



September 9, 2020

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Senior Planner

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San Bernardino, CA 92415-0187

RE: Comments on County Draft Policy Plan Environmental Justice Revisions July 2020 (EJ Plan)

Dear Ms. Mawby and Mr. Blum,

We are pleased to submit the following comments on this vital portion of the County Wide Plan. Throughout this letter we have used **bold** type for emphasis. We begin by reviewing the requirements of the:

State Government Code

The draft County Environmental Justice Policy Plan must satisfy the State Government Code Title 7, Division 1. Planning and Zoning, Chapter 1.5 Article 4 Powers and Duties §65040.12

“(d) the guidelines developed by the office pursuant to subdivision (e) shall recommend provisions for general plans to do all of the following:

(e) (1) For purposes of this section, “environmental justice” means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

(2) “Environmental justice” includes, but is not limited to, all of the following:

*(A) The availability of **a healthy environment for all people.***

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(B) The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities.

(C) Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use decision making process.

(D) At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.”¹

With this understanding of the State requirements, following are our specific comments:

County Environmental Justice Policy Plan (EJ Plan)

The introduction to the County E J Plan Hazard Element calls out **unincorporated disadvantaged communities** for protection.

EJ Plan Hazards Element introduction

*“The County is committed to protecting life, property, and commerce from impacts associated with natural hazards, human-generated hazards, and increased risk due to climate change. The County also works to ensure that residents in **unincorporated disadvantaged communities** have a reduced risk of exposure to pollution and have equitable access to public facilities and services. Effectively reducing these risks requires the County and its partners to evaluate public safety threats, proactively plan and protect against potential hazards, and establish systems that will make the county and its people safer and more self-reliant.”² (Bold added)*

The Hazard Element (HZ) Purpose and Principles

The Purpose and Principles commit to protecting those that live in **unincorporated disadvantaged communities** from elevated exposure to pollution and reduced access to public facilities and services.³

¹ Comment Appendix pages 11-12

² EJ Plan page EJ-1

³ EJ Plan page EJ-1

However, the supporting **HZ-3 Goal and 21 Policies** fail to achieve this requirement by narrowing the scope of protection to **environmental justice focus areas**.

Environmental Justice Focus Areas (EJFAs)

Goal HZ-3 introduces a new undefined and restrictive category, the County unincorporated EJFAs.

*“For unincorporated **environmental justice focus areas**, equitable levels of protection from environmental and health hazards...”*

The following HZ Policies call out **only the unincorporated EJFAs** for protective actions.⁴

HZ-3.1 Health Risk Assessment

HZ-3.2 Studying and Monitoring

HZ-3.3 Community emissions reduction plans

HZ-3.4 Residential improvements

HZ-3.5 Hazardous waste facilities

HZ-3.6 Contaminated water and soils

HZ-3.7 Well water testing

HZ-3.8 Indoor air quality

HZ-3.9 Public improvements

HZ-3.10 Multi-use facilities

HZ-3.11 Public health

HZ-3.12 Barriers to physical activity

HZ-3.13 Safe routes to school

HZ-3.14 Community-desired improvements

HZ-3.16 Notification

HZ-3.17 Community stakeholders

HZ-3.18 Applicant requirements

HZ-3.19 Community education

HZ-3.20 Updating EJFAs

HZ-3.21 Emerging pollutants

There is one Policy exception.

HZ-3.15 Food access.

*“We increase food access in **underserved areas** ... and prioritize **environmental justice communities** for technical assistance...”* These two newly referenced categories are undefined and used only within the HZ-3.15 Policy.⁵

⁴ EJ Plan pages EJ-2 through EJ-4

⁵ EJ Plan page EJ-3 and EJ-4

Identification of Environmental Justice Focus Areas

In Table HZ-1 the County EJ Plan uses census tracts from the state CalEnviroScreen 3.0 to define the community environmental justice focus areas.⁶

The EJ Plan **Table HZ-1 CalEnviroScreen Scores for Environmental Justice Focus Areas** shows that two census tracts in the North High Desert qualify as EJFAs: Barstow and Daggett/Newberry Springs/Baker.

Questions: What is an EJFA and how were the EJFAs chosen?

The Environmental Justice Focus Area (EJFA) is a designation unique to the County Draft EJ Plan.

- The justification for choosing the two census tracts to the exclusion of other census tracts with similar scores is not revealed.
- Why the CalEnviroScreen 3.0 is the only metric used as opposed to inclusion of the classic income driven disadvantaged and severely disadvantaged communities is not revealed.

Why is Lucerne Valley not an EJFA?

The scores for the Pollution and Population Factors are found on the State CalEnviroScreen 3.0 map.⁷ The County EJ Plan does not provide these scores, giving only the factors (AQ, DW, etc.) instead. The scores have been retrieved from the CalEnviroScreen 3.0 and are provided both in Table 1 in the Comment Appendix and separately.⁸

Lucerne Valley is a winner

See **Table 1 in the Comments Appendix** for a comparison of the CalEnviroScreen 3.0 scores for Barstow and Daggett/Newberry Springs/Baker with its neighbor Lucerne Valley. The CalEnviroScreen 3.0 data for all these communities is found in the Comments Appendix. Lucerne Valley holds its own.

⁶ EJ Plan page EJ-5; Comments Appendix page 10

⁷ <https://oehha.ca.gov/calenviroscreen/maps-data>

⁸ Comments Appendix: page 6-7 and individually on pages 13-15

If the County designated EJFAs on these scores then Lucerne Valley should be categorized as an EJFA. If the County did not use the scores, what did they use in their decision making?

Citizens in the County's unincorporated disadvantaged communities want to know

- 1. How were the Environmental Justice Focus Areas determined?**
- 2. Why is this restrictive category not found in the Hazard Element's defining Purpose and Principles but is headlined in the HZ-3 Policies?**
- 3. Why is the CalEnviroScreen 3.0 the only metric used as opposed to inclusion of the classic income driven disadvantaged and severely disadvantaged communities?**

**And perhaps most importantly,
Where in this County Environmental Justice Plan is Environmental Justice guaranteed to the citizens in the myriad of other County communities that qualify under State Code §65040.12 and the County Environmental Justice County Policy Plan Introduction, Purpose, and Principles?**

With the continuing calls for equal-justice-for-all being made all over the Country, we are reminded of the inextricable connection between Environmental and Social Justice.

Thank you for your consideration.

We look forward to receiving your response

Steve Bardwell, president
Morongo Basin Conservation Association

COMMENTS APPENDIX

Table 1: CalEnviroScreen 3.0 Scores Comparing EJFAs Lucerne Valley with Barstow, Daggett/Newberry Springs/Baker

	Goal HZ-3 For unincorporated environmental justice focus areas (EJFAs), equitable levels of protection from environmental health hazards...	Barstow CT 6071009300	Daggett/Newberry Springs/Baker CT 6071010300	Lucerne Valley CT 6071012104
Population:		1,257	3,846	5,110
CalEnviroScreen 3.0&		85-90%	75-80%	65-70%
Population Burden %		62	67	42
Population characteristics %		95	75	77
	Policy HZ-3.2; 3.3; 3.6; 3.9; 3.16; 3.17; 3.18; 3.20; 3-21;			
Ozone		85	91	91
*PM2.5		9	8	11
*PM10 not considered				
Diesel		50	3	2
Pesticides		58	20	0
Toxic Releases		11	7	21
Traffic		26	10	1
Drinking Water		90	99	99
Cleanup		69	96	96
Groundwater Threats		70	94	32
Hazardous Waste		61	93	61
Impaired Water		0	0	0
Solid Waste		21	98	74
	Policy HZ-3.11			
Asthma		100	62	85
Low Birth Weight		96	89	72
Cardiovascular Rate		100	64	93
Education		79	61	39
Linguistic Isolation		9	58	11
Poverty		85	66	73
Unemployment		95	77	86

Housing Burden		66	42	53
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Red = A ranking of 70 or higher

Yellow highlight = Ranked in Draft Environmental Justice Plan, page EJ-5

CT = **Census Tract**, page EJ-5

***PM2.5** is provided on CalEnviroScreen 3.0 but not measured by MDAQMD in the three unincorporated areas above

***PM10** is not measured by MDAQMD in unincorporated areas of Daggett/Newberry Springs and Lucerne Valley

Purpose

The Hazards Element:

- Identifies potential natural and human-generated hazards, including increased risk due to climate change.
- Provides direction to address risks to residents, businesses, workers, and visitors.
- Prioritizes resources and reduce pollution exposure in unincorporated disadvantaged communities.

Principles

We believe:

- A safe environment is necessary to build and maintain a sustainable and prosperous county.
- The County is proactive in lessening risks from natural and human-generated hazards.
- Reduction in the loss of life, injury, private property damage, infrastructure damage, economic losses, and social dislocation can be achieved through planning and preparedness.
- Those who live in unincorporated disadvantaged communities should not be burdened with elevated exposure to pollution risks and reduced access to public facilities and services.

Goal HZ-3 Environmental Justice

For unincorporated environmental justice focus areas, equitable levels of protection from environmental and health hazards; expanded opportunities for physical activity and meaningful civic engagement; and access to healthy food, public facilities, safe and sanitary housing.

Policy HZ-3.2 **Studying and monitoring.** We coordinate with state and regional regulatory entities to monitor pollution exposure, publicize pollution data, and identify solutions in unincorporated environmental justice focus areas. We work with state and regional regulatory entities to obtain grant funding to study cumulative health risks affecting such areas.

Policy HZ-3.3 **Community emissions reduction plans.** We assist the air quality management districts in establishing community emissions reduction plans for unincorporated environmental justice focus areas and implement, as feasible, those parts of the plans, that are within the jurisdiction and authority of the County, with particular emphasis in addressing the types of pollution identified in the Hazard Element tables.

Policy HZ-3.8 **Indoor air quality.** We educate and raise awareness in unincorporated environmental justice focus areas about indoor air quality, and we pursue grant funding to address asthma and other respiratory illnesses.

Policy HZ-3.11 **Public Health.** We utilize County Department of Public Health experience, expertise, and staffing resources to expand outreach, analysis, and implementation efforts in

unincorporated environmental justice focus areas, with particular emphasis in addressing the types of health concerns identified in the Hazard Element tables.

Policy HZ-3.16 Notification. We notify the public through the County website when applications are accepted for conditional use permits, changes in zoning, and Policy Plan amendments in or adjacent to environmental justice focus areas. We prepare public notices in the predominant language(s) spoken in the communities containing environmental justice focus areas.

Policy HZ-3.17 Community stakeholders. We identify and coordinate with key community stakeholders through advisory committees or other methods to increase public awareness and obtain timely community input concerning potential funding opportunities, conditional use permits, changes in zoning, and amendments to the Policy Plan in or adjacent to environmental justice focus areas.

Policy HZ-3.18 Application requirements. In order for a Planning Project Application (excluding Minor Use Permits) to be deemed complete, we require applicants to indicate whether the project is within or adjacent to an unincorporated environmental justice focus area and, if so, to:

- document to the County’s satisfaction how an applicant will address environmental justice concerns potentially created by the project; and
- present a plan to conduct at least one public meeting for nearby residents, businesses, and property owners to obtain public input for applications involving a change in zoning or the Policy Plan. The County will require additional public outreach if the proposed project changes substantively in use, scale, or intensity from the proposed project presented at previous public outreach meeting(s).

Policy HZ-3.21 Emerging pollutants. For pollutants that do not yet have established regulatory thresholds, we coordinate with regulatory agencies to assist their efforts to monitor pollutant levels, establish thresholds, and identify funding and mitigation options, particularly for pollutants that are found in environmental justice focus areas.

Table HZ-1. CalEnviroScreen Scores for Environmental Justice Focus Areas

CES Rankings		Quartile 1 = Good		Quartile 2 = Moderate		Quartile 3 = Poor		Quartile 4 = Challenged			
Variables/Factors in the CES model:											
POLLUTION EXPOSURE			ENVIRONMENTAL EFFECTS			SENSITIVE POPULATION			SOCIOECONOMIC FACTORS		
AQ = Air Quality			CS = Toxic Cleanup Sites			AS = Asthma			LI = Linguistic Isolation		
PEST = Pesticides			GW: Groundwater Threats			LB = Low Birth Weight			POV = Poverty		
DW = Drinking Water			HZ = Hazardous Waste			CVD = Heart Disease			UE = Unemployment		
TR = Toxic Releases			IW = Impaired Waters						HB = Housing Burden		
TD = Traffic Density			SW = Solid Waste Sites/Facilities						ED = Educational Attainment		
Census Tract	Low Income	Percentile and Quartile Rank			Scores in the Upper Quartile						
		Composite Score	Pollution Score	Population Score	Pollution Factors	Population Factors					
El Mirage Valley											
6071009117	Yes	92	63	99	AQ, DW, CS, HW	AS, LB, CVD, ED, POV, UE, HB					
North High Desert											
6071009300 Barstow	Yes	88	62	95	AQ, DW	AS, LB, CVD, POV, ED, UE					
6071010300 Daggett/ Newberry Springs/Baker	Yes	77	67	75	AQ, DW, CS GW, HW, SW	LB, UE					

GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]

(Heading of Title 7 amended by Stats. 1974, Ch. 1536.)

DIVISION 1. PLANNING AND ZONING [65000 - 66301]

(Heading of Division 1 added by Stats. 1974, Ch. 1536.)

CHAPTER 1.5. Office of Planning and Research [65025 - 65059.3]

(Chapter 1.5 repealed and added by Stats. 1970, Ch. 1534.)

ARTICLE 4. Powers and Duties [65040 - 65040.17] *(Article 4 added by Stats. 1970, Ch. 1534.)*

65040.12. (yellow highlight for emphasis)

(a) The office shall be the coordinating agency in state government for environmental justice programs.

(b) The director shall do all of the following:

(1) Consult with all of the following:

(A) The Secretary for Environmental Protection.

(B) The Secretary of the Natural Resources Agency.

(C) The Secretary of Transportation.

(D) The Secretary of Business, Consumer Services, and Housing.

(E) The Working Group on Environmental Justice established pursuant to Section 71113 of the Public Resources Code.

(F) Any other appropriate state agencies and all other interested members of the public and private sectors in this state.

(2) Coordinate the office's efforts and share information regarding environmental justice programs with the Council on Environmental Quality, the United States Environmental Protection Agency, the General Accounting Office, the Office of Management and Budget, and other federal agencies.

(3) Review and evaluate any information from federal agencies that is obtained as a result of their respective regulatory activities under federal Executive Order 12898, and from the Working Group on Environmental Justice established pursuant to Section 71113 of the Public Resources Code.

(c) When it adopts its next edition of the general plan guidelines pursuant to Section 65040.2, but in no case later than July 1, 2003, the office shall include guidelines for addressing environmental justice matters in city and county general plans. The office shall hold at least one public hearing before the release of any draft guidelines, and at least one public hearing after the release of the draft guidelines. The hearings may be held at the regular meetings of the Planning Advisory and Assistance Council.

(d) The guidelines developed by the office pursuant to subdivision (c) shall recommend provisions for general plans to do all of the following:

(1) Propose methods for planning for the equitable distribution of new public facilities and services that increase and enhance community quality of life throughout the community, given the fiscal and legal constraints that restrict the siting of these facilities.

(2) Propose methods for providing for the location, if any, of industrial facilities and uses that, even with the best available technology, will contain or produce material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant hazard to human health and safety, in a manner that seeks to avoid overconcentrating these uses in proximity to schools or residential dwellings.

(3) Propose methods for providing for the location of new schools and residential dwellings in a manner that seeks to avoid locating these uses in proximity to industrial facilities and uses that will contain or produce material that because of its quantity, concentration, or physical or chemical characteristics, poses a significant hazard to human health and safety.

(4) Propose methods for promoting more livable communities by expanding opportunities for transit-oriented development so that residents minimize traffic and pollution impacts from traveling for purposes of work, shopping, schools, and recreation.

(e) (1) For purposes of this section, "environmental justice" means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

(2) "Environmental justice" includes, but is not limited to, all of the following:

(A) The availability of a healthy environment for all people.

(B) The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities.

(C) Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use decision making process.

(D) At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.

[https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65040.12.#:~:text=\(a\)%20The%20office%20shall%20be,do%20all%20of%20the%20following%3A&text=\(F\)%20Any%20other%20appropriate%20state,private%20sectors%20in%20this%](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65040.12.#:~:text=(a)%20The%20office%20shall%20be,do%20all%20of%20the%20following%3A&text=(F)%20Any%20other%20appropriate%20state,private%20sectors%20in%20this%)

BARSTOW

Census Tract: 6071009300

Population:	1,257
CalEnviroScreen 3.0 Percentile:	85-90%
Pollution Burden Percentile:	62
Population Characteristics Percentile:	95
<u>Ozone:</u>	85
<u>PM 2.5:</u>	9
<u>Diesel:</u>	50
<u>Pesticides:</u>	58
<u>Toxic Releases:</u>	11
<u>Traffic:</u>	26
<u>Drinking Water:</u>	90
<u>Cleanups:</u>	69
<u>Groundwater Threats:</u>	70
<u>Hazardous Waste:</u>	61
<u>Impaired Water:</u>	0
<u>Solid Waste:</u>	21
<u>Asthma:</u>	100
<u>Low Birth Weight:</u>	96
<u>Cardiovascular Rate:</u>	100
<u>Education:</u>	79
<u>Linguistic Isolation:</u>	9
<u>Poverty:</u>	85
<u>Unemployment:</u>	95
<u>Housing Burden:</u>	66

Information about age

This tract contains 14% Children under 10. The average in California census tracts is 13%. It also contains 14% Elderly over 65. The average in California census tracts is 12%.

Race/Ethnicity & Age Profiles

Hover your mouse over the pie chart to see the race/ethnicity characteristics of this census tract. Click on the arrow next to the pie chart to see the age profile of this census tract.

DAGGETT/NEWBERRY SPRINGS

Census Tract: 6071010300

Population:	3,846
CalEnviroScreen 3.0 Percentile:	75-80%
Pollution Burden Percentile:	67
Population Characteristics Percentile:	75
<u>Ozone:</u>	91
<u>PM 2.5:</u>	8
<u>Diesel:</u>	3
<u>Pesticides:</u>	20
<u>Toxic Releases:</u>	7
<u>Traffic:</u>	10
<u>Drinking Water:</u>	99
<u>Cleanups:</u>	96
<u>Groundwater Threats:</u>	94
<u>Hazardous Waste:</u>	93
<u>Impaired Water:</u>	0
<u>Solid Waste:</u>	98
<u>Asthma:</u>	62
<u>Low Birth Weight:</u>	89
<u>Cardiovascular Rate:</u>	64
<u>Education:</u>	61
<u>Linguistic Isolation:</u>	58
<u>Poverty:</u>	66
<u>Unemployment:</u>	77
<u>Housing Burden:</u>	42

Information about age

This tract contains 13% Children under 10. The average in California census tracts is 13%. It also contains 14% Elderly over 65. The average in California census tracts is 12%.

LUCERNE VALLEY

Census Tract: 6071012104

Population:	5,110
CalEnviroScreen 3.0 Percentile:	65-70%
Pollution Burden Percentile:	42
Population Characteristics Percentile:	77
<u>Ozone:</u>	91
<u>PM 2.5:</u>	11
<u>Diesel:</u>	2
<u>Pesticides:</u>	0
<u>Toxic Releases:</u>	21
<u>Traffic:</u>	1
<u>Drinking Water:</u>	99
<u>Cleanups:</u>	96
<u>Groundwater Threats:</u>	32
<u>Hazardous Waste:</u>	61
<u>Impaired Water:</u>	0
<u>Solid Waste:</u>	74
<u>Asthma:</u>	85
<u>Low Birth Weight:</u>	72
<u>Cardiovascular Rate:</u>	93
<u>Education:</u>	39
<u>Linguistic Isolation:</u>	11
<u>Poverty:</u>	73
<u>Unemployment:</u>	86
<u>Housing Burden:</u>	53

Information about age

This tract contains 11% Children under 10. The average in California census tracts is 13%. It also contains 15% Elderly over 65. The average in California census tracts is 12%.