

**XAVIER BECERRA**  
*Attorney General*

*State of California*  
**DEPARTMENT OF JUSTICE**



1515 CLAY STREET, 20TH FLOOR  
P.O. BOX 70550  
OAKLAND, CA 94612-0550

Public: (510) 879-1300  
Telephone: (510) 879-0090  
Facsimile: (510) 622-2272  
E-Mail: Abigail.Blodgett@doj.ca.gov

October 24, 2018

***Via First Class Mail and E-Mail***

Robert Flores  
Project Planner  
Riverside County Planning Department  
4080 Lemon Street, 12th Floor  
P.O. Box 1409  
Riverside, CA 92502-1409  
RFlores@rivco.org

**RE: Riverside County General Plan Amendment No. 1226**

Dear Mr. Flores:

Thank you for the opportunity to comment on Riverside County's Draft General Plan Amendment Number 1226 ("General Plan Amendment"), which is scheduled to be considered by the Riverside County Board of Supervisors at their December 4, 2018 meeting. The Attorney General's Office appreciates the County's efforts to comply with Senate Bill 1000 ("SB 1000") through this General Plan Amendment. In particular, the General Plan Amendment includes a map that identifies disadvantaged communities in the County's jurisdiction and environmental justice policies that address SB 1000's minimum requirements. (*See* Gov. Code, § 65302, subd. (h)(1).) However, we are concerned about the County's efforts to reach out to disadvantaged communities and receive public input on the draft environmental justice policies in the General Plan Amendment, as discussed below. We provide this comment letter to recommend that the County set up a transparent process through which it can receive additional public input on the draft General Plan Amendment and any future implementation of the Amendment's policies.

A. Background on Environmental Justice and SB 1000

Low-income communities and communities of color often bear a disproportionate burden of pollution and associated health risks when compared to their more affluent neighbors. This inequity can be addressed through environmental justice, which is defined by California law as "the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies." (Gov. Code, § 65040.12, subd. (e).) Environmental justice aims to correct the legacy of concentrating pollution and other hazards in or near low-income communities of color by

reducing these hazards and involving the impacted communities in any decisions that affect their environment or health.

In an effort to promote environmental justice through the local land use planning process, the California Legislature passed Senate Bill 1000 in 2016. SB 1000 ensures that local governments take into account pollution burdens and other hazards experienced by communities within their jurisdiction that are disproportionately exposed to such hazards. The purpose of SB 1000 is to make environmental justice a real and vital part of the planning process by promoting transparency and public engagement in local governments' planning and decision-making processes, reducing harmful pollutants and associated health risks in environmental justice communities, and encouraging equitable access to health-inducing benefits, such as healthy food options, housing, and recreation.

As you are aware, if a city or county adopts or updates two or more elements of its general plan after January 1, 2018, SB 1000 requires the local government to identify any "disadvantaged communities" in its jurisdiction. (Gov. Code, § 65302, subd. (h)(1)-(2).) SB 1000 defines "disadvantaged communities" as either: (1) "an area identified by the California Environmental Protection Agency (CalEPA) pursuant to Section 39711 of the Health and Safety Code";<sup>1</sup> or (2) "an area that is a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation."<sup>2</sup> (*Id.* at (h)(4)(A).) Therefore, local governments have some discretion to choose the appropriate method or methods to identify disadvantaged communities.

Once a local government identifies one or more disadvantaged communities in its jurisdiction, it must include either an "environmental justice element" or "related goals, policies, and objectives integrated in other elements" (collectively, "EJ policies") in its general plan update. (Gov. Code, § 65302, subd. (h)(1).) A general plan's EJ policies must "reduce the unique or compounded health risks in disadvantaged communities" by doing at least the following:

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<sup>1</sup> CalEPA designates an area as a disadvantaged community if a census tract scores at or above 75 percent on the agency's CalEnviroScreen screening tool. See CalEPA and Office of Health Hazard Assessment, CalEnviroScreen 3.0, *available at* <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>.

<sup>2</sup> SB 1000 defines a "low-income area" as "an area with household incomes at or below 80 percent of the statewide median income" or (2) an area with "household incomes at or below the threshold designated as low income by the Department of Housing and Community Development's (HCD) list of state income limits adopted pursuant to Section 50093 of the Health and Safety Code." (Gov. Code, § 65302, subd. (h)(4)(C).) After identifying low-income areas, a government must evaluate if those areas are disproportionately affected by environmental pollution or other hazards that can lead to negative health impacts. (*Id.* at (h)(4)(A).) There are various data sets that can be used for the second part of this analysis, including CalEnviroScreen, which contains specific information regarding pollution sources.

- 1) reduce pollution exposure;
- 2) improve air quality;
- 3) promote public facilities;<sup>3</sup>
- 4) promote food access;
- 5) promote safe and sanitary homes; and
- 6) promote physical activity.

(*Id.* at (h)(1)(A).) SB 1000 also requires EJ policies that “promote civil engagement in the public decisionmaking process” and “prioritize improvements and programs that address the needs of disadvantaged communities.” (*Id.* at (h)(1)(B)-(C).)

B. Riverside County’s Public Engagement Process for the General Plan Amendment

The public has received limited notice and opportunities to provide comments and feedback on the proposed General Plan Amendment. It appears that Riverside County relied on its July 8, 2018 newspaper publication to notify residents that it was proposing to undertake this General Plan Amendment. The text of the proposed Amendment itself is buried in staff reports and related documents for one Planning Commission and one Board of Supervisors meeting, and it is otherwise not available on the County’s website for public review.<sup>4</sup> It is also our understanding that no public workshops shared information with or sought input from the public on the subject of environmental justice or on the proposed General Plan Amendment, other than the formal hearings held by the Planning Commission and Board of Supervisors.

Due to the limited opportunities for the public to participate in the development of the General Plan Amendment, the Amendment lacks the benefit of input from the residents of Riverside County’s disadvantaged communities. As a result, the draft EJ policies may not address the most pressing environmental and health issues faced by each disadvantaged community in Riverside County, or the unique and diverse needs of those communities. This is contrary to the intent of SB 1000, which has at its core a requirement that EJ policies promote public engagement in the decisions that affect environmental justice communities.

As required by SB 1000, the proposed General Plan Amendment includes seven policies to promote “civic engagement” in decision-making processes. (HC 15.1 – HC 15.7.) Nevertheless, Riverside County has not followed these policies during its development of the

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<sup>3</sup> SB 1000 defines “public facilities” as facilities that include “public improvements, public services, and community amenities.” (Gov. Code, § 65302(h)(4)(B).)

<sup>4</sup> Since Riverside County is claiming that the General Plan Amendment is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15061(b)(3), the public did not receive any additional notice of the proposed Amendment or formal opportunities to comment pursuant to CEQA’s requirements. (*See, e.g.*, Pub. Resources Code, §§ 21091-21092.)

Amendment itself. For example, HC 15.2 states that the County will “encourage collaboration, as feasible, between the County, community, and community-based organizations, as well as local stakeholders in promoting environmental justice.” Further, HC 15.3 says that the County will, “as feasible, partner with local community-based organizations to promote civic engagement activities.” However, we are not aware of any efforts by the County to “collaborate” or “partner” with local residents or community organizations.<sup>5</sup> Instead, the County has provided the minimum notice and public comment opportunities for the General Plan Amendment, such as publishing the proposed Amendment in meeting agendas prior to hearings and allowing the public to provide comments during Planning Commission and Board of Supervisors hearings. Riverside County should develop the General Plan Amendment in a way that complies with its own proposed civic engagement policies.

In addition, during our discussion of the General Plan Amendment, Riverside County’s planning staff expressed an aspiration to create a robust implementation plan for its EJ policies after the Board of Supervisors adopts the Amendment. The County stated its intent to include extensive public outreach opportunities through this implementation plan. However, the specifics of that plan are not articulated in the General Plan Amendment. In fact, the implementation plan is not mentioned in the proposed General Plan Amendment or any public documents prepared for the Amendment process. If Riverside County intends to develop a plan to implement its EJ policies, this plan should be included as a part of the General Plan Amendment, including a detailed description of the planned implementation activities and timeline that is available for public review and comment. This will ensure that the General Plan Amendment is developed and implemented through a transparent process that reflects community input and includes written standards.

We recommend that Riverside County consider the following actions to ensure that residents, including those located in disadvantaged communities, have adequate notice of the General Plan Amendment and sufficient opportunities to engage in an open dialogue with the County about the Amendment:

- 1) Make the proposed General Plan Amendment, any supporting documents, and all subsequent drafts easily accessible on Riverside County’s website, including information about how and when community members can raise concerns or comments.
- 2) Hold a public workshop or meeting to discuss the General Plan Amendment and EJ policies with interested community members. Riverside County should ensure that this meeting or meetings are held at convenient places and times for community

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<sup>5</sup> Despite the limited opportunities to participate in Riverside County’s General Plan Amendment, several community groups sent letters commenting on the Amendment, including the Building Healthy Communities Collaborative Coachella Valley/Alianza Coachella Valley Collaborative, Center for Community Action and Environmental Justice, and Leadership Council for Justice and Accountability. These letters raised similar concerns regarding the County’s engagement with disadvantaged communities throughout its development of the Amendment.

members located in disadvantaged communities. The County should partner with local community groups to advertise these meetings.

- 3) Offer information about the General Plan Amendment, including information prepared for meetings to discuss the Amendment, in English and Spanish through appropriate interpretation or translation services.
- 4) Provide public responses to the comments and concerns raised by community members throughout the public input process, including those concerns raised in comment letters and during any future public meetings. Revise the General Plan Amendment as necessary to address community concerns.

There are several resources available to assist as Riverside County continues to engage with the public to develop its General Plan Amendment. The Office of Planning and Research's ("OPR") 2017 General Plan Guidelines includes several chapters that discuss public engagement techniques, including Chapters 3 (Community Engagement and Outreach) and 4 (Required Elements – Environmental Justice).<sup>6</sup> In addition, the California Environmental Justice Alliance's ("CEJA") SB 1000 Toolkit describes options for promoting community engagement and lists resources and examples for engagement activities.<sup>7</sup> Riverside County can also consult other jurisdictions that have engaged with disadvantaged communities to adopt EJ policies, such as National City and Jurupa Valley.<sup>8</sup> Sacramento County is another jurisdiction that had a robust public engagement process to develop and adopt Phase One of its Environmental Justice Element.<sup>9</sup>

#### C. Additional Comments on the General Plan Amendment

As mentioned above, Riverside County received several comment letters from community groups regarding the draft General Plan Amendment, including letters from the Building Healthy Communities Collaborative Coachella Valley/Alianza Coachella Valley Collaborative, Center for Community Action and Environmental Justice, and Leadership Council for Justice and Accountability. These letters suggest ways to strengthen the draft EJ policies and increase the General Plan Amendment's positive impact on disadvantaged communities in the County. Specifically, the community groups ask Riverside County to: 1) list all disadvantaged communities in the County's jurisdiction; 2) describe the unique health risks and pollution

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<sup>6</sup> See OPR, 2017 General Plan Guidelines, pgs. 26-38, 164-194, available at <http://www.opr.ca.gov/planning/general-plan/guidelines.html>.

<sup>7</sup> See CEJA, SB 1000 Toolkit: Planning for Healthy Communities, pgs. 36-64, 108-126, available at <https://caleja.org/2017/09/sb-1000-toolkit-release/>.

<sup>8</sup> See National City General Plan, Health and Environmental Justice, available at <http://www.nationalcityca.gov/Home/ShowDocument?id=5019>; Jurupa Valley General Plan, Environmental Justice Element, available at <http://civicsolutions.com/wordpress/wp-content/uploads/Oct-2014-Jurupa-Valley-Environmental-Justice-Element.pdf>.

<sup>9</sup> See Sacramento County Environmental Justice Element, Phase One, available at <http://www.per.saccounty.net/PlansandProjectsIn-Progress/Pages/Environmental-Justice-Element.aspx>.

October 24, 2018

Page 6

burdens faced by each disadvantaged community; 3) address environmental justice in other elements of the general plan; and 4) strengthen the draft EJ policies with concrete and regional-focused language. We encourage the County to consider revising the Amendment to address the concerns raised by community members.

Thank you for considering our suggestions for increasing public participation in Riverside County's draft General Plan Amendment and EJ policies. Please let me know if I can provide any assistance to you during your planning process. I look forward to continuing our conversation about civic engagement and Riverside County's General Plan Amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "Abigail Blodgett", with a long horizontal flourish extending to the right.

ABIGAIL BLODGETT  
Deputy Attorney General  
Bureau of Environmental Justice

For XAVIER BECERRA  
Attorney General