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January 23, 2020

Via First Class Mail and Email

Olivia Pimentel
City of Kerman
850 S. Madera Avenue
Kerman, CA 93630
opimentel@cityofkerman.org

RE: City of Kerman 2040 General Plan Update – Revised Public Review Draft

Dear Ms. Pimentel:

Thank you for the opportunity to comment on Kerman's Revised Public Review Draft of the 2040 General Plan Update ("Draft Plan").¹ This letter follows up on our December 5, 2019 call to discuss the Draft Plan and our May 9, 2019 letter, which describes the purposes and requirements of Senate Bill 1000 ("SB 1000"), Kerman's disadvantaged communities, and resources for SB 1000 compliance. For more information on SB 1000, please see our May 9, 2019 letter and our SB 1000 website at <https://oag.ca.gov/environment/sb1000>.

The Attorney General's Office appreciates Kerman's efforts to comply with SB 1000 by including environmental justice ("EJ") policies in the Draft Plan that address most of SB 1000's minimum requirements. However, we believe that Kerman should revise its identification of disadvantaged communities and include additional EJ policies that specifically target the unique needs of disadvantaged communities in Kerman's jurisdiction, as discussed in more detail below.

A. Identification of Disadvantaged Communities in the Draft Plan

The January 2019 Background Report for the Draft Plan correctly identifies that both census tracts in Kerman are disadvantaged communities pursuant to CalEnviroScreen 3.0, with the eastern census tract having an overall pollution burden score of 85 percent and the western census tracking having a pollution burden score of 73 percent. (Background Report, 3-27, Figure 3-5.) However, the Background Report's discussion of disadvantaged communities fails to

¹ The Attorney General submits these comments pursuant to his independent power and duty to protect the environment and natural resources of the State. (See Cal. Const., art. V, § 13; Gov. Code, §§ 12511, 12600-12612; *D'Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1, 1415.)

identify the unique and compounded health risks faced by each disadvantaged community in Kerman's jurisdiction. Even if these risks are similar across both census tracts, the Draft Plan should specifically describe the risks faced by each disadvantaged community to ensure that Kerman's EJ policies target each community's unique challenges, pollution burdens, and needs. For example, some parts of Kerman may face greater risks from pesticide applications based on the close proximity of certain types of agricultural operations to residential neighborhoods and schools. We therefore urge the Kerman to revise its Draft Plan to both identify the disadvantaged communities in its jurisdiction and fully describe the unique health risks faced by each community in Kerman in the Draft Plan.

Further, the Policy Document for the Draft Plan does not identify or describe the disadvantaged communities in Kerman or reference the Background Report's identification of disadvantaged communities. To promote public transparency and comply with SB 1000's requirement that local governments identify disadvantaged communities in the general plan itself, we urge Kerman to revise the Policy Document for the Draft Plan to identify disadvantaged communities directly in the General Plan. (*See* Gov. Code, § 65302, subd. (h)(1).)

B. Environmental Justice Policies in the Draft Plan

Kerman's Draft Plan includes several EJ policies that address some of SB 1000's minimum requirements, including policies that reduce pollution exposures (LU-5.3, LU-5.4, LU-5.5, LU-5.6, LU-5.7), improve air quality (PH-7.1 to PH-7.3, PH-7.6), promote public facilities (LU 5-1, PFS-1.1, PFS-1.6), promote food access (ED-1.2, LU-5.8), encourage civic engagement (LU-6.1 to LU-6.4), and prioritize improvements and programs in disadvantaged communities (PFS-2.6). However, the Draft Plan fails to include EJ policies that promote "safe and sanitary homes" and "physical activity." (Gov. Code, § 65302, subd. (h)(1)(A).) Since SB 1000 requires these types of EJ policies, the Draft Plan must include goals and policies that address safe and sanitary housing and promote physical activity in disadvantaged communities. To draft policies for safe and sanitary homes in disadvantaged communities, the Governor's Office of Planning and Research (OPR) recommends that local governments start by considering housing costs, the quality and age of available housing stock, and access to affordable housing in their jurisdiction.² In addition, OPR recommends that local governments consider obesity rates, park locations, walking and biking routes, and community feelings on safety to draft policies that address physical activity.³ OPR also has a list of example EJ policies adopted by cities and counties throughout California that may be helpful to Kerman.⁴

In addition, Kerman should strengthen the EJ policies in its Draft Plan by tailoring the policies to specially address the needs of its communities. For example, Kerman is surrounded

² OPR, Draft Environmental Justice Chapter for General Plan Guidelines (November 19, 2018), pgs. 21-22, http://opr.ca.gov/docs/20181120-EJ_Chapter_Public_Comment.pdf.

³ *Id.* at pgs. 22-25.

⁴ OPR, Draft Environmental Justice Policies (November 19, 2018), pgs. 103-114, http://opr.ca.gov/docs/20181120-Draft_for_public_review_example_GPG_Policy_Language.pdf.

by agricultural lands where thousands of pounds of pesticides are applied each year, including pesticides that contain the carcinogenic chemical glyphosate.⁵ Some of these farmlands are in very close proximity to sensitive receptors, such as students at Goldenrod Elementary School and Kerman High School. Despite these circumstances, the Draft Plan does not include any EJ policies that address pesticide applications in disadvantaged communities. We encourage Kerman to consider additional EJ 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.⁶ Further, Kerman should expand LU-5.3, LU-5.5, and LU-5.6 to include agricultural operations as pollution sources that may have adverse health and safety impacts since pesticides are one of the main health risks in Kerman.

We also encourage Kerman to include strong, enforceable, and clear language in its EJ policies to help ensure that these policies are effective. For example, LU-1.4 states that Kerman "shall limit residential development from fronting State Highway 145 and State Highway 180 to ensure safety," but "limit" is a vague term that may reduce the impact of LU-1.4.⁷ Similarly, PH-7.2 states that Kerman "shall encourage agricultural operations to incorporate Best Management Practices to reduce particulate emissions consistent with State and Federal regulations," but "encourage" may not result in the adoption of best management practices.

C. Resources for SB 1000 Compliance

There are many resources available to assist Kerman as it continues to develop its 2040 General Plan. OPR's 2017 General Plan Guidelines discuss SB 1000 in Chapter 4 (Required Elements).⁸ OPR also has draft guidance that further addresses SB 1000 compliance⁹ and provides example policies from adopted general plans that address various environmental justice challenges.¹⁰ If Kerman would like to review an example environmental justice element that discusses specific disadvantaged communities, identifies strong and unique EJ policies to address

⁵ Tracking California, Agricultural Pesticide Mapping Tool, <https://trackingcalifornia.org/pesticides/pesticide-mapping-tool>.

⁶ For example, Monterey County has developed a system that notifies parents, teachers, students, school employees, and community members whenever fumigants are applied within 0.25 mile of a school. See <https://farmingsafelynearschools.com/>.

⁷ The California Air Resources Board ("CARB") recommends the placement of sensitive land uses, including residences, at least 500 feet from high traffic freeways and roads. CARB, Air Quality and Land Use Handbook: A Community Health Perspective (April 2005), Table 1-1, <https://ww3.arb.ca.gov/ch/handbook.pdf>.

⁸ OPR, 2017 General Plan Guidelines, pgs. 164-194, <http://www.opr.ca.gov/planning/general-plan/guidelines.html>.

⁹ OPR, Draft Environmental Justice Chapter (November 19, 2018), http://opr.ca.gov/docs/20181120-EJ_Chapter_Public_Comment.pdf.

¹⁰ OPR, Draft Environmental Justice Policies (November 19, 2018), http://opr.ca.gov/docs/20181120-Draft_for_public_review_example_GPG_Policy_Language.pdf.

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the needs of those communities, and commits to prioritizing programs that fulfill their needs, it should review the environmental justice element recently adopted by Placentia.¹¹ For specific information regarding pollution burdens in Kerman, the City can explore CalEnviroScreen's maps for pollution exposure indicators,¹² the California Health Places Index,¹³ and the Public Health Institute's Tracking California Project.¹⁴ These resources and more are linked on our SB 1000 website.¹⁵

Thank you for considering our suggestions for improving Kerman'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 the Draft Plan.

Sincerely,



ABIGAIL BLODGETT
Deputy Attorney General
Bureau of Environmental Justice

For XAVIER BECERRA
Attorney General

¹¹ Placentia, General Plan Update, <https://www.placentia.org/166/General-Plan-Update>.

¹² OEHHA, Indicators Overview, <https://oehha.ca.gov/calenviroscreen/indicators>.

¹³ Public Health Alliance of Southern California, California Health Places Index Map, <https://map.healthyplacesindex.org/>.

¹⁴ Tracking California, Maps and Data, <https://www.trackingcalifornia.org/>.

¹⁵ State of California Department of Justice, SB 1000 – Environmental Justice in Local Land Use Planning, <https://oag.ca.gov/environment/sb1000>.