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*Via First Class Mail and Email*

Susan Curtis  
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800 S. Victoria Avenue #1740  
Ventura, CA 93009-1740  
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**RE: Ventura County 2040 General Plan Update – Comments on Preliminary Public Review Draft**

Dear Ms. Curtis:

Thank you for the opportunity to comment on Ventura County's Preliminary Public Review Draft of its 2040 General Plan ("Preliminary Draft"). The Attorney General's Office appreciates the County's efforts to comply with Senate Bill 1000 ("SB 1000") through this General Plan Update. In particular, the Preliminary Draft includes environmental justice policies that address most of SB 1000's minimum requirements. However, we believe that the County should expand its identification of disadvantaged communities and include additional environmental justice policies that specifically address the unique needs of disadvantaged communities in Ventura County's jurisdiction, as discussed below.

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(e).) Environmental justice aims to correct the legacy of concentrating pollution and other hazards in and near low-income communities, often communities of color, by reducing these hazards and involving the impacted communities in any related decisions.

The California Legislature passed SB 1000 in 2016 to promote environmental justice through the local land use planning process. SB 1000 ensures that local governments take into account pollution burdens and other hazards experienced by low-income communities that are disproportionately exposed to such risks. The implementation of SB 1000 is intended to make

environmental justice a real and vital part of the planning process by requiring local governments to identify environmental justice issues in their communities and address them through tailored environmental justice policies.

B. Legal Requirements of SB 1000

When a city or county adopts or updates two or more elements of its general plan, SB 1000 requires the local government to identify any “disadvantaged communities” in its jurisdiction. (Gov. Code, § 65302(h)(1)-(2).) SB 1000 defines “disadvantaged communities” as: (1) “an area identified by the California Environmental Protection Agency (CalEPA) pursuant to Section 39711 of the Health and Safety Code”; 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.” (*Id.* at (h)(4)(A).)

Regarding the first definition, pursuant to Health and Safety Code section 39711, 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. This tool and additional information regarding how it works is available on CalEPA’s website.<sup>1</sup> Generally speaking, CalEnviroScreen combines pollution burden indicators with population characteristics and socioeconomic indicators to rank every census tract in the state, with those scoring highest as the most burdened and most vulnerable to pollution.<sup>2</sup>

Pursuant to the second definition of a disadvantaged community, the local government should first determine whether low-income areas exist. 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(h)(4)(C).) Once a city or county identifies low-income areas using this definition, the local government would then evaluate if these areas are disproportionately affected by environmental pollution that can lead to negative health impacts. (*Id.* at (h)(4)(A).) The law does not expressly prescribe what information a local government must consider in the second part of this analysis. However, there are various data sets and tools a local government can use, including CalEnviroScreen, that contain specific information regarding the type and location of pollution sources throughout California.

If a city or county identifies at least one disadvantaged community 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,

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<sup>1</sup> CalEPA and Office of Health Hazard Assessment (“OEHHA”), CalEnviroScreen 3.0, available at <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>.

<sup>2</sup> CalEPA and OEHHA, CalEnviroScreen 3.0: Update to the California Communities Environmental Health Screening Tool (January 2017), available at <https://oehha.ca.gov/media/downloads/calenviroscreen/report/ces3report.pdf>.

§ 65302(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:

- 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 public engagement in the public decisionmaking process" and "prioritize improvements and programs that address the needs of the disadvantaged communities." (*Id.* at (h)(1)(B)-(C).)

#### C. Ventura County's Identification of Disadvantaged Communities

The Revised January 2018 Background Report for the 2040 General Plan identifies several disadvantaged communities in Ventura County for SB 1000 purposes, including "census tracts in the southwestern and northwestern Oxnard Planning Area and along Ventura Avenue in the Ventura Planning Area" (seven total census tracts, according to CalEnviroScreen). (Background Report, 3-121, 4-40, Figure 4-13.) The County exclusively relies on CalEnviroScreen 3.0 to identify these disadvantaged communities. (*Id.* at 4-28.)

As described above, there are multiple ways to define disadvantaged communities under SB 1000. (Gov. Code, § 65302(h)(4)(A).) In addition to CalEnviroScreen, SB 1000 also permits jurisdictions to identify disadvantaged communities by determining low-income areas that are disproportionately burdened by pollution. (*Id.* at (h)(4)(A), (C).) To make this determination, cities and counties should compare localized income data with data that identifies and quantifies different types of pollution exposures in a specific location.<sup>4</sup> The flexibility of this approach allows a local government to consider particularly relevant pollution burdens that may be concentrated in certain areas, like pesticides and drinking water contaminants.

Ventura County contains several low-income areas disproportionately burdened by pollution that are not identified as disadvantaged communities in CalEnviroScreen, including El Rio, Saticoy, and Piru. These three unincorporated areas have average household incomes that

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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> Office of Planning and Research ("OPR"), Draft Environmental Justice Chapter (November 19, 2018), pgs. 5-6, available at [http://opr.ca.gov/docs/20181120-EJ\\_Chapter\\_Public\\_Comment.pdf](http://opr.ca.gov/docs/20181120-EJ_Chapter_Public_Comment.pdf).

are below HCD's low-income threshold for Ventura County. (*Compare* Background Report, Table 2-8, to HCD State Income Limits).<sup>5</sup> Further, CalEnviroScreen shows that all of these areas have very high scores for certain pollution indicators, including pesticides (some census tracts as high as 100 percent) and impaired water bodies (some census tracts as high as 96 percent). Therefore, Ventura County should revise its discussion of SB 1000 disadvantaged communities to include these low-income areas with high pollution burdens among its "designated disadvantaged communities".<sup>6</sup>

In addition, the Preliminary Draft does not identify or discuss disadvantaged communities; this information is found solely in the Background Report. Ventura County should revise its 2040 General Plan to identify the name and location of disadvantaged communities in the document itself so it's clear which communities Ventura County aims to benefit from its environmental justice policies. Also, Ventura County should discuss the unique health risks, pollution burdens, and community needs of each identified disadvantaged community.<sup>7</sup>

#### D. Ventura County's Environmental Justice Policies

Ventura County's Preliminary Draft for the 2040 General Plan includes several EJ policies that specifically target improvements in "designated disadvantaged communities." The County's draft EJ policies regarding the siting of incompatible land uses in disadvantaged communities (LU-17.2, LU-17.4, LU-17.6) and civic engagement (LU-18.2, LU-18.3, LU-18.4, LU-18.5) are especially strong. However, the Preliminary Draft fails to include meaningful EJ policies that address the County's two most widespread pollution problems in disadvantaged communities – pesticide exposures and impaired waters. Since SB 1000 requires local governments to identify EJ policies that "reduce the unique or compounded health risks in disadvantaged communities," the County should consider additional EJ policies that address these particular pollution burdens, including the detailed EJ policies suggested in the Central Coast Alliance United for a Sustainable Economy's comment letter. (Gov. Code, § 65302(h)(1)(A).) We especially encourage Ventura County to consider additional policies that would reduce disadvantaged communities' exposure to pesticides, such as requirements for adequate buffer zones between farms and sensitive receptors and a system to notify communities of pesticide applications near homes and schools before they occur.<sup>8</sup>

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<sup>5</sup> HCD, State and Federal Income, Rent, and Loan/Value Limits, Official HCD State Income Limits, *available at* <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>.

<sup>6</sup> This request echoes the comment letter submitted by the Central Coast Alliance United for a Sustainable Economy, which also asks Ventura County to expand its identification of disadvantaged communities to be more inclusive.

<sup>7</sup> OPR, Draft Environmental Justice Chapter (November 19, 2018), pg. 10, *available at* [http://opr.ca.gov/docs/20181120-EJ\\_Chapter\\_Public\\_Comment.pdf](http://opr.ca.gov/docs/20181120-EJ_Chapter_Public_Comment.pdf).

<sup>8</sup> As an example, Monterey County has developed a pesticide notification program, *see* <https://farmingsafelynearschools.com/>.

The Preliminary Draft also fails to include EJ policies that promote “safe and sanitary homes.” (Gov. Code, § 65302(h)(1)(A).) Since SB 1000 requires this category of EJ policies, Ventura County’s 2040 General Plan must include goals and policies that address safe and sanitary housing in disadvantaged communities. OPR recommends that local governments consider several factors to draft EJ policies that meet this SB 1000 requirement, including the location of housing near public facilities, the quality and age of available housing stock, and access to affordable housing.<sup>9</sup> OPR also has a list of example EJ policies adopted by cities and counties throughout California that promote safe and sanitary homes.<sup>10</sup>

E. Resources for SB 1000 Compliance

There are many resources available to assist Ventura County as it continues to develop its 2040 General Plan. OPR’s 2017 General Plan Guidelines discuss SB 1000 in Chapter 4 (Required Elements).<sup>11</sup> OPR also has draft guidance that further addresses SB 1000 compliance<sup>12</sup> and provides example EJ policies from adopted general plans.<sup>13</sup> For specific information regarding pollution burdens, Ventura County can explore CalEnviroScreen’s maps for pollution exposure indicators,<sup>14</sup> the California Health Places Index,<sup>15</sup> and the Public Health Institute’s Tracking California Project.<sup>16</sup> To identify disadvantaged communities, Ventura County can reference the California Air Resources Board’s (“CARB”) map that shows which low-income areas in California are designated as disadvantaged communities.<sup>17</sup>

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<sup>9</sup> OPR, Draft Environmental Justice Chapter (November 19, 2018), pgs. 21-22, *available at* [http://opr.ca.gov/docs/20181120-EJ\\_Chapter\\_Public\\_Comment.pdf](http://opr.ca.gov/docs/20181120-EJ_Chapter_Public_Comment.pdf).

<sup>10</sup> OPR, Draft Environmental Justice Policies (November 19, 2018), pgs. 103-114, *available at* [http://opr.ca.gov/docs/20181120-Draft\\_for\\_public\\_review\\_example\\_GPG\\_Policy\\_Language.pdf](http://opr.ca.gov/docs/20181120-Draft_for_public_review_example_GPG_Policy_Language.pdf).

<sup>11</sup> OPR, 2017 General Plan Guidelines, pgs. 164-194, *available at* <http://www.opr.ca.gov/planning/general-plan/guidelines.html>.

<sup>12</sup> OPR, Draft Environmental Justice Chapter (November 19, 2018), *available at* [http://opr.ca.gov/docs/20181120-EJ\\_Chapter\\_Public\\_Comment.pdf](http://opr.ca.gov/docs/20181120-EJ_Chapter_Public_Comment.pdf).

<sup>13</sup> OPR, Draft Environmental Justice Policies (November 19, 2018), *available at* [http://opr.ca.gov/docs/20181120-Draft\\_for\\_public\\_review\\_example\\_GPG\\_Policy\\_Language.pdf](http://opr.ca.gov/docs/20181120-Draft_for_public_review_example_GPG_Policy_Language.pdf).

<sup>14</sup> OEHHA, Indicators Overview, *available at* <https://oehha.ca.gov/calenviroscreen/indicators>.

<sup>15</sup> Public Health Alliance of Southern California, California Health Places Index Map, *available at* <https://map.healthyplacesindex.org/>.

<sup>16</sup> Tracking California, Maps and Data, *available at* <https://www.trackingcalifornia.org/>.

<sup>17</sup> CARB, Disadvantaged Communities Map, *available at* <https://ww3.arb.ca.gov/cc/capandtrade/auctionproceeds/lowincomemapfull.htm>.

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Thank you for considering our suggestions for improving Ventura County's 2040 General Plan. Please do not hesitate to reach out to me if you have any questions throughout the remainder of your planning process. I look forward to continuing our conversation about Ventura County's General Plan.

Sincerely,

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

ABIGAIL BLODGETT  
Deputy Attorney General  
Bureau of Environmental Justice

For XAVIER BECERRA  
Attorney General