



CALIFORNIA  
ENVIRONMENTAL  
JUSTICE ALLIANCE

# ENVIRONMENTAL JUSTICE AGENCY ASSESSMENT 2020



# TABLE OF CONTENTS

<b>I. OVERVIEW OF ENVIRONMENTAL JUSTICE AGENCY ASSESSMENT .....</b>	<b>1</b>
<b>II. METHODOLOGY .....</b>	<b>3</b>
<b>III. AGENCY ASSESSMENT GRADES .....</b>	<b>3</b>
<b>IV. AGENCY ASSESSMENTS .....</b>	<b>4</b>
1. California Air Resources Board (CARB).....	4
2. California Department of Pesticide Regulation (DPR) .....	9
3. California Department of Toxic Substances Control (DTSC).....	12
4. California Department of Water Resources (DWR).....	15
5. California Geologic Energy Management Division (CalGEM).....	19
<b>V. AGENCIES TO WATCH.....</b>	<b>24</b>
6. California Department of Food and Agriculture (CDFA).....	24
7. California Energy Commission (CEC).....	25
8. California Public Utilities Commission (CPUC).....	26
9. California State Water Resources Control Board (State Water Board) .....	29
10. California Strategic Growth Council (SGC) .....	29
<b>VI. APPENDIX: ENVIRONMENTAL JUSTICE PRINCIPLES FOR POLICY IMPLEMENTATION AT REGULATORY AGENCIES .....</b>	<b>30</b>



© Brooke Anderson Photography

CEJA members and partners at CEJA's 2019 Congreso event  
Source: Brooke Anderson for CEJA

## I. OVERVIEW OF ENVIRONMENTAL JUSTICE AGENCY ASSESSMENT

The California Environmental Justice Alliance (CEJA) is proud to release our fifth *Environmental Justice Agency Assessment*. This assessment is the only one in the nation to formally examine how state agencies develop, implement, and monitor environmentally related policies that particularly impact low-income communities and communities of color. It follows CEJA's *Environmental Justice Scorecard*, which analyzes the voting records of state senators and assemblymembers on environmental legislation. Together, these tools reflect the Environmental Justice Principles by which our agencies should govern — principles that protect our land, air, water, and people. We create these resources to hold our state agencies and elected officials accountable to the people they serve, and to provide guidance on how they can make their work more equitable.

This year, CEJA's members, partners, and allies conducted in-depth assessments of five state agencies and conducted issue-level reviews on another five. We selected these agencies based on our members' engagement with them in 2020.

Our 2020 *Environmental Justice Agency Assessment* shows an overall decline in grades. Compared to 2019, two out of four agencies' scores were lower and the average letter grade worsened from a C to a C-. This outcome during the COVID-19 pandemic is particularly alarming given its grave impact on communities with poor environmental health.

California's environmental regulatory bodies hold immense power over and responsibility to communities — their actions directly and indirectly shape communities' health and

affect life expectancy. For decades, residents disproportionately impacted by environmental harms — majority Black, Indigenous, and People of Color (BIPOC) communities — have demanded that lawmakers and regulators meaningfully act upon air pollution, water quality, and environmental health impacts. BIPOC communities continue to lack safe drinking water and endure deadly particulate matter, carcinogens, and other hazards that degrade the immune system, harm reproductive health, cause respiratory and heart diseases, and result in premature death.

The legacy of systemic racism has embedded stark disparities in the development and distribution of environmental harms and benefits. While community advocates have achieved important progress toward racial equity over the years, persistent structural and social racial inequities continue to be reflected in present-day government actions and inactions.

These disparities were more evident than ever in 2020, when communities nationwide were devastated by the crises of COVID-19 and state violence against Black people. The resurgence of the Movement for Black Lives brought institutional racism to the foreground and heightened demands for systemic change to end white supremacy and racial inequities. Environmental racism was also magnified as BIPOC communities at the frontlines of pollution and essential workforces suffered the worst impacts of COVID-19. Underlying both crises is the continued disregard and devaluation of Black, Indigenous, and Brown lives.

COVID-19 laid bare the debilitating and deadly impact of pollution. Beginning in spring 2020, studies showed that people living in highly polluted areas were more likely to die from COVID-19, and that environmental health was a factor in the racial disparities in COVID-19 cases. Our state environmental regulatory bodies should have taken immediate, urgent actions to center equity and

protect communities with significant risk factors. Oil drilling permits and refinery expansions should have been denied. Direct, enforceable emissions reductions measures should have been created. Hazardous pesticide use prohibited. Diesel backup generation and natural gas expansion rejected. The precautionary principle that prioritizes protecting lives should have taken hold. Yet, environmental regulatory bodies did not take such actions. And if not in the midst of a health crisis, then when?

COVID-19's impact on communities with poor environmental health foretells the impacts that the climate crisis will have on the same communities for years to come. Increased heat waves, worsened air quality, drought, infectious diseases, fires, and food insecurity are but some of the impending catastrophes. Environmental regulatory bodies must act in a manner commensurate to the crisis and protect human health by centering those who are most vulnerable. Like with COVID-19, the public health hazards from the climate crisis fall worse on BIPOC and low-income communities.

The magnitude of the pollution and climate crises behooves every environmental regulatory body to prioritize preventing and mitigating harm, advancing racial equity, and ensuring a just transition away from fossil fuel and other polluting industries. This requires a commitment from staff and leadership alike to actively dismantle institutional racism in all of their work, from mandatory to discretionary actions, and from the mundane to significant. In doing so, staff and leadership should consistently ask whether their actions contribute to and exacerbate polluting conditions and systemic racial inequities, or whether they will improve health and well-being and proactively dismantle racism. We hope that agency actions in 2021 will better reflect this need and moral imperative.

## II. METHODOLOGY

CEJA creates our *Environmental Justice Agency Assessment* with the hope of charting a course toward improved agency culture and actions, and the ultimate goal of creating healthy and environmentally prosperous conditions in our most vulnerable communities. We began our process by forming assessment lead teams composed of staff from CEJA's member and partner organizations. Together, the lead teams determined whether we would fully assess or “watch” agencies, based chiefly on which agencies our alliance deeply engaged with in 2020. We ultimately chose to fully assess five state agencies according to eight Environmental Justice Principles (outlined in the Appendix). We also “watched” five state agencies, meaning that we did not score them using our full criteria, but instead included brief synopses of their environmental justice performance in 2020.

For the full assessments, CEJA examined how each agency's actions reflected the eight principles and assigned a performance score of “poor (1),” “poor/fair (2),” “fair (3),” “fair/good (4),” or “good

(5).” Eight principles times five points created a maximum score of 40, and we converted the total score of each agency to a letter grade based on the percentage of 40 possible points it earned. For example, if an agency earned 32 out of 40 points, we divided by 8 for an overall score of 4, and a letter grade of B. The scores convert to letter grades as follows: 5 = A, 4 = B, 3 = C, 2 = D, 1 = F.

**We based our assessments on contributions from CEJA's member and ally organizations and key proceedings, decisions, or programs in which they engaged this year. These scores do not reflect the totality of decision-making at each agency or what other organizations may have experienced.**

We gave agencies the opportunity to review their assessment prior to publishing 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 GRADES

Name	2020 Grade	2019 Grade	2018 Grade
California Air Resources Board (CARB)	C-	D	C-
California Department of Pesticide Regulation (DPR)	C	C	D
California Department of Toxic Substances Control (DTSC)	D	C-	D
California Department of Water Resources (DWR)	C-	To Watch	To Watch
California Geologic Energy Management Division (CalGEM)	D+	C	F
California Department of Food and Agriculture (CDFA)	To Watch	F	Not Assessed
California Energy Commission (CEC)	To Watch	To Watch	To Watch
California Public Utilities Commission (CPUC)	To Watch	To Watch	B+
California State Water Resources Control Board (State Water Board)	To Watch	B+	B
California Strategic Growth Council (SGC)	To Watch	A-	A-

Green = Grade improved in 2020

Red = Grade worsened in 2020



Tropical Forest Standard advocacy, fall 2019  
Source: Katie Valenzuela for CEJA

## IV. AGENCY ASSESSMENTS

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

**Assessment Leads:** CEJA AB 617 Work Group; CEJA Climate Justice Committee; Center for Community Action and Environmental Justice (CCA EJ); Leadership Counsel for Justice and Accountability; Physicians for Social Responsibility-Los Angeles (PSR-LA)

#### 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>1</sup> CARB is a regulatory agency tasked with overseeing and coordinating the state’s clean air programs

and implementing climate policies. CARB also guides multimillion-dollar investments from the Greenhouse Gas Reduction Fund.

#### Agency Engagement with Environmental Justice

Environmental justice principles and practices must be the lifeblood running through CARB’s work. Communities of color and low-income

1 California Air Resource Board. <https://ww2.arb.ca.gov/about>. Accessed March 1, 2021.

communities are disproportionately impacted by air pollution in California, and breathe some of the unhealthiest air in the nation. These communities also face heightened risks from the climate crisis. CARB therefore cannot meet its mandate without centering disproportionately impacted communities. CARB recently recognized its responsibility to environmental justice communities in its Resolution on Racial Equity. The resolution pledges that the agency will work toward “identifying and implementing best practices for community engagement, especially in communities suffering environmental injustice and racial discrimination, and to apply these practices throughout all of CARB’s activities.” CARB’s responsibility toward pollution-burdened communities includes integrating the AB 32 Environmental Justice Advisory Committee’s recommendations, reaching the state’s climate goals in a manner that benefits and does not hurt climate-vulnerable communities, implementing AB 617 and other clean air programs, and maintaining an updated Environmental Justice Policy.

### **Agency’s Most Significant Improvement or Failure in 2020**

In 2020, CARB took significant steps in the right direction through its landmark and nationally lauded Zero-Emission Vehicle (ZEV) policies to combat air pollution. However, there is much room for improvement to better respond to community concerns around local air quality. Specifically, CARB’s current approach to reducing air pollution is harmful to environmental justice communities because the agency refuses to reduce and eliminate toxic emissions at their source, and to seriously invest in other avenues like sector-based approaches for emissions reductions. At a time when research evidences the correlation between poor air quality and COVID-19 comorbidity, CARB must not simply study pollution-burdened communities, but take action to address community needs as well. In addition, CARB oversaw the Compliance Offsets Protocol Task Force and made no attempt to ensure the direction of the task force would support environmental justice communities’ needs, instead pursuing a process that sought to expand offsets without

examination of the impacts on air pollution and the need for direct emissions reductions. CARB also continues to dispose of community air pollution concerns by directing them to the AB 617 program, despite the program’s substantive and procedural deficiencies and its broader statutory mandates.

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

CARB must work in deeper collaboration with community-based organizations (CBOs), as well as the AB 32 Environmental Justice Advisory Committee and AB 617 Community Steering Committees, to foster collaborative communication between communities and the agency to achieve direct and significant emissions reductions. For example, CARB should solicit meaningful feedback from CBOs on clearinghouse tools and blueprints before materials are distributed. In addition, CARB can engage in deeper collaboration by providing (1) substantive progress updates or honest explanations about lack of progress, and (2) special attention on next steps when its resources are not responsive to community needs. These recommendations should be reflected in an updated Environmental Justice Policy at CARB.

## CALIFORNIA AIR RESOURCES BOARD (CARB) ASSESSMENT

Assessment regards Agenda items: AB 617, Compliance Offsets Protocol Task Force, Study of Neighborhood Air near Petroleum Sources (SNAPS), AB 2588 Hot Spots, Criteria Toxics Reporting (CTR), Advanced Clean Trucks (ACT) Rule, Omnibus/NOx rules, Mobile Source Strategy (MSS), Cap-and-Trade program, San Joaquin Valley Emissions Reduction Credit (ERC) program, Scoping Plan report, AB 197 implementation; Non-Agenda items: EJ officer resignation, Black employees complaint letter, Mary Nichols' retirement

### OVERALL SCORE: C-

PRINCIPLE	ASSESSMENT	REASONING
<b>Prioritize and value prevention, human health, and improved quality of life</b>	<b>Poor</b>	<ul style="list-style-type: none"> <li>▶ CARB failed to address environmental justice community concerns in the convening of the Compliance Offsets Protocol Task Force. Even if the purpose of the task force was to create new protocols, CARB could have explored how to reduce harms from the program through new, stricter protocols and tightened compliance to prevent fraud. Environmental justice communities have for years voiced concerns about offsets, including their role in exacerbating negative health impacts on pollution-burdened communities as well as their inability to substantially reduce greenhouse gas (GHG) emissions.</li> <li>▶ CARB staff issued a report revealing egregious flaws of the pollution trading system in the San Joaquin Valley Emissions Reduction Credit program. While CARB has taken small steps to address the report's findings, it has yet to take significant action to address these issues, thereby permitting continued harm to environmental justice communities.</li> <li>▶ In AB 617 implementation, CARB has failed to provide proper oversight or exercise the authority needed to ensure that Community Emissions Reduction Plans (CERPs) result in mandatory emissions reductions. Although the premise for emissions reductions should be to achieve health outcomes, the CERPs have not adopted enforceable regulations to achieve health-based goals. We hope to see movement in this direction from CARB in the next blueprint update. The lack of rigor and enforceability of CERPs has hurt communities' trust in CARB's ability and willingness to ensure effective plans as provided by AB 617.</li> </ul>
<b>Do no harm</b>	<b>Poor/Fair</b>	<ul style="list-style-type: none"> <li>▶ We greatly appreciate CARB's adoption of updated Criteria and Toxics Emissions Reporting regulations and AB 2588 guidelines (although after years of delay), particularly its inclusion of additional harmful substances for regulation. We note, however, that current underreporting of emissions data from monitored facilities through the SNAPS and Hot Spots programs has led to a troubling lack of necessary health-based interventions, such as creating emissions limits on sources, in order to reduce cancer and other pollution health risks. While local Air Districts have jurisdiction over the Hot Spots program, we hope to see further intervention from CARB given its oversight of the Air Districts. In addition, the SNAPS program has been slow to arrive in communities like Baldwin Hills and South LA. Due to extended monitoring in Lost Hills, the program started in Baldwin Hills in early 2020, despite promises from CARB to start in fall 2019.</li> <li>▶ We are pleased that CARB is advancing ZEV projects and reducing greenhouse gases through two important and meaningful rules adopted in 2020, Advanced Clean Trucks (ACT) and the Omnibus/NOx regulation. However, we have strong concerns about natural gas remaining an alternative as part of "near-zero" approaches. Because gas facilities and their impacts are disproportionately located in disadvantaged communities, this alternative fails to properly protect environmental justice communities.</li> <li>▶ Despite AB 197's mandate to prioritize direct GHG emissions reductions — which have at best only modestly decreased under cap-and-trade — CARB has failed to target sectors most harming communities. AB 197 also requires CARB to consider the social costs of its GHG reduction measures. In 2017, CARB noted the importance of doing additional work to determine these social costs, but in three years has made limited progress to account for these significant public health impacts. CARB did not move that critical work forward in 2020.</li> <li>▶ Rather than determine the extent of local life cycle impacts from dairy biomethane production, CARB has instead worked with other state agencies to authorize more dairy biomethane projects that increase local air and water pollution, primarily in the San Joaquin Valley. CARB has also yet to contribute to the evaluation of the SB 1393 dairy biomethane pilot projects, while still continuing to authorize more projects without any knowledge of the degree of their significant local impacts.</li> </ul>

Principle	Assessment	Reasoning
Prioritize environmental justice communities	Poor/Fair	<ul style="list-style-type: none"> <li>▶ In CARB's historic adoption of the ACT rule, we greatly appreciated actions taken to acknowledge the priorities of labor and environmental justice groups through the rule's prioritization of medium- and heavy-duty vehicles. CARB made no effort to follow through on the Environmental Justice Advisory Committee (EJAC) recommendations to study and address localized emissions increases from the Cap-and-Trade program, as was the purpose of the suspended Adaptive Management Plan.</li> </ul>
Meaningful community engagement	Fair	<ul style="list-style-type: none"> <li>▶ Despite a clear request from environmental justice advocates and communities — and AB 617's legal mandate for community engagement — there were few meaningful ongoing opportunities created for AB 617 Community Steering Committee members to come together regularly and share knowledge.</li> <li>▶ We appreciate how CARB's mobile source division meaningfully engages with transportation and sustainable freight advocates, leading to more purposeful actions surrounding environmental justice concerns. We hope CARB continues to improve upon this practice and expand it across divisions.</li> <li>▶ CARB's current strategies for community involvement function more as one-off checkpoints with the general public, rather than as investments in meaningful, lasting relationships with community members. Specifically, it could convene the AB 32 EJAC as written in its final recommendations, so that an environmental justice table can regularly advise the agency on policies and programs that impact environmental justice communities.</li> </ul>
Be proactive	Fair	<ul style="list-style-type: none"> <li>▶ We appreciate how some CARB staff proactively reached out to environmental justice communities prior to Year 3 of AB 617 community selection. CARB also engaged with CEJA when updating the CTR and AB 2588 regulations for feedback and timely updates, leading to a stronger and more comprehensive toxics rule.</li> <li>▶ However, the CTR should serve as an inventory of sources and not of permits — including pesticides — in order to be used more meaningfully by different communities engaged in CARB's various programs. CARB could be more proactive in applying "provisional" reference values — such as those adopted for the SNAP pollutants, including reference exposure levels, cancer potency, and others — to all new substances added to the state's list of toxic air contaminants.</li> <li>▶ Timelines for monitoring and reporting are not aligned with AB 617 processes, which furthers confusion around potential regulatory actions that Air Districts could take to address community concerns.</li> <li>▶ In AB 617 implementation, CARB nominated only a few communities for CERPs in the third round, leaving out many environmental justice communities. Further, CARB should be proactive in playing more of a part in improving delays at the district level before a CERP requests an extension.</li> </ul>

Principle	Assessment	Reasoning
<b>Take an intersectional approach</b>	<b>Fair</b>	<ul style="list-style-type: none"> <li>▶ In the Advanced Clean Fleets rulemaking, we appreciate that CARB is open to adding high-road labor standards to incentive funding, attempting to tackle some of the employment issues rife in the trucking industry and taking a truly novel intersectional approach.</li> <li>▶ In AB 617 implementation, CARB has made some effort to collaborate across agencies to address air quality and land use issues, such as pesticide use, yet communities are still waiting for needed intervention. We hope to see further collaboration on these issues from CARB, as it is ultimately responsible for AB 617.</li> <li>▶ CARB has demonstrated commendable interagency collaboration in its partnership with the California Energy Commission (CEC) in order to develop workforce training programs and help prepare community members for zero-emission transportation, and has even consulted CBOs for feedback on the program and grant language. We hope CARB centers equity more by following up on the workforce program, rather than only continuing to provide incentive programs for transitioning to ZEVs.</li> <li>▶ Agencies must demonstrate cultural competence and racial equity in setting inclusive organizational standards, expectations, and practices. In 2020, Black employees at CARB issued a grievance letter calling out systemic racism at the agency and outlining examples of discriminatory treatment against Black employees and other employees of color. It remains to be seen how CARB will follow and implement its Resolution on Racial Equity.<sup>2</sup></li> </ul>
<b>Be responsive</b>	<b>Poor</b>	<ul style="list-style-type: none"> <li>▶ While CARB's effort to update the AB 617 Blueprint attempts to respond to community recommendations submitted last year, in 2020 the broader AB 617 community found the process obscure and lacking consistency. Shifts due to COVID-19 and internal turnover are understandable, and we hope to see CARB provide a clearer path to an updated blueprint and improved guidance for Year 3 communities. We stress that while individual staff are making diligent, commendable efforts to advance this, these are institutional challenges that require structural shifts to address community needs.</li> <li>▶ Despite long-standing advocate concerns, CARB continues to allow AB 617 to place communities in competition against each other for resources, and CARB has yet to implement a sector-based hybrid approach to emissions reductions. This approach should focus on developing a streamlined regulatory process that tackles common industries harming environmental justice communities throughout California. This would reduce the program's competitive nature and distribute air quality benefits more equitably statewide. We are pleased to learn CARB is starting to assess CERPs to compile lessons learned.</li> <li>▶ AB 617-selected communities receive insufficient technical support from Air Districts, and CARB refuses to exercise its oversight authority over the Air Districts, despite requests from communities. This leads to either co-opting of the plan by the Air Districts, or to communities overburdened with the entire responsibility. We hope to see deeper technical collaboration with the Office of Environmental Health Hazard Assessment (OEHHA) and other CARB divisions to provide communities with needed information.</li> </ul>
<b>Respect community expertise</b>	<b>Poor/Fair</b>	<ul style="list-style-type: none"> <li>▶ In the CTR update, we are pleased to see a means for residents to notify CARB if they believe that a facility should report its emissions. However, CARB needs to go further and ensure community members' concerns around polluting facilities are addressed, including when industry underreports or misrepresents emissions data. There are many exemptions for industry in CTR, AB 2588, and other programs, but weak intervention requirements based on community concerns.</li> <li>▶ CARB continues to ignore the AB 32 EJAC's major recommendations on preventing pollution hot spots and cautioning against false solutions like biofuels and carbon capture.</li> <li>▶ We appreciate CARB's efforts to convene AB 617 Community Steering Committees and to support the People's Blueprint process. We hope to see further investment of CARB's resources as a way to demonstrate respect for environmental justice communities' experience and expertise.</li> </ul>

<sup>2</sup> California Air Resource Board. <https://ww3.arb.ca.gov/board/res/2020/res20-33.pdf>. Accessed March 1, 2021.



The Department of Pesticide Regulation's Chlorpyrifos Alternatives Workshop in Fresno on January 14, 2020  
 Source: Ali Mohammed for Californians for Pesticide Reform

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

**Assessment Leads:** *Californians for Pesticide Reform (CPR); Center on Race, Poverty & the Environment (CRPE)*

### 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>3</sup> This mandate includes evaluation and registration of pesticides, licensure of professionals, and evaluation of health impacts by monitoring air, water, soil, and residue on fresh produce. The DPR is responsible for working with and overseeing 56 county agricultural commissioners to enforce laws regarding pesticide use.

### Agency Engagement with Environmental Justice

The DPR's Environmental Justice webpage states: "Treating people fairly guides how DPR conducts its activities. Fair treatment means that no one group of people, including racial, ethnic, or socioeconomic groups, should be disproportionately impacted by pesticides. Anyone

whose health or environment may be affected by pesticides holds a stake in DPR's decisions. We want to ensure that ALL have an opportunity to participate in the regulatory process."<sup>4</sup> Despite this statement, pesticide use continues to significantly impact agricultural communities that are primarily rural, low-income communities of color. The 11 California counties with a majority Latinx population have nine times (906%) more pesticide use per square mile than the 25 counties with less than 24% Latinx population. The two groups of counties are roughly comparable in population and area. This is a clear violation of state and federal civil rights laws and of the DPR's stated commitment to environmental justice. No effort was made in 2020 to address this racial disparity.

### Agency's Most Significant Improvement or Failure in 2020

This year, the DPR made a notable commitment to a long-term transition away from hazardous

3 California Department of Pesticide Regulation. <https://www.cdpr.ca.gov/docs/pressrls/dprguide.htm>. Accessed March 1, 2021.

4 California Department of Pesticide Regulation. <https://www.cdpr.ca.gov/docs/pressrls/dprguide.htm>. Accessed March 1, 2021.

pesticides. The agency pursued an increase in the pesticide mill fee, with higher fees for more hazardous pesticides. The DPR also convened two multi-stakeholder working groups to plan for the transition to sustainable pest management. In addition, with public support for advance public notification, the DPR took steps toward increased transparency for pesticide use in agriculture.

The DPR’s most significant failure in 2020 was its decision to join Dow — the manufacturer of the carcinogenic fumigant 1,3-dichloropropene (1,3-D) — in its appeal of a 2018 court judgment that found the DPR had adopted an unlawful underground regulation.<sup>5</sup> For the third year running, the DPR failed to adopt any mitigation measures to address the record-setting levels of 1,3-D measured in the San Joaquin Valley in 2018.

5 Vasquez et al. v. CDPH and Dow. <http://www.panna.org/sites/default/files/Vasquez.PetitionFiled.pdf>. Accessed March 1, 2021.

## CEJA's Recommendation for This Agency

We recommend that the DPR set a visionary goal for California agriculture, with measurable reduction targets and timelines for the most problematic classes of pesticides, including organophosphates, fumigants, and neonicotinoids. The DPR should analyze the racial composition of communities and counties most impacted by pesticide use as a key criterion in evaluating progress toward this goal. The DPR should propose an implementation plan for reaching its reduction targets and place a priority on incentives for farmers to transition away from hazardous pesticide use within 10–15 years. The DPR should then implement identifiable reduction strategies to fulfill its environmental justice commitment. As a step toward eliminating the use of hazardous pesticides and ensuring equal access to information, the DPR should establish a public statewide pesticide notification system.

### CALIFORNIA DEPARTMENT OF PESTICIDE REGULATION (DPR) ASSESSMENT

Assessment regards regulation of 1,3-dichloropropene (1,3-D), reductions in air monitoring and transparency, improvements in community engagement, exclusion of pesticides from relevant policies, and engagement in AB 617

#### OVERALL SCORE: C

PRINCIPLES	ASSESSMENT	REASONING
<b>Prioritize and value prevention, human health, and improved quality of life</b>	<b>Poor</b>	<ul style="list-style-type: none"> <li>▶ The DPR prioritized industry over human health by joining Dow in an appeal of the <i>Vasquez</i> decision, in which it was ordered to work with the state OEHHA on rulemaking for the carcinogenic fumigant 1,3-D.</li> <li>▶ For the third year in a row, the DPR failed to take action to reduce exposure to 1,3-D in the communities of Shafter and Parlier, where air levels in 2018 violated state-identified acceptable limits.</li> </ul>
<b>Do no harm</b>	<b>Poor</b>	<ul style="list-style-type: none"> <li>▶ The DPR’s action in joining Dow’s appeal of <i>Vasquez</i> has harmful consequences for communities.</li> <li>▶ The DPR gave no indication of compliance with the <i>Vasquez</i> judgment, which requires the agency to work with OEHHA to establish regulatory targets for 1,3-D.</li> </ul>
<b>Prioritize environmental justice communities</b>	<b>Poor</b>	<ul style="list-style-type: none"> <li>▶ In 2018, air monitors in Shafter (Kern County) and Parlier (Fresno County) measured the highest levels of 1,3-D ever detected in the state of California. To date, the DPR has failed to take action to protect these communities from 1,3-D emissions.</li> <li>▶ The DPR has failed to protect communities of color from the serious health consequences of long-term pesticide exposure.</li> <li>▶ The DPR drastically cut its pesticide air monitoring network from monitoring 31 pesticides and five breakdown products at eight sites in environmental justice communities to only one location, with monitoring for only 1,3-D at two additional locations. Two additional 1,3-D monitoring locations were later added as part of an ongoing pilot study of measures to reduce 1,3-D emissions.</li> </ul>

Principle	Assessment	Reasoning
Meaningful community engagement	Fair/Good	<ul style="list-style-type: none"> <li>▶ The DPR held a series of workshops to consider alternatives to chlorpyrifos. The timing and location of the workshops were changed in response to community requests.</li> <li>▶ The DPR convened a second work group to consider long-term strategies for achieving non-hazardous pest management. It invited nominations for the work group and suggestions for content, speakers, and materials.</li> <li>▶ The DPR's annual Environmental Justice Workshop, held remotely, once again did not address environmental justice issues and was marred by technical and interpretation problems.</li> </ul>
Be proactive	Fair/Good	<ul style="list-style-type: none"> <li>▶ The DPR issued guidance to county agricultural commissioners (CACs) regarding their obligation to comply with state law on language access. However, compliance remains poor in most counties, and it does not appear the DPR has taken active steps to enforce it.</li> <li>▶ The DPR issued a directive regarding pesticide use near homes while schools were closed during the pandemic.</li> </ul>
Take an intersectional approach	Fair	<ul style="list-style-type: none"> <li>▶ Pesticides continue to be routinely excluded from state initiatives where they rightfully belong. The DPR does not proactively insert itself into these initiatives.</li> <li>▶ The DPR did not participate in the development of California's 2020 Water Resilience Portfolio, even though pesticides were identified as one of the most significant pollutants in California waters. Of the more than 100 recommendations, not one is devoted to pesticide reduction.</li> <li>▶ The Governor's Executive Order on Natural and Working Lands has no explicit role for the DPR, despite the known role of pesticides in biodiversity collapse.</li> <li>▶ However, as a result of community advocacy, the DPR took important steps to follow through on its commitments to work with CARB on reducing pesticide toxic air contaminant emissions in Shafter under AB 617.</li> </ul>
Be responsive	Fair	<ul style="list-style-type: none"> <li>▶ In response to community demands, the DPR took a bold step to implement a pilot notification program in Shafter by ordering the CAC to comply with the program as part of AB 617.</li> <li>▶ The DPR made information significantly less accessible this year. It removed all pesticide use reporting (PUR) data reports prior to 2017 from its website. Data tables are less readable and lack subtotals. It quietly released 2018's annual PUR data over the Christmas holiday in 2020 — months later than usual. No improvements have been made, despite efforts to bring these issues to the DPR's attention.</li> </ul>
Respect community expertise	Fair/Good	<ul style="list-style-type: none"> <li>▶ The DPR included strong community representation in its second work group to consider safe alternatives to hazardous pesticides.</li> <li>▶ CACs disrespect community expertise by refusing calls for the public's right to know about nearby hazardous pesticide applications. The DPR continues to be reticent to assert its authority over CACs but took a step forward in Kern County by ordering the CAC to share information about upcoming hazardous pesticide applications so the DPR can make the information available to the public.</li> </ul>

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

*Assessment Leads: Center on Race, Poverty & the Environment (CRPE); Physicians for Social Responsibility-Los Angeles (PSR-LA)*

#### Agency Description

The mission of the California Department of Toxic Substances Control (DTSC) is “to protect California’s people and environment from harmful effects of toxic substances by restoring contaminated resources, enforcing hazardous waste laws, reducing hazardous waste generation, and encouraging the manufacture of chemically safer products.”<sup>6</sup> Protecting the people of California, especially those most vulnerable to toxic exposure, relies on an effective cleanup program, robust hazardous waste regulation and enforcement, and a comprehensive program to reduce toxic chemicals in industrial activities and consumer products.

#### Agency Engagement with Environmental Justice

Over the last 10 years, the DTSC’s ability to carry out its mission has been compromised by administrative, organizational, programmatic, and fiscal deficiencies. 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 abilities. The DTSC created an Office of Environmental Equity (OEE) in an attempt to embed environmental justice principles across multiple program areas. Some members of the DTSC’s leadership team, including its director, have demonstrated a commitment to addressing environmental justice issues. However, the OEE and the good intentions of the leadership team have been insufficient to overcome the DTSC’s significant structural, cultural, and financial problems — and the devastating impact they have on communities overburdened by toxic hazards.

#### Agency’s Most Significant Improvement or Failure in 2020

In 2020, the DTSC and the Newsom administration failed to work collaboratively with

the Legislature to provide requested information in a timely manner, leading two DTSC reform packages to collapse, with neither becoming law. This jeopardized what seemed to be a united goal from stakeholders to increase agency transparency, accountability, and responsiveness. The failure to pass these DTSC measures in 2020 has magnified the severity of oversight and funding issues that continue to compromise the agency’s ability to protect the public.

The DTSC lacks capacity and resources to investigate and characterize the state’s 200,000 potentially contaminated sites and fulfill its obligation to prevent potential toxic exposures from identified sites. A number of deficiencies, including funding, detrimentally impact the number of inspections and enforcement actions at hazardous waste facilities. Overdue permitting decisions have been delayed more still, increasing the already high number of hazardous waste facilities allowed to operate on expired permits, which are mostly located in low-income communities of color. Cutbacks to enforcement, permitting, and remediation activities disproportionately harm environmental justice communities.

The DTSC’s departure from preventing toxic generation in industrial processes, in favor of reducing toxics in consumer products, has not resulted in meaningful improvements to community health. Many low-income communities of color are burdened by a legacy of soil, air, and water contamination from industrial and manufacturing operations like landfills, recycling centers, incinerators, and chemical production facilities. When industries like furniture manufacturing, clothing manufacturing, and garment cleaning are detoxified, along with businesses like auto body shops and nail salons, communities can thrive. California needs a robust and justice-based pollution prevention and green chemistry program that can help transform toxic industries that are overconcentrated in low-income communities.

<sup>6</sup> California Department of Toxic Substances Control. <https://dtsc.ca.gov/who-we-are>. Accessed March 1, 2021.

## CEJA's Recommendation for This Agency

CEJA recommends that the DTSC and the Newsom administration work collaboratively with the Legislature to develop and pass joint reforms that include the creation of an oversight board, fee structure reform, hazardous waste reduction policies, and short- and long-term plans to address the 200,000 brownfield sites in California. These must be informed by communities whose health and safety have been compromised by the lack of

proper regulation. The adoption of DTSC reform policies must be also coupled with commensurate funding as well as concrete performance standards to ensure that it meets statutory mandates and serves the public interest. The DTSC has a long-standing pattern of prioritizing the interests of those it regulates over community health. No amount of funding will correct this. Nothing short of a cultural shift that prioritizes community voices and needs will enable the agency to truly live up to its mission.

CALIFORNIA DEPARTMENT OF TOXICS SUBSTANCES CONTROL (DTSC) ASSESSMENT		
Assessment regards hazardous waste management and site mitigation and restoration		
OVERALL SCORE: D-		
Principle	Assessment	Reasoning
Prioritize and value prevention, human health, and improved quality of life	Poor/Fair	<ul style="list-style-type: none"> <li>▶ The DTSC removed pollution prevention from its mission statement. Despite repeated calls for it to revamp its pollution prevention program, it does not appear in the department's reform package.</li> <li>▶ Despite SB 1249 requiring the DTSC to regulate metal shredding waste as hazardous waste, it has failed to do so and has defended this practice in litigation.<sup>7</sup></li> <li>▶ However, the DTSC has levied fines and taken enforcement action against metal shredder Schnitzer Steel and other metal recyclers to prevent the release of metal shredder waste offsite.</li> <li>▶ The DTSC released a deeply flawed and intentionally misleading report falsely claiming that the Woolsey Fire resulted in no release of Santa Susana Field Laboratory contaminants.<sup>8, 9</sup></li> <li>▶ The green chemistry program has been impeded by safety, innovation, and information gaps. These gaps inhibit safer alternatives and green jobs.</li> </ul>
Do no harm	Poor/Fair	<ul style="list-style-type: none"> <li>▶ The DTSC's violation scoring procedure (VSP) score is seriously flawed. It allows problematic facilities that are inspected more frequently — like Quemetco — to earn misleading, deceptively low scores, causing harm to surrounding communities.</li> <li>▶ Despite increasing its overall rate and number of permit decisions, the DTSC failed to act on the longest standing expired permit in the state, held by Phibro-Tech in Santa Fe Springs. Decisions remain long overdue on other controversial permits, such as Clean Harbors in Buttonwillow.</li> <li>▶ The DTSC denied a hazardous waste permit renewal for General Environmental Management in Rancho Cordova, based on its long history of noncompliance and safety hazards.</li> <li>▶ The DTSC must prioritize permitting decisions at facilities with the most out-of-date permits. It should consider permit denial in regions that are most vulnerable to environmental hazards.</li> </ul>

7 Athletics Investment Corp. v. DTSC. <https://www.courthousenews.com/wp-content/uploads/2020/08/AthleticsCalifDTSC-COMPLAINT.pdf>. Accessed March 1, 2021.

8 Mike Harris. Jan. 19, 2021. "State reaffirms Woolsey Fire didn't cause toxins to be released from field lab site." *Ventura County Star*. <https://www.vcstar.com/story/news/local/communities/simi-valley/2021/01/19/woolsey-fire-report-no-toxins-released-santa-susana-field-laboratory/4179543001>.

9 Daniel Hirsch. Feb. 21, 2019. "A failure of governmental candor: The fire at the contaminated Santa Susana Field Laboratory." *The Bulletin*. <https://thebulletin.org/2019/02/a-failure-of-governmental-candor-the-fire-at-the-contaminated-santa-susana-field-laboratory>.

Principle	Assessment	Reasoning
Prioritize environmental justice communities	Poor/Fair	<ul style="list-style-type: none"> <li>▶ The Legislature passed SB 673 in 2015, requiring the DTSC to adopt regulations to address cumulative impacts and community vulnerability by 2018. It still has not adopted the required criteria. The extremely slow progress is delaying necessary changes to the DTSC's permitting program. The DTSC should consider how to expedite its SB 673 rulemaking and ensure measures to deny permits based on community vulnerability.</li> </ul>
Meaningful community engagement	Poor/Fair	<ul style="list-style-type: none"> <li>▶ The DTSC entered into confidential negotiations with Boeing over its responsibility to remediate the Santa Susana Field Laboratory. This undermined its promise to completely remediate the site, and also cut out community participation.</li> <li>▶ The DTSC completed its Removal Action Plan for the Delano Plume in January 2020 but did not provide it for community review until November of that year, leaving little flexibility to address community concerns. The DTSC did extend the comment period by one month in consideration of the holidays.</li> <li>▶ The DTSC restarted its quarterly public meetings as a space to provide updates on its activities and solicit public engagement.</li> </ul>
Be proactive	Poor	<ul style="list-style-type: none"> <li>▶ Despite repeated requests in this assessment and other forums for the past five years, the DTSC has not provided regular updates on the Shafter Brown and Bryant site.</li> <li>▶ We note that Exide Technologies' 2020 bankruptcy allowed it to successfully walk away from financial obligations to clean up its contamination. The DTSC's failure to close the site earlier, and the state's non-prosecution agreement, contributed to this disaster.</li> <li>▶ The DTSC failed to proactively address community concerns about NASA's efforts to list the entire 2,850-acre site in the National Register of Historic Places as an attempt to evade its cleanup obligations.</li> </ul>
Take an intersectional approach	Poor	<ul style="list-style-type: none"> <li>▶ In 2020, COVID-19 impacted all aspects of our society and highlighted the intersectional nature of race, income, social vulnerability, and illness. The DTSC adopted guidance to temporarily excuse noncompliance with the state's hazardous waste laws. This was an inappropriate policy for polluting facilities that exacerbate the disproportionately harmful effects of COVID-19 on vulnerable communities and communities of color.</li> </ul>
Be responsive	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 not accountable to a governing board. Decisions are made with little opportunity for public and stakeholder input. Appeals are determined internally — a clear conflict of interest. It should improve 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.</li> </ul>
Respect community expertise	Poor	<ul style="list-style-type: none"> <li>▶ The DTSC has historically minimized community expertise. This is exacerbated by language in federal and state remediation statutes that gives 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's legal counsel should explore its authority to interpret the statutes in a manner that would give more weight to community acceptance and expertise.</li> </ul>



Leadership Council for Justice and Responsibility advocates at CEJA's 2019 Congreso event  
Source: Brooke Anderson for CEJA

## 4. CALIFORNIA DEPARTMENT OF WATER RESOURCES (DWR)

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

### Agency Description

The Department of Water Resources' (DWR) mission is to "sustainably manage the water resources of California, in cooperation with other agencies, to benefit the state's people and protect, restore, and enhance the natural and human environments."<sup>10</sup> As part of its many water-related activities, the DWR oversees the implementation of the Sustainable Groundwater Management Act (SGMA). CEJA members interact with the DWR within its SGMA implementation activities and its recent process to develop an agency-wide Human Right to Water Protocol. Therefore, this assessment is limited to the DWR's performance in those areas.

As the regulating agency for the SGMA, the DWR plays an important role in ensuring environmental justice communities are protected in its implementation. The SGMA requires that Groundwater Sustainability Agencies (GSAs)

include all beneficial users of groundwater in the process of creating and implementing Groundwater Sustainability Plans (GSPs) for high- and medium-priority sub-basins in the state. Groundwater is an essential source of domestic water needs for many communities across the state, but this is especially true for the Central Valley, where 90% of communities rely upon groundwater for drinking water sources. The DWR collaborates with the State Water Resources Control Board (SWRCB) to review the water quality and drinking water impacts of GSPs. The DWR has the ultimate authority on GSP approval.

### Agency Engagement with Environmental Justice

In 2020, environmental justice organizations spoke regularly with DWR staff about drinking water issues and provided materials to evaluate and understand drinking water impacts from GSPs. Environmental justice organizations asked the agency to ensure that its review process protects

<sup>10</sup> California Department of Water Resources. <https://water.ca.gov/about>. Accessed May 20, 2021.

drinking water users via drinking water mitigation programs and protection of drinking water wells. Agency officials publicly stated the importance of protecting drinking water in GSP review, both at hearings and in conversations with advocates. The agency did not provide a clear description of how it is integrating drinking water protection into its GSP review process. The DWR released a request for proposals (RFP), enabling organizations to apply for funding to assist GSAs in vulnerability assessments and community outreach. Environmental justice organizations were not chosen for this RFP.

In addition, the DWR oversees Integrated Regional Water Management (IRWM) efforts statewide, which include the recent Proposition 1-funded Disadvantaged Community and Tribal Involvement (DACTI) Program. Throughout 2020, the DWR continued to oversee the grant disbursement of the DACTI Program through its IRWM Grant Program. Much of the DWR’s work on IRWM and SGMA involves engaging with local entities, which includes engagement with Tribal nations through the department-wide Tribal Policy Office. While this assessment does not incorporate these programs, CEJA recognizes and commends the DWR for these efforts.

### Agency’s Most Significant Improvement or Failure in 2020

The DWR’s most significant failure in 2020 was its inability to provide a clear description of how it is prioritizing drinking water protection in its GSP review process. Its most significant improvement was that it started to develop an agency-wide Human Right to Water Protocol, for which agency staff solicited feedback from environmental justice organizations.

### CEJA’s Recommendation for This Agency

The DWR must clearly show residents and advocates how the GSP review process prioritizes drinking water protection, particularly for environmental justice communities. The DWR’s GSP review process must rigorously review all GSPs for impacts to community drinking water access, and it must take corrective action on all GSPs that don’t adequately consider and protect community drinking water needs. The DWR must also issue guidance to GSAs on how to ensure that GSPs are protecting drinking water, and continue enhanced funding incentives for policies and projects that protect drinking water.

## CALIFORNIA DEPARTMENT OF WATER RESOURCES (DWR) ASSESSMENT

Assessment regards implementation of the Sustainable Groundwater Management Act (SGMA) and Human Right to Water (HR2W) Protocol

### OVERALL SCORE: C-

Principle	Assessment	Reasoning
Prioritize and value prevention, human health, and improved quality of life	Poor/Fair	<ul style="list-style-type: none"> <li>▶ The DWR has not provided clear guidance on how GSPs must protect human health.</li> <li>▶ It remains unclear how the DWR will prioritize drinking water in evaluating and approving GSPs.</li> <li>▶ In 2020, the DWR began development of an HR2W Protocol to ensure department programs are utilizing best practices to address the HR2W law. The DWR solicited input from 22 organizations, two of which were CEJA members.</li> </ul>
Do no harm	Poor	<ul style="list-style-type: none"> <li>▶ The DWR failed to issue guidance or set clear requirements for GSAs on how GSPs must protect residents from drinking water shortages or contamination.</li> </ul>

Principle	Assessment	Reasoning
<b>Prioritize environmental justice communities</b>	<b>Fair</b>	<ul style="list-style-type: none"> <li>▶ We appreciate that the DWR’s Prop 68 GSP implementation funding program gave points to projects that benefit disadvantaged communities (DACs). When establishing its new Sustainable Groundwater Management Grant Program Implementation Grants Proposal Solicitation Package, the DWR introduced the term “underrepresented community,” thereby expanding eligible communities in need of funding. The DWR set aside \$5 million of the available \$26 million for projects that are both located within and solely benefit an underrepresented community. The DWR provided a reduction, up to a full waiver of the required funding match for proposals that benefit underrepresented communities, based on the percentage of the underrepresented community population that would benefit from the proposal. This waiver could help prevent additional cost burden or affordability constraints to communities. The DWR also provided incentives for proposals that benefit underrepresented communities. Proof of coordination with the underrepresented community was required to ensure meaningful community engagement.</li> <li>▶ In addition, the DWR published an RFP with funding for evaluating vulnerable drinking water users.</li> <li>▶ However, it remains unclear how the DWR will protect DAC drinking water through the GSP approval process.</li> <li>▶ The DWR has not issued clear guidance regarding how GSPs must protect drinking water for environmental justice communities.</li> </ul>
<b>Meaningful community engagement</b>	<b>Fair</b>	<ul style="list-style-type: none"> <li>▶ The DWR stated at public meetings that GSAs must engage all beneficial users, including domestic well owners and communities on public well systems.</li> <li>▶ DWR staff respond quickly and enthusiastically to communication from environmental justice advocates, and engage in meaningful conversation to better understand community needs.</li> <li>▶ The DWR continued its Facilitation Support Services (FSS) Program that was first established in 2015. FSS makes professional, neutral third-party facilitators available to help locals host public meetings. However, CEJA members have found that these facilitators are often not sensitive to environmental justice issues, do not collaborate well with environmental justice organizations to ensure effective inclusion of marginalized communities, and allow the voices of those representing domestic well users and small communities to be drowned out by larger interests.</li> <li>▶ In 2020, the DWR launched a Written Translation Services Program to enable GSAs and entities supporting GSAs to have their written materials and presentations translated in up to eight languages. This program helps GSAs more easily communicate with residents who do not speak English.</li> <li>▶ In its SGMA implementation funding through Prop 68, the DWR included incentives for projects to include community collaboration.</li> <li>▶ The DWR did not renew community engagement technical assistance funding for environmental justice organizations, who are running out of state funding for these activities from their first contract.</li> </ul>
<b>Be proactive</b>	<b>Poor/Fair</b>	<ul style="list-style-type: none"> <li>▶ The DWR actively sought feedback from CEJA members on SGMA implementation funding, ways that community engagement funding could be incorporated into funding programs, and the HR2W Protocol. The DWR also met with environmental justice organizations to inform them of a potential new funding source for community engagement through the Underrepresented Community Technical Assistance Contract.</li> <li>▶ The DWR did not proactively publish scoring criteria or clear written guidance to show GSAs how GSPs must protect drinking water.</li> </ul>

Principle	Assessment	Reasoning
<b>Take an intersectional approach</b>	<b>Fair</b>	<ul style="list-style-type: none"> <li>▶ The DWR listens to many different water needs regarding SGMA implementation — environmental justice, agricultural, environmental, and more.</li> </ul>
<b>Be responsive</b>	<b>Fair</b>	<ul style="list-style-type: none"> <li>▶ Environmental justice groups asked for the DWR to do a set-aside for DAC projects in the second round of Prop 68 funding, and for the DWR to demonstrate how it is protecting drinking water through GSP review, issuing better guidance on public participation (in addition to the current public participation guidance document), issuing written guidance on water quality protection, issuing written guidance on how GSAs should protect drinking water, and providing renewed funding for community engagement technical assistance (since several environmental justice organizations are reaching the end of their funding from the first state contract).</li> <li>▶ The DWR was responsive in its Prop 68 GSP implementation funding. It created a set-aside for projects solely benefiting underserved communities and gave more points to projects that benefit DACs.</li> <li>▶ The DWR did not clearly specify how it will prioritize drinking water in evaluating and approving GSPs.</li> <li>▶ The DWR did not issue guidance specific to protecting drinking water for environmental justice communities.</li> <li>▶ The DWR did not renew community engagement technical assistance funding in 2020. The DWR cites funding constraints in its third round of its SGMA Planning Grant Program.</li> <li>▶ The DWR published an RFP with funding for evaluating vulnerable drinking water users, but did not select environmental justice groups for that funding because of project selection requirements related to project cost.</li> </ul>
<b>Respect community expertise</b>	<b>Poor/Fair</b>	<ul style="list-style-type: none"> <li>▶ Community residents have consistently asked for GSPs to protect their wells and drinking water quality, and for GSPs to include drinking water mitigation. The DWR has not issued guidelines for GSPs to protect drinking water wells or contain drinking water mitigation programs. It is unclear whether the DWR will require these protections in GSP approval.</li> <li>▶ Renewed community engagement technical assistance funding is also necessary for environmental justice organizations to continue supporting residents' engagement in SGMA implementation, so that residents may continue to share their expertise. Several environmental justice organizations are reaching the end of funding under their first contract from Prop 1. The DWR did not renew community engagement technical assistance funding in 2020.</li> </ul>



Leadership Council for Justice and Responsibility advocates at CEJA's 2019 Congreso event  
 Source: Brooke Anderson for CEJA

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

**Assessment Leads:** CEJA Climate Justice Committee; Center for Biological Diversity; Center on Race, Poverty & the Environment (CRPE); Earthjustice

### Agency Description

The California Geologic Energy Management Division (CalGEM) oversees the exploration and development of California's natural resources. CalGEM's statutory mandate includes "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>11</sup>

<sup>11</sup> California Public Resources Code Section 3011.

### Agency Engagement with Environmental Justice

CalGEM holds considerable discretion over oil and gas development, which primarily take place in low-income communities and communities of color. Given its mandate to protect public health, CalGEM is responsible for protecting pollution-burdened communities. While the agency has made progress in community engagement practices, we have yet to see substantive policy and program changes that demonstrate true consideration of community health and environmental justice.

## Agency's Most Significant Improvement or Failure in 2020

In 2020, CalGEM failed to take actions that could have provided relief to overburdened communities, especially under COVID-19 conditions, given the correlations between poor air quality and increased comorbidity.<sup>12</sup> While the agency made important improvements in its community engagement practices and procedures for gathering public input, it has not adopted concrete policies around key issue areas to protect community health. For example, the public health and safety rulemaking process was significantly delayed, due in part to poor proactivity in securing and convening a panel of public health experts. CalGEM showed poor transparency and responsiveness in its uncertainties around what protective measures would be included, as well as whether analyses would account for social costs to communities in proximity to oil/gas extraction and production. Alarming, in the midst of the COVID-19 public health crisis, CalGEM nearly doubled the permitting of conventional oil and gas extraction wells compared to 2019, and without environmental review under the California Environmental Quality Act (CEQA). According to CalGEM, this was largely due to an increase in industry permit applications following

a court decision allowing Kern County 30 days to issue local permits based on a legally invalid environmental impact review. Given COVID-19's impact on high pollution-burdened communities, like in Kern County, and the invalid underlying environmental review, it is shocking that CalGEM increased permits that threaten community health and safety.

### CEJA's Recommendation for This Agency

We recognize CalGEM's steps to shift away from a decades-long internal culture of serving industry interests and environmental racism toward one that values diversity, equity, inclusion, and public health. These are important steps, but do not change the lived experiences of vulnerable communities suffering from fossil fuel pollution. We recommend that CalGEM implement policies and shifts that advocates shared with the agency in our October 2020 "Roadmap for Environmental Justice at CalGEM" memo. The memo provides examples of ways CalGEM can improve its staffing and governance to be more responsive to environmental justice communities. These approaches will create safer and more equitable permitting and enforcement practices for community health, while moving our state toward an inevitable managed decline and just transition from fossil fuels, in tandem with the state's climate, health, and equity goals.

12 Xiao Wu, Rachel C Nethery, M Benjamin Sabath, Danielle Braun, and Francesca Dominici. 2020. "Exposure to air pollution and COVID-19 mortality in the United States: A nationwide cross-sectional study." *Science Advances*. doi: 10.1126/sciadv.abd4049.

CALIFORNIA GEOLOGIC ENERGY MANAGEMENT DIVISION (CALGEM) ASSESSMENT		
Assessment regards oil and gas permits and regulations, Kern County permitting expansion, civic science projects, health and safety rulemaking		
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>▶ Despite a call to action from Gov. Newsom for health and safety around oil drilling, CalGEM's rulemaking process was protracted. For example, the empaneling of health experts to inform the rulemaking was delayed, prolonging the time frame for issuance of health-based, science-backed rules.</li> <li>▶ CalGEM does not conduct environmental review under CEQA, including cumulative impacts, in the permit approval process. This is especially concerning given recent studies showing the connection between poor air quality and increased risk of COVID-19 comorbidity.<sup>13</sup></li> </ul>

13 *ibid.*

Principle	Assessment	Reasoning
Do no harm	Poor	<ul style="list-style-type: none"> <li>▶ In 2020, CalGEM continued to issue fracking and other well stimulation permits without first conducting an assessment of environmental and human health impacts. The independent review panel served only to check technical application requirements, which are deficient and do not adequately identify environmental and health harms.</li> <li>▶ There was an increase in new conventional oil and gas extraction well permits in 2020, ranging from 91%<sup>14</sup> to 117%,<sup>15</sup> which actively threatens to further harm already burdened communities. This category of oil and gas production permits is of serious concern to frontline communities primarily because of major air quality degradation and negative health outcomes, despite any overall decrease in all permit types. It is especially alarming that these permits were issued during the COVID-19 pandemic where death and severity of illness is linked to air pollution.</li> <li>▶ The agency's 2019 regulations banning surface expressions continue to exempt "low energy" spills that are alarmingly common and often ongoing for years in many fields. According to <i>ProPublica</i>, this loophole continues to leave these serious spills unaddressed and even allows industry to generate revenue by collecting and selling the millions of gallons of spilled oil.<sup>16, 17</sup></li> <li>▶ CalGEM continued to push for aquifer exemptions, including submitting the Coalinga and Jacalitos oil fields application in 2020, endangering the water quality. Further, the exemption designation creates a pathway for further degradation from oil operations.</li> <li>▶ Under the agency's watch, numerous dangerous high energy seeps occurred in 2020, including the Chevron Cymric oil spills, which are unlawful under 2019 regulations.<sup>18</sup></li> </ul>
Prioritize environmental justice communities	Poor/Fair	<ul style="list-style-type: none"> <li>▶ We appreciate interest from CalGEM leadership in developing tools to prioritize oversight in environmental justice communities, but have yet to see concrete action to reduce harm in these communities.</li> <li>▶ CalGEM is working on health and safety regulations that are seriously considering the inclusion of protective setbacks, but it remains unclear if the agency will use a more holistic economic analysis to account for public health costs in affected environmental justice communities.</li> <li>▶ We appreciate CalGEM's request for guidance on how to approach environmental justice, but nine months after receiving advocates' detailed feedback, we are unaware of any implementation of the various recommendations.</li> <li>▶ CalGEM avoids engaging on important oil issues that affect local communities. For example, the agency failed to weigh in on Kern County's ongoing efforts to fast-track its permit approval process, despite environmental justice advocates' strong opposition to expanding production in an area that is already burdened by oil and gas industry pollution.</li> <li>▶ As noted, CalGEM's permitting of oil and gas drilling nearly doubled from 2019 during a public health crisis. By CalGEM's account, that increase was largely due to a rise in applications for permits in Kern County, which suffers some of the worst air in the nation. An environmental impact review (EIR) was not undertaken, even though the underlying EIR was deemed legally deficient.</li> </ul>

14 CalGEM. "CalGEM Releases 2020 Annual Permit Summary." <https://www.conservation.ca.gov/index/Pages/News/CalGEM-Releases-2020-Annual-Permit-Summary.aspx>.

15 Consumer Watchdog and the FrackTracker Alliance. "Newsom Well Watch." [Newsomwellwatch.com](http://Newsomwellwatch.com).

16 Cal. Code Regs., tit., section 1724.11, subsection j.

17 Janet Wilson and Lylla Younes. Sept. 18, 2020. "Oil Companies Are Profiting from Illegal Spills. And California Lets Them." *ProPublica/The Desert Sun*. [www.propublica.org/article/oil-companies-are-profiting-from-illegal-spills-and-california-lets-them](http://www.propublica.org/article/oil-companies-are-profiting-from-illegal-spills-and-california-lets-them).

18 CalGEM. "Oil Field Surface Expressions." <https://www.conservation.ca.gov/calgem/Pages/Chevron-Cymric-oil-spill.aspx>.

Principle	Assessment	Reasoning
Meaningful community engagement	Fair	<ul style="list-style-type: none"> <li>▶ We appreciate the extensive effort taken to increase accessibility to the public health and safety rulemaking hearings, as well as the consultation with stakeholders to adjust to a virtual setting under COVID-19 conditions, especially by the Department of Conservation's outreach and engagement coordinator, who took care to build relationships with CBOs. The public engagement effort was thoughtfully and intentionally crafted, which is an important shift from past approaches, and we encourage this to continue and deepen. We note that outside of the hearings, the division's process has been obscure, has provided mixed messages, and has often been inaccessible.</li> <li>▶ CalGEM conducts minimal to no community engagement prior to permitting decisions impacting the health and well-being of residents. The agency does not provide notice, a public comment period, or a public hearing <i>before</i> permits are issued. The agency website does not include a way to view operators' applications for drill permits. The public is effectively locked out of this important phase of the permitting process.</li> <li>▶ CalGEM lacks accessible public notice for hazards that impact communities. There are also no clear, accessible, publicized pathways for responding to community concerns related to local oil/gas production.</li> </ul>
Be proactive	Fair/Good	<ul style="list-style-type: none"> <li>▶ While we appreciate CalGEM consulting with public health experts for the health and safety rulemaking, CalGEM could have been more proactive in formalizing the related public health panel. Delays in this process further pushed out any potential relief to communities in the passage of a timely, strong rule.</li> <li>▶ We appreciate that CalGEM sought community input and received guidance on preparation of their forthcoming standardized regulatory impact assessment for the public health and safety rulemaking.</li> <li>▶ We appreciate the actions CalGEM has taken to approve more well plugging permits, but are concerned with its failure to seek remediation costs in the California Resources Corporation (CRC) bankruptcy proceeding. CalGEM intervened in the proceeding at a late stage and for the narrow purpose of claiming about \$24 million in fees due, rather than upwards of \$1 billion for remediation. CalGEM could and should have engaged earlier and been proactive in advocating for the required financial resources for cleanup. Instead, the bankruptcy will be discharged without ensuring that there's enough money set aside to clean up CRC's more than 18,000 wells in California. CRC will be allowed to operate with no assurance that the company can cover the costs. CalGEM also refuses to exercise its authority to increase bonding amounts for even these troubled companies.</li> </ul>
Take an intersectional approach	Poor/Fair	<ul style="list-style-type: none"> <li>▶ Despite the fossil fuel industry's decline, CalGEM has not publicly demonstrated any efforts on integrating with other state and local just transition efforts. CalGEM has not taken actions known to the public that align with guidance from the governor and other agencies regarding a shift away from fossil fuels through just transition and recovery efforts. For example, the agency has largely ignored Kern County's ongoing efforts to adopt a permitting process that will drastically expand approvals for new wells in the county, undermining the state's progress toward its climate, energy, and equity goals.</li> <li>▶ Recognizing that cultural competence and racial equity values are of utmost importance in setting organizational practices, we appreciate the internal diversity, equity, and inclusion (DEI) efforts at CalGEM. However, this on its own is not environmental justice, and these principles must be integrated into operational and also external policies and procedures to truly demonstrate the agency's commitment to DEI.</li> </ul>

Principle	Assessment	Reasoning
<b>Be responsive</b>	<b>Poor</b>	<ul style="list-style-type: none"> <li>▶ While the agency acknowledges its discretionary legal authority, it has failed to exercise that authority to deny permits, thoroughly analyze the impacts of well drilling, or properly mitigate those impacts in its permitting decisions. CEJA and allies have consistently asked CalGEM to exercise its authority for community and environmental protection and the agency has not been responsive.</li> <li>▶ CalGEM has not taken any steps to apply Public Resources Code section 3205.3, which took effect in January 2020 through AB 1057, and provides the agency authority to increase bonds for wells permitted in environmentally sensitive areas or that may threaten public health and safety. Community members have in particular sought increased bonding requirements for wells near vulnerable communities as measured by CalEnviroScreen 3.0, in recognition of the risk of harm associated with idle/inactive wells in these areas.</li> </ul>
<b>Respect community expertise</b>	<b>Poor/Fair</b>	<ul style="list-style-type: none"> <li>▶ Despite multiple peer-reviewed studies showing that setback policies may immediately benefit health, corroborating what communities have relayed for years, CalGEM failed to take any steps to prevent new permits near communities pending its current rulemaking.</li> <li>▶ We appreciate that the agency has been very responsive and supportive in helping advocates develop a civic science curriculum for community members to contribute effectively to oversight of oil and gas operations.</li> <li>▶ Our October 2020 “Roadmap for Environmental Justice at CalGEM” memo reflects the expertise and priorities of frontline communities. As indicated, there has not been a response or indication of how CalGEM will adopt and advance any of the recommendations.</li> </ul>

## V. AGENCIES TO WATCH

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

### 6. CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)

The California Department of Food and Agriculture's (CDFA) mission is to “promot[e] 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>19</sup> In responding to the COVID-19 pandemic — particularly its effects on farmworkers — the CDFA played a role in several new relief programs. The Housing for the Harvest program offers temporary hotel housing to agricultural workers who need to isolate due to COVID-19. While the agency's efforts were impactful for several farmworkers, many CBOs unfortunately found that overall, the program struggled to effectively reach many farmworkers and continues to be underutilized.<sup>20</sup> The program had strong intentions, but several community-based groups noted the challenge of implementation, such as the lack of culturally competent staff at the local level and the limited up-front engagement with those CBOs that may have been able to help craft the program earlier on. The nuances of implementation included the need to serve families and multigenerational households, which several groups felt were not properly addressed early on. However, the CDFA made program adjustments as the pandemic continued and remained accessible throughout.

The agency, along with the California Governor's Office of Emergency Services (CalOES) and regional partners, also played a role in the distribution of masks during the pandemic and devastating wildfires during 2020. While some

received masks, the distribution protocols, existing rules and regulations, and coordination among agencies was unclear in the beginning and, in some cases, resulted in exploitative distribution practices by agricultural employers. Employers and industry leads were given masks to distribute, while trusted CBOs working directly with farmworkers and their families were kept in the dark until these organizations pushed the CDFA to provide masks directly to them for distribution. Once the CDFA heard these concerns, the agency adjusted and worked with stakeholders to ensure CBOs could access masks. The agency was responsive to the issues that communities raised and made themselves available to speak directly to advocates.

In addition to COVID-19 response, the CDFA continued to implement its Climate Smart Agriculture programs. For the fifth year, unfortunately, these investments included the Dairy Digester Research & Development Program (DDRDP), providing \$16.5 million in subsidies to large-scale, polluting dairies. Environmental justice and San Joaquin Valley-based advocates have long raised concerns with DDRDP<sup>21</sup> and its support of polluting, unsustainable large-scale animal agriculture and the natural gas industry. Biogas is not clean and the push for dairy digesters falsely justifies, and assumes as a baseline, the heavily polluting manure lagoon status quo of large-scale dairy in California. The agency should instead focus on preventing methane generation in the first place, supporting pasture-based animal agriculture, and transitioning the dairy industry toward more just agroecological and diversified systems.

As in prior years, the CDFA did not add reduction of synthetic pesticide use as an eligible practice for Healthy Soils Program funding. It also failed to adopt a proposal focused on incentivizing transition to organic farming, a proposal supported by 56 organizations across the state representing

19 California Department of Food & Agriculture. <https://www.cdffa.ca.gov/CDFA-Mission.html>. Accessed June 1, 2021.

20 Jackie Botts. March 24, 2021. “Newsom doubles down on sheltering farmworkers despite few takers.” *CalMatters*. <https://calmatters.org/california-divide/2021/03/newsom-farmworkers-housing-for-the-harvest>.

21 Julia Jordan. March 1, 2020. “How, now, would more cow power help CA's Central Valley? It absolutely would not.” *The Modesto Bee*. <https://www.modbee.com/opinion/opn-columns-blogs/article240632507.html> and Leadership Counsel for Justice and Accountability. April 3, 2019. “A Working Paper on the CDFA Dairy Digester Research and Development Program.” <https://leadershipcounsel.org/wp-content/uploads/2019/04/A-Working-Paper-on-GGRF-Dairy-Digester-Program.pdf>.

small farmers, organic growers, community health advocates, and environmental justice communities. Instead, the CDFA adopted a last-minute proposal by the state Farm Bureau Federation to fund an assortment of farming plans that provide carbon sequestration and greenhouse gas reduction benefits.

Although development of organic systems plans is eligible under the new Conservation Agriculture Planning Grants Program, there is no designated funding explicitly dedicated to organic transition or systems plans, and no guarantees to reduce synthetic pesticide use. By failing to support organic transition with dedicated funding, the CDFA continued to overlook the negative impacts of synthetic pesticides to healthy soil, their contribution to greenhouse gas emissions, and how they impair the soil's ability to sequester carbon, especially stable carbon. It ignored peer-reviewed studies documenting that applications of certain synthetic pesticides — approximately 20 million pounds of which are used each year in California — cause sevenfold to hundredfold increases in nitrous oxide, a greenhouse gas 300 times more potent than carbon dioxide. It also ignored hundreds of case studies documenting that organic farming — farming without synthetic pesticides and fertilizers — is more effective at sequestering carbon than conventional farming reliant on synthetic chemicals. Most importantly, it ignored the extensive lived experience of community residents, primarily Latinx, who have for too long been harmed by the agricultural industry's overreliance on toxic pesticides.

The CDFA continued to work on steps to advance state mandates to better include farmers of color in their programs, following the 2020 Farmer Equity Report. We have yet to see if their efforts will result in a meaningful, long-term structural change for the farmers of color and farmworkers who have long been underinvested in and discriminated against. We look forward to additional state funds that will increase the agency's capacity for culturally appropriate technical assistance, training, resources, and direct grants for these underserved populations. We will continue to track the CDFA's efforts to advance equity and environmental justice in its programs, policies, and investments.

## 7. 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. The CEC continues to improve in ensuring environmental justice community voices are considered in its work. For example, the CEC's Public Advisor's Office convened Chair David Hochschild, Vice Chair Janea Scott, and several deputy directors with environmental and social justice leaders to learn more about community needs and opportunities to collaborate. We appreciate the CEC's consistent communication with CEJA, and look forward to more discussions with the Public Advisor's Office.

In 2020, the CEC made progress in its transportation work. We recommend that the commission place a larger focus on investing in charging infrastructure for disadvantaged communities, especially prioritizing Medium-Duty/ Heavy-Duty chargers and increasing the percentage of funds invested in and benefiting frontline communities through its Clean Transportation Program (CTP) Investment Plan. We appreciate the invitation from Commissioner Patty Monahan to join the CTP Investment Plan Committee and hope to see concrete changes and further progress result from the plan.

We appreciated the CEC's SB 100 team seeking expertise from equity, health, and environmental justice advocates as it conducted its analysis and drafted the SB 100 report. While we acknowledge that the CEC included a decarbonization/no fossil fuel scenario in its SB 100 modeling reports, we were disappointed that the agency merely included this scenario for "informational purposes only" and did not consider it formally within the scope of SB 100. The commission failed to include an appropriate cost-benefit analysis of energy resources we advocated for, including local air and water pollution. The CEC has committed to determine the social costs and non-energy benefits of energy resources, and will hold workshops in 2021 to further that commitment, which we greatly look forward to. Still, the CEC's modeling also ignores tremendous infrastructure costs from dairy biomethane development — the financial

and public health costs of which are shouldered by environmental justice communities in the San Joaquin Valley. We implore the CEC to leverage its leadership in the SB 100 effort to consider biomethane more seriously as a false solution. We suggest continued engagement with CBOs and others, and refined technical modeling to ensure SB 100 leads to positive results for communities throughout California.

We recognize the CEC's improved scoring criteria and assessment tools in its administration of the Electric Program Investment Charge (EPIC) Program to benefit environmental justice communities. Requiring projects to allocate funding for CBO involvement is moving in the right direction, but more technical assistance support is needed. We also encourage the CEC to better define "benefit" to these communities, and not rely solely on geographical location as a benefit. In addition, CBOs continue to face many barriers navigating, applying for, and receiving competitive grants like EPIC. We appreciate the work of the grants ombudsman to streamline and simplify the processes for applicants and encourage more work on that front. We also see potential with the Empower Innovation platform and will provide more input to improve its use for environmental justice communities.

We recommend that the CEC center equity in all of its work, and develop new, creative ways to work more closely with communities, and bring them into its processes from the earliest stages. This should include virtual options. On Title 24 specifically, we recommend that the CEC act boldly to decarbonize new buildings as quickly and equitably as possible. In doing this, it should seek deep engagement from environmental justice communities in order to gain support, insight, and strategic thinking that avoids unintended consequences and harm to these communities.



CBE and CCAEJ members at February 2020 launch of Regenerate California campaign. Source: CCAEJ

## 8. 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>22</sup> In 2020, CEJA's advocacy before the CPUC included the following:

- ▶ **Building Decarbonization:** This proceeding implements SB 1477 (Stern, 2018) to decarbonize buildings through \$200 million in pilot programs called BUILD and TECH, with carve-outs for low-income and environmental justice communities. Additional funding will address health, safety, and affordability concerns for low-income households. Overall, CEJA commends the CPUC for deepening investment in clean energy — on top of additional consumer rebate programs that began last year.
- ▶ **Climate Adaptation:** In 2020, the CPUC expressly considered environmental justice in its adaptation strategy for investor-owned utilities (IOUs). The CPUC has required assessments to determine how to best adapt operations and infrastructure for the grid in order to maintain essential services for environmental justice communities. The assessments require ongoing community input. Although we commend the CPUC for

<sup>22</sup> California Public Utilities Commission. <http://www.cpuc.ca.gov>. Accessed March 1, 2021.

its community engagement efforts, given the CPUC's lack of oversight, it remains to be seen whether the IOUs will develop robust, community-driven, and actionable adaptation strategies.

- ▶ **Extreme Weather:** In November 2020, the commission launched a proceeding to guard against potential rolling blackouts like those that occurred during the August 2020 heat storm. The proceeding examines both supply and management of electricity for critical months (summer/fall) in 2021 and 2022. The commission quickly issued a ruling requiring the large utilities to enter into contracts for more generation, which could include increased generation from existing gas-fired power plants. The full commission would not vote on these new contracts, and the public would not have a pathway to challenge them. Going forward, we recommend that the CPUC allow ample opportunity for meaningful public participation and public comment on the impacts and consequences of these contracts, or other proposed actions that could increase reliance on gas-fired power plants.
- ▶ **Gas Transition:** Throughout this proceeding, CPUC staff problematically identified gas as a “transition fuel” — and an interim solution bridging a move from fossil fuels to renewables. However, natural gas poses a false solution due to the negative health impacts it has on air quality in environmental justice communities, and does not advance meeting the state's climate goals. The CPUC has traditionally relied on biased estimates provided by IOUs to determine demand for natural gas, which has resulted in a slower transition to truly clean and renewable energy. It remains to be seen whether CPUC staff will recommend natural gas as a transition fuel following a series of catastrophic failures involving natural gas pipeline leaks and the direction mandated by SB 100. We hope the CPUC prioritizes environmental justice communities' concerns regarding health and safety in this transition.

- ▶ **Long-Term Procurement and Integrated Resource Plan (IRP):** This proceeding has several significant impacts on environmental justice communities because it sets the GHG planning requirements for the majority of the energy sector and decides the parameters for procurement of new resources. Disappointingly, it is still utilizing a high GHG 46 MMT target that does not put the state on a path to meet its reduced GHG requirements. Although the CPUC effectively closed a loophole that would have allowed new gas capacity, it failed to prioritize sufficiently clean, renewable procurement to properly phase out reliance on fossil fuels. The CPUC stated that it will plan to reduce reliance on fossil fuel plants, but thus far, these plans have not resulted in action. Furthermore, the CPUC has failed to create a plan that would prioritize procurement of resilient energy resources in environmental justice communities, offsetting the need for polluting generators.
- ▶ **Microgrids:** This proceeding held some victories for environmental justice communities in 2020, however we hope that the CPUC will do more in 2021. The culmination of work in 2020 led to the commission approving a \$200 million Microgrid Incentive Program in January 2021 that will fund the development of microgrids in disadvantaged and vulnerable communities. One of the outstanding questions is whether the commission will prioritize microgrids at community facilities such as schools, community centers, and other facilities to function as Resilience Hubs that could protect the community in emergency situations. In addition, the Microgrid Incentive Program must be designed to ensure that communities on the frontlines of outages, who have historically suffered the most, are prioritized for microgrids. Lastly, the commission must do more to move beyond fossil fuels, even for backup generation. It authorized PG&E to use diesel backup generation in 2020, despite significant opposition, and has provisionally authorized further use of diesel in 2021. We hope that diesel is not renewed beyond 2021 so environmental justice communities do not continue to be sacrifice zones.

- ▶ **Resource Adequacy (RA) Proceeding:** In 2020, the commission adopted two decisions that could impact environmental justice communities. It now requires a central buyer for local resources. This decision requires consideration of DACs in the procurement decision, but it does not prioritize procurement decisions to phase out our reliance on polluting resources. The CPUC also adopted and confirmed the reliance on requirements for resources that run 24 hours a day. Problematically, the decision requiring resources 24 hours a day could lock us into fossil fuel procurement. The decisions do not appear to consider clean air or greenhouse gas implications, ignoring existing law by setting standards of reliability that do not reflect what is necessary to meet clean air and greenhouse gas reduction. The fundamental question of how we keep the lights on ultimately requires consideration of DAC resiliency, especially as Public Safety Power Shutoff (PSPS) events and climate disasters become more common. Natural gas should not be the only considered alternative, and rules that elevate it above renewables ignore air quality, DACs, and greenhouse gas requirements.
  
- ▶ **Wildfire Mitigation:** In 2020, the CPUC adopted a decision that required California utility companies to engage in a more rigorous process of community preparedness and outreach in the event of a wildfire.<sup>23</sup> The CPUC declared that community outreach must be conducted in all languages spoken by more than 1,000 people served by a utility, as well as any Indigenous languages spoken in a community regardless of how many people speak them. The CPUC also stated that utilities must use a diverse range of methods to inform community members while participating in ongoing evaluation of those methods with CBOs. CEJA commends the CPUC for its thoughtful approach to keep linguistically isolated communities safe during climate crises.

We commend the CPUC for its collaborative approach on many of these proceedings, but urge it to act meaningfully in the IRP proceeding and make a concerted effort to justly phase out gas plants in overburdened communities.

We also appreciate the CPUC adding a public comment feature to the CPUC Docket Card in 2020, and look forward to seeing how it will organize and track these comments to ensure they impact decision-making. In addition, we appreciate the CPUC's efforts to incorporate environmental and social justice considerations into proceedings and to provide remote access for all voting meetings, hearings, and workshops. Moving forward, we recommend that the CPUC create even more pathways for environmental justice communities' participation in critical proceedings, including exploring ways of providing resources and compensation for participants. Above all, the CPUC should ensure that equity principles lead its policy implementation, especially in transitioning away from the demand and supply of fossil fuels.

<sup>23</sup> California Public Utilities Commission. March 12, 2020. "Decision on Community Awareness and Public Outreach Before, During, and After a Wildfire, and Explaining Next Steps for Other Phase 2 Issues." <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M329/K824/329824881.PDF>.

## 9. CALIFORNIA STATE WATER RESOURCES CONTROL BOARD (STATE WATER BOARD)

As the agency that implements the state's drinking water and water quality control programs, the State Water Board takes many actions that impact environmental justice communities. These include regulating drinking water contaminants and discharges; setting and reviewing drinking water standards; funding drinking water and wastewater solutions; drafting and revising point-of-use and point-of-entry regulations; adopting policies and making policy recommendations regarding access to affordable drinking water and wastewater services; reviewing regulations adopted by the regional water boards; and acting as a Sustainable Groundwater Management Act regulatory backstop.

The State Water Board took important steps in 2020 to begin implementing the Safe and Affordable Drinking Water Fund, including developing and adopting a policy for creating fund expenditure plans. To do so, the State Water Board consulted with an advisory committee that included residents directly impacted by unsafe tap water.

As in prior assessments, the State Water Board was more effective in implementing the drinking water program than in protecting sources of drinking water from contamination. To ensure access to safe drinking water for all Californians, the State Water Board must ensure that the Regional Water Quality Control Boards adopt effective regulations applicable to dischargers of contaminants like nitrate. In particular, the State Water Board must strengthen regulations applicable to dairies and irrigated agriculture so that communities and households are no longer impacted by unsafe drinking water.

## 10. CALIFORNIA STRATEGIC GROWTH COUNCIL (SGC)

The California Strategic Growth Council (SGC) collaborates with diverse agencies, stakeholders, and communities throughout California to achieve “sustainability, equity, economic prosperity, and a quality of life for all Californians.” The SGC makes recommendations on the state's policy and investment strategies while administering grants and loans, as well as California Climate Investments (CCI) programs, including the Affordable Housing and Sustainable Communities (AHSC) program and the Transformative Climate Communities (TCC) program. Most SGC programs impact environmental justice communities.

In 2020, the SGC awarded more than \$500,000 to climate change research grants, affordable housing, and transportation projects — including the first such project awarded to a tribal group. In addition, SGC staff are working to implement SB 351 by ensuring that disadvantaged unincorporated communities are eligible for the TCC program, and that they are equitably competitive against larger, more resourced cities. Although no funding was allocated to the TCC program last year, agency staff partnered with CBOs to advocate for funding. They held conversations with diverse stakeholders, gathered data, and facilitated a working group on the topic. We commend the SGC's continuous alignment with environmental justice principles, which it has achieved by prioritizing environmental justice communities through proactive and responsive action. We recommend that the SGC continue its commitment to partnering with communities, while respecting and honoring their expertise. In addition, we hope the SGC makes a more concerted effort to advance racial equity in an effort to dismantle our current oppressive and patriarchal governance structure. Though the SGC partners with grassroots groups and organizations, it must also ensure these groups receive ongoing support. Committing to hire BIPOC- and LGBTQ+-led consultants, organizations, and other entities with direct ties in communities is critical to advance racial equity goals in the public, nonprofit, and private sectors. Although the SGC leads the way for other agencies to follow, there are improvements that must be made to ensure our state makes amends for past discriminatory practices while advancing a more equitable, inclusive, and transparent system.

## 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.





CALIFORNIA  
ENVIRONMENTAL  
JUSTICE ALLIANCE

## 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.

## Contact Information

1820 Jefferson St.  
Oakland, CA 94612  
ceja@caleja.org

[www.caleja.org](http://www.caleja.org)

## Acknowledgements

The CEJA Agency Assessment team — project manager Cassie Gardener Manjikian, and contributing authors Gwen Chang, Tiffany Eng, Isa Flores-Jones, Gladys Limón, Roger Lin, Neena Mohan, Alexis Sutterman, and Jose Torres — would like to thank our members, partners, and collaborating organizations for their generous time and contributions to this assessment. In particular, we would like to thank Sarah Aird, Shayda Azamian, Deborah Behles, Ingrid Brostrom, Michael Claiborne, Martha Dina-Argüello, Denise Duffield, Grecia Elenes, Juan Flores, Michelle Ghafar, David Gonzalez, Julia Jordan, Shana Lazerow, Heather Lewis, Nayamin Martinez, Amanda Monaco, Johnathan Nelson, Omonigho Oiyemhonlan, Eric Orellana, Deborah Ores, Daniel Ress, Jane Sellen, Mari Rose Taruc, Paula Torrado, Ivette Torres, and Paulina Torres.

We are grateful to the Resources Legacy Fund for its generous support that made this report possible.

**Report design:** Design Action Collective

**Copy editors:** Brian Golden and Lawrence Sanfilippo

**Cover photos (from top left to right):** Image 1: CCAEJ members distribute food as part of 2020 mutual aid efforts. Image 2: CBE members speak at the Regenerate Campaign launch in Sacramento in early 2020. Image 3 and 4: PODER members prepare for food distribution.

July 2021

## REPORT COLLABORATORS

