that would have made groundwater protections unenforceable. Rather than rejecting them, the State Water Board mediated negotiations between the dischargers and environmental justice communities, ultimately approving a plan that removed the worst provisions while allowing pollution to continue for up to 35 years. In the future, the agency must prioritize public health over profit for regulated industries.

### CEJA's Recommendation for This Agency

The State Water Board must be responsive to community input in implementing the Safe and Affordable Drinking Water Fund. The agency took a good first step in appointing an advisory group to guide implementation that includes many impacted residents from disadvantaged communities, low-income households, and communities of color. CEJA and our allies will hold the State Water Board accountable for meaningfully incorporating the input provided by community residents.



## CALIFORNIA STATE WATER RESOURCES CONTROL BOARD (STATE WATER BOARD) ASSESSMENT

Assessment regards Right to Clean Water and Source Water Protection

**OVERALL SCORE: B+**

PRINCIPLE	ASSESSMENT	REASONING
Prioritize and value prevention, human health, and improved quality of life	Fair/Good	<ul style="list-style-type: none"> <li>▶ The State Water Board effectively funded and implemented solutions for communities exceeding drinking water standards, and began to implement the Safe and Affordable Drinking Water Fund.</li> <li>▶ On the other hand, drinking water source protection regulations continue to fall short, prioritizing the interests of regulated industries such as agriculture and dairies over impacted communities. This is a significant concern for CEJA, as it fails to create long-term, systemic solutions for rural communities of color.</li> </ul>
Do no harm	Fair	<ul style="list-style-type: none"> <li>▶ The State Water Board regulates industries that continue to pollute drinking water sources. For example, dairy operations and irrigated agriculture continue to discharge nitrates at unacceptable rates. In reviewing water quality regulations proposed by the Regional Water Quality Control Boards, it too often values the profit of regulated industry over the rights of environmental justice communities to safe and affordable drinking water. While on-farm well testing is required by the Irrigated Lands Regulatory Program, if there is an exceedance of nitrates, the property owner is not required to provide safe drinking water to those using the well. Further, enforcement against dairies and irrigated agriculture continues to be the rare exception rather than the rule.</li> </ul>
Prioritize environmental justice communities	Good/Fair	<ul style="list-style-type: none"> <li>▶ The State Water Board prioritizes environmental justice communities through its funding guidelines. It directs resources and technical assistance to water systems serving disadvantaged communities. Unfortunately, the strong priority in drinking water programs was counterbalanced by insufficient drinking water source protection.</li> </ul>

<b>Meaningful community engagement</b>	Good	<ul style="list-style-type: none"> <li>▶ In 2019, the State Water Board held workshops and stakeholder meetings throughout the state to solicit input on programs and policies, some of which were co-facilitated with CEJA partners.</li> <li>▶ Technical assistance is habitually funded as part of drinking water projects. This helps ensure that community-based organizations are meaningfully engaged.</li> <li>▶ Translation is regularly provided at workshops. However, there is room for improvement on the provision of translated materials and presentations in languages other than English and Spanish.</li> <li>▶ At all times, the State Water Board needs to ensure that it has a contract for translation services. This is something that was lacking at times in 2019.</li> </ul>
<b>Be proactive</b>	Fair/Good	<ul style="list-style-type: none"> <li>▶ The State Water Board proactively sought resources and legal authority in order to fund and implement drinking water solutions.</li> <li>▶ Most of its departments proactively reach out to environmental justice organizations to help improve programs and policies that support and protect drinking water sources.</li> <li>▶ There is room for improvement in long-term planning for solutions aimed at water systems that have not yet failed, but are at risk of failure. Water systems could fail due to inadequate resources, vulnerability to drought and climate change, and falling water tables due to overpumping of groundwater. The State Water Board has taken steps in this direction with the pending drinking water needs assessment.</li> <li>▶ There is significant room for improvement in funding and completing septic-to-sewer projects that benefit disadvantaged communities reliant on failing septic tanks.</li> <li>▶ It must improve its efforts to prevent future drinking water quality problems by enacting and enforcing stronger source protection regulations.</li> <li>▶ The agency has taken far too long to address the lack of a hexavalent chromium maximum contaminant level (MCL) after it was pulled in 2017. A new MCL is critical to ensuring communities with hexavalent chromium are able to work toward obtaining safe drinking water.</li> </ul>
<b>Take an intersectional approach</b>	Fair	<ul style="list-style-type: none"> <li>▶ The State Water Board regulates industries that pollute groundwater quality while negatively impacting air quality and emitting greenhouse gases. As two examples, the dairy industry releases a majority of the state's methane, and overapplication of fertilizer by dairies and irrigated agriculture releases a substantial amount of NOx.</li> <li>▶ We recognize that the agency has only limited jurisdiction over air quality and greenhouse gas emissions. However, more can and must be done to coordinate with the California Air Resources Board and local Air Districts to ensure that programs related to water quality maximize air quality and climate change co-benefits.</li> <li>▶ In review of CEQA documents, the State Water Board must recognize that air quality and climate impacts related to dairies are significant and well established, rather than speculative.</li> </ul>
<b>Be responsive</b>	Good	<ul style="list-style-type: none"> <li>▶ The State Water Board has been responsive to community input. It proactively seeks feedback from impacted residents and community-based organizations.</li> <li>▶ The agency deserves significant credit in 2019 for appointing many residents of environmental justice communities to its Safe and Affordable Drinking Water Fund advisory group.</li> <li>▶ Staff typically respond to correspondence and meeting requests quickly and professionally.</li> </ul>
<b>Respect community expertise</b>	Good	<ul style="list-style-type: none"> <li>▶ Input from community residents and community-based organizations is typically meaningfully incorporated in policies and projects. An example is the Administrator Handbook adopted by the State Water Board in 2019. While the initial draft was concerning, the agency held a workshop and public comment period, and invited residents and community groups to participate. In response to community input, it made significant and meaningful revisions to the handbook. This enabled residents to have a say in the future of their water systems and communities, and provided job training opportunities.</li> </ul>



## 8. CALIFORNIA STRATEGIC GROWTH COUNCIL (SGC)

*Assessment Leads: CEJA Green Zones Committee and Leadership Counsel for Justice and Accountability*

### Agency Description

The California Strategic Growth Council (SGC) works to “support a healthy, vibrant, and resilient California.”<sup>13</sup> The 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 SB 32 goals, among other priorities. It makes recommendations on the state’s policy and investments strategies, and administers grants and loans.

### Agency Engagement with Environmental Justice

The SGC oversees several programs relevant to environmental justice communities, including the Transformative Climate Communities (TCC) program, the Affordable Housing and Sustainable Communities (AHSC) program, the Regional Climate Collaboratives program, and technical assistance programs. The agency has performed relatively well on environmental justice community engagement, and has worked with CEJA to achieve our equity goals.

### Agency’s Most Significant Improvement or Failure in 2019

The SGC continued to advance environmental justice principles in 2019. The staff centered meaningful community engagement throughout their work. They also developed good relationships with CEJA organizations, stakeholders, and community members across California. For example, in 2019 staff held a research summit to build and strengthen relationships among academics, government, community-based organizations, and residents. The SGC views members of the public as collaborators, and



LCJA senior policy advocate Grecia Elenes speaks at CEJA's 2018 Environmental Justice Agency Assessment Briefing in Sacramento, June 2019.

Source: Tiffany Eng for CEJA

tends to be proactive, thoughtful, respectful, and transparent when working with them to develop and implement programs. It continues to serve as a model for strong community engagement that other state agencies and departments should follow.

### CEJA’s Recommendation for This Agency

The SGC could further advance its environmental justice and equitable community development goals by serving more high-need disadvantaged communities through the TCC program. Although the SGC expanded the eligibility criteria for TCC implementation grants in 2019, the guidelines should be broadened to serve more communities impacted by discrimination and socioeconomic barriers, specifically disadvantaged unincorporated communities (DUCs). In addition, we hope that SGC council members can take more proactive steps to educate the Legislature and the Governor’s Office on the importance of the TCC program, to show how it can achieve community-led transformation in some of our state’s most disadvantaged communities.

<sup>13</sup> California Strategic Growth Council. <http://sgc.ca.gov/vision>. Accessed April 1, 2020.

CALIFORNIA STRATEGIC GROWTH COUNCIL (SGC) ASSESSMENT		
Assessment regards Transformative Climate Communities (TCC) and Affordable Housing and Sustainable Communities (AHSC)		
OVERALL SCORE: A-		
PRINCIPLE	ASSESSMENT	REASONING
Prioritize and value prevention, human health, and improved quality of life	Good	<ul style="list-style-type: none"> <li>▶ The SGC's mission is to "coordinate and work collaboratively with public agencies, communities, and stakeholders to achieve sustainability, equity, economic prosperity, and quality of life for all Californians."<sup>14</sup> It has successfully met these goals through administering impactful programs in highly disadvantaged communities (DACs).</li> <li>▶ In 2019, the SGC continued to partner with the public, community leaders, and other experts to create a model TCC program. TCC's groundbreaking approach utilizes large-scale grants to produce multiple emission-reducing strategies and community co-benefits. All projects are coordinated to reduce emissions, maximize benefits to DAC residents, and transform entire neighborhoods. SGC staff have consistently listened to CEJA's efforts to make disadvantaged unincorporated communities (DUCs) eligible for TCC implementation grants. The agency also modified the program's Round 3 guidelines to allow certain qualifying DUCs that previously won a planning grant to apply.</li> <li>▶ It modified the AHSC program's guidelines in response to environmental justice and rural housing advocates' feedback. The new guidelines redistribute funding types and increase the Integrated Connectivity Project's set-aside by 10 percent, increasing the program's geographic equity.</li> </ul>
Do no harm	Good	<ul style="list-style-type: none"> <li>▶ The SGC incorporated many CEJA recommendations into the TCC guidelines. This includes strategies to incentivize high-level community involvement from plan design to implementation, enhance equitable workforce development, and avoid displacement. While these TCC program elements could be improved to create stronger safeguards, the guidelines demonstrate the SGC's vision to achieve a high-quality program that protects environmental justice communities against unintended negative consequences.</li> <li>▶ As the TCC program is implemented in environmental justice communities across the state, CEJA will examine whether it successfully achieves its community transformation goals, and can avoid displacement or other harms in TCC project areas.</li> </ul>
Prioritize environmental justice communities	Fair	<ul style="list-style-type: none"> <li>▶ The SGC consistently prioritized the needs of our state's most disadvantaged communities through its grantmaking programs. For the first few years of the TCC program, implementation grant eligibility was restricted to the top 5 percent according to CalEnviroScreen 3.0. This narrow focus reflected the agency's prioritization of populations that simultaneously experience the highest pollution burdens and the lowest levels of investment and support from decision makers.</li> <li>▶ However, while the TCC program's guidelines improved over time due to extensive community input, the program does not allow a wide array of DACs to be eligible for TCC implementation grants beyond top 5 or 10 percent. In particular, DUCs should be eligible in order to address historic discrimination and inequities in local investments. CEJA is currently working with the SGC to develop an eligibility process that can allow DUCs to apply for implementation grants, and will continue to urge it to increase eligibility during the Round 4 guidelines process.</li> </ul>
Meaningful community engagement	Good	<ul style="list-style-type: none"> <li>▶ SGC staff are standouts when it comes to meaningful community engagement. They consistently seek feedback and involvement from prior grantees, and ensure that lead applicants truly include community engagement and outreach in their grant proposals. Staff members listen extensively to the public's recommendations to enhance their programs. They tend to be one of the most transparent state agencies, and they have ultimately fostered significant trust with CEJA organizations and members of the public. Staff travel throughout the state to meet with potential applicants and current grantees, and to observe TCC implementation. They also frequently reach out to CEJA and other community-based organizations to get involved with their work, and to submit comments on the draft TCC guidelines.</li> </ul>

14 California Strategic Growth Council. <http://sgc.ca.gov/about>. Accessed April 1, 2020.

<b>Meaningful community engagement</b> <b>(Continued)</b>	Good	<ul style="list-style-type: none"> <li>▶ In November 2019, the SGC held a daylong Climate Change Research Symposium on engagement in research. The SGC and the planning committee ensured balanced, accessible, and diverse participation by the community and community-based organizations, tribal governments and organizations, other nonprofits, academic researchers, and local and regional governments. The day was structured to minimize presentations and focus on dialogue and learning between participants, and to specifically spotlight community leadership and highlight community knowledge. Participants spent the afternoon in a workshop adapted from a model created by the Thriving Earth Exchange to create community-driven partnerships between communities and scientists. Feedback captured from participants throughout the day and afterward was overwhelmingly positive and recorded in a report.</li> </ul>
<b>Be proactive</b>	Fair/Good	<ul style="list-style-type: none"> <li>▶ SGC staff are consistently proactive in soliciting the public's feedback and involvement in their work.</li> <li>▶ Staff members have held dozens of meetings with legislative members and staff to provide information on TCC, including tailored information on projects and eligibility in each district. They developed an outreach strategy to reach members who had TCC eligibility in their districts, current planning and implementation grants in their districts, and who were members of relevant committees.</li> <li>▶ At the same time, we encourage SGC council members to take more leadership in educating the Legislature and the Governor's Office about the importance of the TCC program for high-need environmental justice communities across the state. TCC is one of the only programs that promotes community-led decision-making to create comprehensive and integrated strategies that can truly transform environmental justice communities.</li> <li>▶ Within this last year, SGC staff began taking steps to develop guidance for including DUCs within the TCC program. They worked with local, regional, and state government agencies and nonprofits to begin obtaining feedback on how TCC can work for DUCs.</li> </ul>
<b>Take an intersectional approach</b>	Good	<ul style="list-style-type: none"> <li>▶ The SGC ensures that its grant programs take an intersectional approach. For example, it modified AHSC guidelines to be more inclusive and increased allocations for low-income rural communities.</li> <li>▶ Unlike other programs that take a siloed approach, TCC's comprehensive approach transforms historically under-resourced neighborhoods into healthy and thriving communities, while bringing in investment dollars, equitable community development, and anti-displacement protections for longtime residents.</li> <li>▶ The TCC program's intention to serve communities with the highest needs is clearly stated within the program's 2019–20 guidelines: "(these communities') challenges are the result of a history of inequitable land use and zoning policies, underinvestment, and lack of meaningful engagement with community residents in planning and policy decisions."<sup>15</sup></li> </ul>
<b>Be responsive</b>	Good	<ul style="list-style-type: none"> <li>▶ For the most part, SGC staff and council members are responsive to meeting requests and are open to hearing community comments and concerns. SGC staff are available for meetings, responsive to email inquiries, and available to answer questions.</li> </ul>
<b>Respect community expertise</b>	Fair/Good	<ul style="list-style-type: none"> <li>▶ Although the TCC guidelines do not reflect all of CEJA's recommendations, the SGC has included many of our ideas to advance environmental justice within the program and has been transparent about why certain ideas were not included.</li> <li>▶ For several years, the SGC spoke with CEJA groups regarding the importance of including DUCs under TCC implementation grant eligibility. In 2019, CEJA organizations formally asked the SGC to convene a group of DUC and land use planning experts to create suitable eligibility criteria. It was responsive, and has been working to develop a process with community stakeholders.</li> <li>▶ During the Climate Change Research Symposium, the SGC provided community leaders, organizations, local government agencies, and academic institutions space to converse about working with communities and leveraging their expertise in their research. The symposium provided traveling stipends and translation to ensure community members across the state could participate, engage, and develop lasting relationships.</li> </ul>

15 Transformative Climate Communities Program Guidelines, Page 4. [http://sgc.ca.gov/programs/tcc/docs/20191104-TCC\\_Guidelines\\_Round\\_3\\_Final.pdf](http://sgc.ca.gov/programs/tcc/docs/20191104-TCC_Guidelines_Round_3_Final.pdf). Accessed April 1, 2020.



## V. AGENCIES TO WATCH

We are following and engaging with these agencies in key proceedings and programs in 2020. Based on our environmental justice principles and emergent work with these agencies, we make the following recommendations:

### 9. California Department of Water Resources

The Department of Water Resources (DWR) plays an important role in protecting environmental justice communities under the Sustainable Groundwater Management Act (SGMA). Environmental justice organizations are monitoring the DWR's enforcement of state law and the SGMA, as it regulates Groundwater Sustainability Agencies (GSAs) and the Groundwater Sustainability Plans (GSPs) that they develop. In 2019, through its third round of the Sustainable Groundwater Management (SGM) Planning Grants Program, the DWR provided incentives to GSAs submitting applications with proposals that benefit DACs, and gave more points for these types of proposals. The agency required the GSAs to prove that they had coordinated with DACs, and based incentives on the number of DACs that benefited from the project. In addition to the grant program, the DWR made its Facilitation Support Services (FSS) program available to GSAs during the GSP development process. This program makes third-party facilitators available to help locals host public meetings that will encourage the active involvement of diverse interests. It also continued to provide its Technical Support Services (TSS) program to locals seeking to perform technical services, to help groundwater managers better understand how their management actions affect drinking water conditions. The DWR also gave a portion of one round of its Prop 1 funding to environmental justice organizations, to help support community engagement on GSP development. Environmental justice groups have asked for this funding to continue, since it was critical in helping residents engage in GSP development, but it appears that it will not. The DWR also published

guidance materials to assist locals with their communication and engagement efforts.

Despite these measures, environmental justice communities had severe barriers to participating in the process, and few GSAs incorporated environmental justice communities' feedback into their plans. The resulting plans will leave many environmental justice households without water and at risk of drinking water contamination.

Now that all GSAs in critically overdrafted subbasins have submitted their GSPs to the DWR in January 2020, they will begin to implement their plans while the agency takes the next two years to evaluate and approve them. Environmental justice organizations in the San Joaquin Valley are providing information to DWR staff on the plans' potential drinking water impacts, to help the agency ensure that the GSPs protect drinking water for disadvantaged communities. We will continue to work with the DWR in 2020 to ensure that its evaluation process guarantees that GSAs protect drinking water access through its GSPs.

### 10. California Energy Commission (CEC)

As the state's primary energy policy and planning agency, the California Energy Commission (CEC) is leading the state to a 100 percent clean energy future. Consistent with our recommendations from last year, in 2019 the CEC made some promising changes, and we appreciate its ongoing attempts to prioritize equity in improving access to the benefits of clean energy. For example, the CEC released an online platform called Empower Innovation to facilitate community-based organizations' cross-sector partnerships, offered technical assistance on grant applications for community-based organizations, and added environmental justice representatives to several clean energy programs' advisory committees. The CEC included more environmental justice and community members on its Clean Transportation Program's Investment Plan Advisory Committee, and its commissioners

met with and sought the feedback of CEJA members, partners, and environmental justice allies on various issues. In AB 523 implementation (Reyes 2017), the CEC developed strong health assessment tools and added scoring criteria to evaluate clean energy project benefits to low-income and disadvantaged communities.

At the same time, we encourage continued development of its community engagement process, including technical assistance and a streamlined grant application process for community-based organizations for programs like the Electric Program Investment Charge (EPIC). In the CEC's transportation work, we recommend that the agency place a larger focus on investing in charging infrastructure for DACs, especially prioritizing Medium Duty/Heavy Duty chargers. Lastly, we recognize the CEC's progress improving its administration of EPIC to benefit environmental justice communities. Despite the agency's progress, community-based organizations still face many barriers navigating, applying for, and receiving competitive grants like EPIC. We have yet to see if these reforms will improve environmental justice outcomes, but it is promising to see many of our recommendations implemented.

## 11. California Natural Resources Agency (CNRA)

The California Natural Resources Agency's (CNRA) mission is to restore, protect, and manage the state's natural, historical, and cultural resources for current and future generations based on science, collaboration, and respect for California's communities. The CNRA is an umbrella state agency responsible for overseeing 26 departments, conservancies, boards, commissions, councils, and museums, including CalGEM, the CEC, the Coastal Commission, and the DWR all assessed in this report.

Under the Newsom administration, CNRA Secretary Wade Crowfoot and many new staff ushered significant improvement with environmental justice engagement and relationship-building efforts. The



secretary and key staff prioritized early outreach and open communication with environmental justice communities, which included touring them and translating public outreach documents into additional languages. We commend the agency's additional 2019 improvements, which include health and safety rulemaking, strengthening oversight, transitioning to new leadership at CalGEM, and swiftly addressing financial conflicts of interest in its regulated industry.

However, the CNRA still can improve. For example, it failed to consult the environmental justice community before key administrative appointments, lacked community engagement during urgent events such as oil spills, and continued to prioritize labor voices over environmental justice community residents during outreach events. Moving forward, we support the CNRA's efforts to establish an executive-level environmental justice position and allocate resources for community group engagement in rulemaking proceedings. We also recommend that the CNRA strengthen engagement with communities on issues relevant to them by acting proactively and providing earlier notice to allow for meaningful participation in decision-making processes.

## 12. California Public Utilities Commission (CPUC)

The California Public Utilities Commission (CPUC) “regulates services and utilities, protects consumers, safeguards the environment, and assures Californians’ access to safe and reliable utility infrastructure and services.”<sup>16</sup> In 2019, CEJA’s work before CPUC included the following proceedings:

- ▶ **Wildfire Mitigation Proceeding:** In 2019, CPUC issued the first round of wildfire mitigation plan decisions. Consistent with CEJA’s recommendations, CPUC required utilities to perform outreach in additional languages, and expanded consumer protection to include those whose employment was impacted by wildfires. Many outreach and evaluation issues remained open for future proceeding phases. In late 2019, the Wildfire Safety Division and CPUC granted CEJA a discovery and workshop process, and committed to leave the rulemaking open to resolve other environmental justice priorities.
- ▶ **Climate Adaptation:** It is promising that CPUC held a working group topic specific to climate change impacts among disadvantaged and vulnerable communities. However, at the end of 2019 many environmental justice issues remain unresolved in this proceeding. These include integrating socioeconomic and neighborhood vulnerability factors and community input in the utilities’ climate planning frameworks.
- ▶ **Long-Term Procurement and Integrated Resource Plan (IRP) and Resource Adequacy Proceedings:** In 2019 CPUC worked to address disadvantaged communities’ needs, but more action is needed to protect environmental justice communities and meet our state’s greenhouse gas reduction requirements. For example, community members urged CPUC not to extend the retirement dates of once-

through cooling (OTC) natural gas plants, and to instead reject fossil fuels in favor of clean and renewable resources, particularly in environmental justice communities. CPUC ultimately decided that it was “persuaded by the comments of parties that these plants [Ormond Beach and Redondo Beach] create more harm in their community and/or would interfere with other plans already underway to redevelop their sites for community use.”<sup>17</sup> Still, CPUC extended the lives of five gas plants that were set to retire at the end of 2020 and created a loophole to allow new gas, directly contradicting SB 100 (De León, 2018) requirements and putting our communities’ health in danger.

- ▶ **Building Decarbonization:** This proceeding implements SB 1477 (Stern, 2018) to decarbonize buildings through programs called BUILD and TECH, with a carve-out for low-income and environmental justice communities. CPUC should not delay the launch of BUILD and TECH by creating multiple budget approval steps, because environmental justice communities need access to these programs now. Finally, we recommend that it adopt a more holistic view of delivering program benefits to participants. This will help environmental justice communities avoid keeping polluting appliances longer than necessary to see the savings from electrification.

Overall, we continue to recommend that CPUC prioritize meaningful engagement with environmental justice communities in critical proceedings that will ultimately significantly impact their lives. It can do so by creating more pathways for communities’ participation in proceeding discussions, and ensuring that environmental justice principles lead its policy implementation, especially in transitioning away from the demand and supply of fossil fuels.

<sup>16</sup> California Public Utilities Commission. <http://www.cpuc.ca.gov>. Accessed April 1, 2020.

<sup>17</sup> California Independent System Operator (ISO). Decision 19-11-016, p. 20. <http://www.caiso.com/Documents/Nov13-2019-DecisionRequiringElectricSystemReliabilityProcurementfor2021-2023-R16-02-007.PDF>. Accessed April 1, 2020.

## VI. APPENDIX: ENVIRONMENTAL JUSTICE PRINCIPLES FOR POLICY IMPLEMENTATION AT REGULATORY AGENCIES

CEJA and our members have developed the following principles to assess whether agencies are effectively integrating environmental justice into their policy implementation and regulatory proceedings.

### 1. Prioritize and value prevention, human health, and improved quality of life:

Human health and well-being must be given full weight in decisions, and not overlooked in favor of business interest or “cost-effectiveness.”

### 2. Do no harm:

Decisions must not do further harm to environmental justice communities.

### 3. Prioritize environmental justice communities:

Decisions must confront the historic legacy and ongoing disproportionate siting of polluting sources in environmental justice communities, as well as the trend of disinvestment in those neighborhoods. Programs and investments should prioritize environmental justice communities.

### 4. Meaningful community engagement:

Decisions must be informed by residents of environmental justice communities, which means decision makers should be proactive and culturally relevant in soliciting input and ideas on actions to improve health, responsive to community concerns, and transparent in their work to ensure continued engagement and accountability.

### 5. Be proactive:

Decision makers should not wait for communities to approach them with solutions, but proactively reach out to impacted community groups for ideas and feedback.

### 6. Take an intersectional approach:

Environmental justice communities are systematically disinvested in economically and impacted by patriarchy, racism, and state violence. To be more inclusive, we must partner to advance intersectional solutions that creatively address the multiple crises Californians are facing.

### 7. Be responsive:

Decision makers have a responsibility to be responsive and accountable to community concerns when addressed. Offices should make follow-up and continued discussion on issues a priority, and should keep working on an issue until it is fully resolved.

### 8. Respect community expertise:

Environmental justice communities are experts in what is happening in their communities, and know the solutions that they want to see. Too often, however, community voices are ignored or invalidated, which prevents or delays effective actions to address harms. Decision makers should turn to community leaders for input, and trust what they tell them as truthful and valid data to be used to help inform more equitable policy.





## About California Environmental Justice Alliance (CEJA)

The California Environmental Justice Alliance 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 pollution and poverty. Together, we are growing the statewide movement for environmental health and social justice.

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