RETHINKING LOCAL CONTROL
IN CALIFORNIA

PLACING ENVIRONMENTAL JUSTICE AND CIVIL RIGHTS
AT THE HEART OF LAND USE DECISION-MAKING

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RETHINKING LOCAL CONTROL IN CALIFORNIA:
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About Us

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—predominantly low-income communities and communities of color—to create comprehensive opportunities for change that alleviate poverty and pollution in California. Together, we are growing the statewide movement for environmental health and social justice.

www.caleja.org

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EXECUTIVE SUMMARY

A history of poor planning decisions, under-investment, and discrimination against low-income neighborhoods and communities of color has unjustly resulted in a higher concentration of toxic and polluting land uses in these neighborhoods—also known as “environmental justice (EJ) communities”. While overcoming these systemic issues often requires both stronger state- or regional-level protections as well as more opportunities for EJ community residents to participate in decision-making, local governments sometimes tend to push back against such efforts, citing the need to preserve “local control.” Local control advances the belief that cities and counties have the right to make environmental and land use decisions without state government entities intervening in their affairs and regulating how they make decisions.¹

While local control justifies giving cities and counties more freedom and fewer restrictions during decision-making, this process often comes at a cost for EJ communities that are more likely to be exposed to toxins and pollution as a result.

We would like to suggest a more effective framework for advancing California's goals for environmental and climate justice: “Community-led decision-making” is a meaningful process by which governmental entities proactively work with EJ community residents to directly address their needs and priorities when making decisions.

Frontline EJ communities have an intimate understanding of the trade-offs of environmental, health, and economic prosperity. Yet these residents are largely excluded from making environmental and land use decisions that affect their future. By promoting the values of equity and self-determination, community-led decision-making offers an improved approach to environmental and land use planning that prioritizes the people who experience disproportionate pollution burdens in order to make healthier decisions.

This report will highlight eight case studies to illustrate how community-led decision-making can lead to more effective policies, programs, and planning decisions that can create healthy and thriving neighborhoods.
Table 1. Case Studies: The Power of Community-Led Decision-Making

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<th>CASE STUDY</th>
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<td><strong>Local Community Campaigns</strong></td>
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<tr>
<td><strong>A Community Fight Against a Crematorium: East Oakland</strong></td>
<td>In 2011, the city of Oakland deliberately classified a Stewart Enterprises crematorium as a manufacturing activity and thus a by-right use consistent with its zoning. East Oakland community residents were outraged at the city’s decision as they were never notified of the decision to approve the crematorium. Local residents with assistance from Communities for a Better Environment (CBE) organized to pressure the city to pass an emergency ordinance to require discretionary review for all crematoriums in Oakland. Despite this success, the new policy was too late to stop the crematorium project. The story illustrates the importance of including affected local residents in land use decisions.</td>
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<td><strong>Overcoming Politics with People Power and a Plan: National City</strong></td>
<td>In 2017, the city of National City considered issuing a permit for a Perry Ford auto body shop situated across the street from the Paradise Creek affordable housing development. Nearby families were concerned that the new operations would pose a significant health threat to the local community. During the hearing, resident leaders turned out in force with the Environmental Health Coalition (EHC) to fight against the proposed permit, pointing out how it would conflict with policies in the city’s Westside Specific Plan. As a result, the city decided to approve the permit but with conditions that would safeguard local health.</td>
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<td><strong>Community Leaders Shut Down a Metal Recycling Facility: Southeast LA</strong></td>
<td>In a predominantly people of color neighborhood in Southeast Los Angeles, the Central Metal recycling facility polluted the area for years despite committing numerous violations and operating with an outdated permit. Residents’ concerns about the facility’s harms initially received little attention by local decision-makers. Together with CBE, resident leaders documented Central Metal’s harms on their neighborhood and successfully convinced the LA County Planning Commission to deny the facility’s conditional use permit. The community is now working collaboratively with the county to turn the site into a neighborhood-serving resource.</td>
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<td><strong>Amortization Ordinance: National City</strong></td>
<td>Incompatible land use in National City has led to severe air quality problems and high asthma rates for local residents. City planners were unwilling to address the environmental problems that were mostly due to poor land use decisions over time. Concerned for their children’s well-being, a group of mothers refused to take no for an answer. They organized their community with the EHC to see if a nuisance-related policy could work for land use. It did, prompting the city to pass the amortization ordinance.</td>
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<td><strong>Clean Up Green Up: Los Angeles</strong></td>
<td>In Los Angeles, several neighborhoods suffer from exposure to multiple sources of pollution and toxics, incompatible land use, and poor air quality. Unfortunately, regulatory agencies lack an accurate database of industrial facilities in these areas, allowing these harms to continue. The LA Collaborative for Environmental Health and Justice brought residents together to gather data on air quality and industrial uses in their neighborhoods. Together, they devised policies to reduce the impacts of these hazardous facilities. As a result of their work, the Clean Up Green Up ordinance was passed in 2016 to establish overlay zones in three of LA’s most overburdened communities: Boyle Heights, Pacoima, and Wilmington.</td>
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<td><strong>Committee for a Better Arvin: Oil and Gas Ordinance</strong></td>
<td>In 2018, the city of Arvin approved four new oil and gas wells near people’s homes, despite working with community leaders to pass a new health-protective oil and gas ordinance. The community responded by bringing a lawsuit against the city for approving the new wells using the California Environmental Quality Act (CEQA). Just as the new oil and gas ordinance is a remarkable demonstration of a community-driven, health-protective land use policy, the litigation underscores how CEQA allows residents to speak for themselves and be a part of decision-making. CEQA is one of the few tools EJ communities have to protect polluted families from harmful projects on the ground.</td>
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State-Level Policies

**AB 2447 (2018): Notification for EJ Communities**

In South Fresno, residents living in a highly polluted neighborhood were not informed of a proposed warehouse development that the city of Fresno had approved with minimal review despite expected local impacts. AB 2447 (Reyes) sought to improve notice to impacted EJ communities by requiring notice and public outreach for development projects that are likely to create negative health and environmental impacts in “disadvantaged communities.” The bill successfully passed through the Legislature despite opposition from business and local control proponents. Unfortunately, the bill was ultimately vetoed by Gov. Brown, who justified his decision by stating that land use decisions should be left up to local governments.

**SB 1000 (2016): Planning for Environmental Justice**

SB 1000 (Leyva) requires cities and counties with disadvantaged communities to incorporate environmental justice goals, policies, and objectives into their General Plans. While the law has motivated many cities and counties to engage in better land use planning to address EJ issues, some local governments have attempted to get around the law through minimal effort, or by avoiding the law altogether.

While SB 1000 is important for integrating EJ goals into long-range plans, community voices are crucial to the law’s local implementation. This case study shows how local governments should include community-led decision-making throughout the development of these plans.

Using these case studies, this report offers recommendations for advancing community-led decision-making in order to achieve healthy and thriving communities—while also upholding the goals of a fair public process, procedural justice, and civil rights.

**Solutions to promote inclusivity in government decisions**

- Honor the expertise and wisdom of residents who live on the frontlines of poverty and pollution
- Establish community advisory boards and EJ positions within local, regional, and state-level decision-making bodies
- Provide funding for community-led and community-serving projects, such as grassroots initiatives led by resident leaders and community-based organizations, community-led ground-truthing projects, and programs that clean up or “green up” small and community-owned businesses

**Solutions to advance environmental justice in state policy**

- Strengthen SB 1000 (Leyva, 2016) to improve local implementation of the law
- Enhance notification for EJ communities when projects are proposed for their neighborhoods (similar to AB 2447)
- Protect and strengthen the California Environmental Quality Act (CEQA), an important tool that provides residents with an opportunity to learn about and have a voice in development proposals for their neighborhoods
- Provide guidance for the state’s updated definition of environmental justice (per AB 1628), which encourages the meaningful involvement of EJ communities in decision-making and advocates for reducing pollution in those neighborhoods
Solutions for healthier land use planning

- Require discretionary review for industrial uses near EJ communities
- Establish buffers between polluting and sensitive land uses by creating a health and safety overlay zone, by providing transitional land uses between incompatible land uses, or by integrating environmental standards within zoning and code that allow for different uses
- Strengthen policies that aim to separate incompatible land uses, including grandfathered land uses
- Properly transform formerly polluted sites into a public benefit

Solutions for stronger accountability and transparency

- Enhance pollution monitoring and enforcement in EJ communities
- Implement an electronic system for tracking permits that is also accessible and transparent to the public
- Utilize cumulative impact screening tools to direct protections and resources to overburdened EJ communities

We hope that the recommendations and lessons from this report will be used to inform policies and programs at all levels of government that can advance the visions, priorities, and needs of EJ communities in California and beyond.
I. Introduction

Many communities across California, particularly low-income communities and communities of color, live dangerously close to health-threatening pollution. As a result, these communities are more likely to suffer from severe health problems including asthma, cardiovascular diseases, and cancer compared to communities that live farther away from polluting sources. These health impacts are often exacerbated by a wide array of socioeconomic issues, such as poverty, racial discrimination, unemployment, and a lack of access to health care. Low-income communities and communities of color that face disproportionally high pollution burdens and impacts, also known as “environmental justice (EJ) communities,” do not exist by accident or coincidence. Over a century of racially discriminatory land use planning decisions, extreme under-investment, and a lack of representation by these community members in local decisions have all contributed to the excessive siting of toxic projects in their backyards.

Overcoming systemic issues in EJ communities requires stronger laws and policies to reduce disparities and provide residents with opportunities to participate in decisions that can reduce pollution on the ground. Unfortunately, local government representatives have sometimes thwarted efforts for greater environmental protections and regulations, often arguing that local land use decisions should fall solely within their discretion. This concept, commonly known as “local control,” declares that cities and counties have the right to make land use planning decisions without significant oversight by state agencies.

However, this binary understanding of local control (city and county governments versus state governmental entities) overlooks the common imbalance of power within a locality. It also obscures who is truly involved in making local decisions and is thus in “control” at the local level. In reality, local governments may sometimes...
ignore the needs and self-determination of low-income communities and communities of color in land use decisions, leading to these communities experiencing greater environmental harms. Local control can therefore be at odds with community-led decision-making—where the entire community, particularly low-income communities and communities of color, decide how to plan and develop their neighborhood.

This report examines key decision-making concepts of local control, state oversight, and community-led decision-making, as well as various regulatory tools associated with each approach, to better understand the degree to which they can bring about benefits or burdens in EJ communities.

We highlight eight case studies from across California that showcase both how the exercise of local control can harm EJ communities, and also how community-led decision-making can bring about improved health, equitable economic development, and environmental benefits to entire communities. Finally, we offer recommendations to assist different levels of government in promoting community-led decision-making throughout environmental planning and policy decisions.

In order to ensure that all Californians have a right to a healthy and clean environment, decision-makers at all levels must listen to and respect the self-determination of people living on the frontlines. By promoting community-led decision-making, EJ communities across California can make great strides in advancing justice, equity, and improved health in their neighborhoods.

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footnote:

The “Principles of Environmental Justice” created during the First National People of Color Environmental Leadership Summit in 1991 included the “the fundamental right to political, economic, cultural, and environmental self-determination of all peoples” as well as “the right to participate as equal partners at every level of decision-making,” among other principles. See more at: https://www.ejnet.org/ej/principles.html.
II. CHALLENGES WITH LOCAL CONTROL AND THE STANDARD LAND USE PLANNING PROCESS

On its face, the concept of local control may appear completely reasonable. Compared to distant state government representatives who are unfamiliar with a specific local community, local government officials and planners may have a better understanding of land use issues and the needs of various local stakeholders. In turn, it could be construed that local governments should have more discretion over local land use decisions than their state counterparts.

This argument appears sound until one considers the structural barriers that EJ communities regularly face in influencing local land use decisions. These barriers are apparent both in the limited regulatory tools available to EJ communities and in the power imbalances among actors in the planning process. As a result, existing planning practices can often act to perpetuate, rather than confront and reverse, our state’s long histories of government-backed redlining practices and excessive pollution burdens in low-income communities of color.\(^7\)

Limited Regulatory Tools for EJ Communities

Although some regulatory tools exist to address these unfair pollution burdens in EJ communities, they are either currently under attack or are often ineffective at giving meaningful voice to EJ community members.

For example, the California Environmental Quality Act (CEQA) is one of the few laws that provides EJ communities with opportunities to learn about the health impacts of a polluting plan or project and to voice their concerns, even bringing legal challenges as necessary.\(^8\) However, it is increasingly under attack by developers and state government actors (including recent governors and members of the Legislature) who blame CEQA for the housing crisis in California. This unfair misconception ignores the fact that many housing projects are already exempt from environmental review\(^9,10\) and that researchers found that CEQA did not unduly delay projects.\(^9,10\)

\(^7\) For instance, CEQA-related housing exemptions include infill exemptions as well as tiering from specific or community plans, among many others. Janet Smith-Heimer and Jessica Hitchcock. CEQA and Housing Production: 2018 Survey of California Cities & Counties (ii–iii, 10); https://senvсенеате.са.го/сites/senv.senate.са.gov/files/ceqa_and_housing_production_report.pdf.
In addition, this focus on CEQA alone ignores the complexity of the housing crisis, which persists due to many issues including high building costs, non-CEQA-related neighborhood opposition, a lack of available sites, and the local permitting process. Meanwhile, the local land use process itself does not create many meaningful channels for EJ communities’ voices. At the planning level, there are a variety of abstract, long-range, and technical tools, such as the General Plan and the Planning or Zoning Code, that can be difficult to interpret or connect to the near-term future of local land use. General Plans are also not static and can be amended for individual projects. Current General Plans also tend to perpetuate land use decisions made decades ago that continue legacies of segregation, such as where to build freeways, site industrial uses, and designate residential areas. In addition, individual development projects often arise with inadequate or little notice to impacted EJ community members. It can also be incredibly difficult to understand the land entitlement process and how to effectively intervene.

The inherent difficulty in conducting meaningful community engagement can be exacerbated by the makeup of planning personnel themselves. Land use planning is a profession that has historically been dominated by white men. In a state that is 63 percent people of color, only 27 percent of planners are people of color (as of 2016). As a result, most planners do not come from or have a deep understanding of the issues in EJ communities, which can make community engagement strained or, at worst, ineffective.

**Power Imbalances Among Planning Actors**

Beyond limitations in the planning process itself, many of the dominant, highly organized participants also tend to not prioritize EJ interests—and often threaten them instead. Land developers, backed by pro-business groups, ultimately propose a majority of the projects that are decided by planning staff, the planning commission, and city council. While development projects occasionally align with EJ communities’ needs, financial interests often prioritize projects such as market-rate housing or industrial facilities that provide economy-serving jobs over projects that promote community health and well-being. Such developers often have the financial resources to hire lobbyists, public relations specialists, and lawyers to ensure the success of their projects.

In addition, the residents who frequently participate in the local planning process have also historically prioritized their personal interests over the needs of EJ communities. In general, the people who often turn out to planning meetings are the so-called NIMBY (“not in my backyard”) community members who resist new development in their neighborhoods. These are often whiter, older, more affluent homeowners who tend to be very well organized. By successfully fighting against undesirable land uses, such as heavy industry and refineries, from being sited in their more well-resourced neighborhoods, NIMBY homeowners have pushed these land uses into EJ communities where there is often less awareness and thus less organized resistance to these projects.

As a result, political forces at the local level do not generally act in favor of EJ communities, and unless otherwise directed, “local control” tends to effectively mean control by real estate, industry, and NIMBY homeowner interests.

In sum, local control can further exacerbate historic and systemic inequalities in EJ communities when it is used to justify decisions that lead to greater damage and worse health outcomes in overburdened EJ communities. As a result, decision-makers at all levels of government must work to create better policy pathways for community-led land use decision-making.

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c The land entitlement process can be defined as “the series of predevelopment activities involving the submittal of plans to city, county, state, and federal governments to secure approvals and permits to develop a property for a desired use.” See more on p. 1 at: https://ww2.energy.ca.gov/2009publications/CEC-500-2009-089/CEC-500-2009-089.PDF.

d For example, see the more than $18.1 million spent lobbying LA City Council in Q2-2019 by developers and others pushing projects and business in LA. Los Angeles City Ethics Commission. Q-2 Lobbying Summary; https://ethics.lacity.org/news/over-18-1m-spent-to-lobby-city-in-q2-2019/.
As a global leader in environmental protection, California passed several goals and strategies to advance environmental justice and create effective climate solutions. While AB 32 (Nunez, 2006) and subsequent laws have focused on reducing greenhouse gas emissions and other types of pollution, the policies that are the most meaningful to EJ communities are those that directly reduce pollution at the source in low-income communities and communities of color, while also providing resources to promote greater representation by these communities.

In 2010, the California Air Resources Board (CARB)’s EJ Working Group (consisting of community-based organizations and academic researchers, among other stakeholders) recommended the development of an innovative tool that could measure cumulative environmental, health, and socioeconomic impacts in order to identify the areas of the state most impacted by poverty and pollution. Soon afterward, the California Environmental Protection Agency (CalEPA) directed the Office of Environmental Health Hazard Assessment (OEHHA) to develop the California Communities Environmental Health Screening Tool (CalEnviroScreen) to assist in the identification of “disadvantaged communities” for the purposes of providing greater protections and benefits to those communities. SB 535 (De León, 2012) and AB 1550 (Gomez, 2016) ensure that at least 25 and 10 percent of state funding from the Greenhouse Gas Reduction Fund (GGRF) directly benefit disadvantaged communities and low-income communities,
respectively. These laws reduce greenhouse gas emissions while directing much-needed housing, infrastructure, and other environmental and economic benefits to those neighborhoods. One notable program, the Transformative Climate Communities (TCC) program (AB 2722; Burke, 2016), directs large-scale grants to transform some of the state’s most impacted EJ communities into healthy and vibrant neighborhoods. The TCC program embraces community-led planning by requiring applicants to collaborate across sectors, conduct extensive community engagement, maximize neighborhood-serving benefits, and incorporate a host of displacement avoidance strategies.

In addition to ensuring that investments are led by and directly benefit EJ communities, the Legislature has also created laws to require local and state agencies to, at minimum, consider environmental justice impacts and increase EJ communities’ involvement in land use decisions. Importantly, AB 2616 (Burke, 2016) required a number of state agencies, from the California Coastal Commission, to the California State Lands Commission to create EJ and tribal consultation policies. AB 2616 also authorizes the Coastal Commission to consider environmental justice or “the equitable distribution of environmental benefits throughout the state” when making decisions on coastal development permits. Finally, SB 1000 (Leyva, 2016) requires cities and counties with disadvantaged communities to include an environmental justice element or EJ policies in their General Plans.

While these laws are promising first steps toward achieving environmental justice, they are difficult to fully implement on the ground, in part due to resistance by special interest groups and local control proponents. In addition, EJ communities often face similar technical knowledge barriers and political power imbalances even with these state laws in place. (We shall discuss some of these key challenges in more detail during the case study on SB 1000.) We note that creating additional policy tools to reverse institutional discrimination and remediate toxic dumping in EJ communities does not always require a systemic overhaul at the local or state levels. Oftentimes, it can entail a new approach to local and state decision-making that is centered around community-led visions and expertise.

A. An Introduction to Public Participation and Community-Led Decision-Making

We offer an improved approach to governmental decision-making that can advance California’s goals for environmental justice: basing planning and land use decisions upon a community-led process. We define “community-led decision-making” as a meaningful process by which governmental entities proactively work with and directly address the needs and priorities of affected EJ community residents when making decisions.

To be clear, community-led decision-making does not simply mean the most minimal levels of outreach, such as providing public notice and conducting a hearing, or facilitating an informational workshop. The International Association for Public Participation (IAP2) developed the following “Core Values for Public Participation” to further define what public participation should ideally look like through the following goals:

- Public participation is based on the belief that those who are affected by a decision have a right to be involved in the decision-making process.
- Public participation includes the promise that the public’s contribution will influence the decision.
- Public participation seeks out and facilitates the involvement of those potentially affected by or interested in a decision.
- Public participation communicates to participants how their input affected the decision.22

Similarly, community-led decision-making in the environmental and land use context means that governmental entities should invite EJ communities to the table, let EJ communities...
know how their feedback will be used to inform the final decision, and explain how EJ communities’ recommendations were actually incorporated into the final decision.

We also note that our concept of community-led decision-making aligns with the American Institute of Certified Planners (AICP) Code of Ethics and Professional Conduct that provides ethical standards to which all certified city and regional planners must already adhere. For instance, in accordance with objective 1e), AICP planners are committed to giving people “the opportunity to have a meaningful impact on the development of plans and programs that may affect them.” Objective 1e) further notes that “participation should be broad enough to include those who lack formal organization or influence.” In addition, objective 1f) states that planners shall “seek social justice by working to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of the disadvantaged and to promote racial and economic integration.” The objective also states that planners “shall urge the alteration of policies, institutions, and decisions that oppose such needs.” These values, if adhered to meaningfully, substantially overlap with our notion of community-led decision-making.

Furthermore, community-led decision-making is not only important from an ethical and legal perspective, it is also necessary because it creates meaningful public engagement that can ultimately lead to better-informed policymaking and healthier neighborhoods for all. Below are several reasons that underscore the need for community-led decision-making:

1. **Community-Led Decision-Making Advances Civil Rights and Procedural Justice.** Local planning decisions must comply with federal mandates and state civil rights laws. These include California’s Government Code on unlawful discrimination (Section 11135), the California Fair Employment and Housing Act (Govt. Code Sections 12900), and Title VI of the Civil Rights Act of 1964. These laws prohibit public agencies from engaging in discriminatory actions on the basis of race, color, or national origin.

The state of California also recognizes what community-led decision-making looks like through **AB 1628 (R. Rivas, 2019).** First, AB 1628 modified the state’s definition of environmental justice to include the “fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins” in environmental decision-making. This law also provides that EJ means that governmental entities engage and provide technical assistance to promote the meaningful participation of overburdened communities throughout all phases of the environmental and land use decision-making process. Finally, EJ also includes that governmental entities, at a minimum, meaningfully consider any recommendations from populations and communities most impacted by pollution. In essence, AB 1628 clarifies that governmental entities should engage and listen to recommendations by communities affected by pollution in order to advance environmental justice at the state, regional, and local levels.

These laws emphasize that, from a procedural standpoint, impacted EJ communities have a right to know about toxic and polluting projects that may be sited in their neighborhoods, and should be included in decisions that can impact their health and livelihoods. From the environmental protection and social justice perspectives, these laws highlight government entities’ responsibilities to address disproportionate pollution burdens in low-income communities and communities of color.

2. **Community-Led Decision-Making Allows for Meaningful Public Process.** Promoting this community-led process is important for more reasons than simply gaining greater public support and buy-in for government decisions. Community-led decision-making can also achieve the following goals and benefits: 1)
It fosters a culture of government integrity through its transparent communication with the public; 2) It demonstrates that community input has been heard and is viewed as valid; 3) It promotes the inclusive representation of affected community members regardless of race or income, etc.; and 4) It requires government decision-makers to invest sufficient time, effort, and resources into ensuring a truly high-quality and engaging process. Such qualities are key to a successful public participation process, according to the United States Environmental Protection Agency (EPA). The EPA further states that, while local governments are required to hold public meetings and solicit comments on various land use decisions, such processes are only meaningful if the public has an opportunity to concretely contribute to and influence a final decision. The federal agency also points out the need for transparency and going beyond the basic requirements of the law in order to build a solid and productive working relationship with the public.

3. **Community-Led Decision-Making Promotes More Informed Decisions.** People who live and work on the ground in neighborhoods, who are the closest to the problems, oftentimes have some of the most valuable insight and data that should be included in a decision. Community-led decision-making is thus important because government actors are unlikely to have all of the information necessary to make educated decisions by themselves. As the EPA Public Participation Guide also states: “Public participation contributes to better decisions because decision-makers have more complete information—in the form of additional facts, values, and perspectives obtained through public input—to bring to bear on the decision process.”

Collecting accurate data is important to ensuring that problems are correctly and thoroughly analyzed in order to implement effective solutions for a healthier environment. In recent years, community-led ground-truthing processes have been increasingly incorporated into government- and academic-led research.
projects to strengthen and enhance data-gathering. Ground-truthing can be defined as “a community fact-finding process where residents supplement technical information with local knowledge in order to better inform policy and decisions.” This process has revealed that data collected by governmental entities and researchers may be out of date or inaccurate in location or media. Furthermore, EJ community members can provide expertise in the form of more diverse perspectives and more accurate data to both define the problems that must be addressed and identify the best solutions to advance their neighborhood’s overall well-being.

4. **Community-Led Decision-Making Generates Innovative Solutions that Improve Community Health.** Community-led decision-making is also critical because it can lead to cleaner and healthier environments for all community members. In particular, a community-led process is central to creating healthy “Green Zones” communities across California. First envisioned in 2010 by leaders from the California Environmental Justice Alliance (CEJA), the Green Zones Initiative was inspired by years of grassroots organizing in communities and encountering various barriers to securing protections and investments for some of the most highly impacted EJ communities in the state. Green Zones are defined as “place-based strategies that use community-led solutions to transform areas overburdened by pollution into healthy, thriving neighborhoods.” These areas are often neighborhoods that have experienced long histories of pollution, where residents have been organizing to reduce industry-related harms and bring about coordinated new opportunities for equitable, community-serving improvements. Community-led decision-making is one of the four core principles of CEJA’s Green Zones Initiative, since those who directly experience environmental pollution and other injustices can often envision the types of solutions that may work best for their neighborhoods.

Ultimately, however, community-led decision-
making is not simply a concept; it works in practice. In Section IV, we present case studies to demonstrate why community-led planning is needed, what happens when it is not prioritized, and how different municipalities and communities have adopted this approach to create healthier and more effective land use decisions for cities and regions across California.

B. Consistency with Land Use Laws

In this report, through the case studies and recommendations that follow, we highlight strategies that can advance community-led decision-making, both through particular policies and planning practices. Given the imbalanced power dynamics at the local level (as outlined in Section II), at times this may require state policies to guide environmental and land use planning. To some, the idea of state intervention into local land use decisions may seem like overreach, given the state’s historic delegation of land use decisions to local government entities. And indeed, out of deference to local control, state agencies and the Legislature have sometimes been reluctant to exercise their power to strengthen or enforce planning laws and hold local governments accountable for their decisions that negatively impact the environment and community health. However, it should be noted that “local control” does have its limits, and that the state already does play a significant role in current planning practices.

It is true that the Legislature has historically and legally delegated land use decision-making to the local level. Currently, local and regional governments are the primary actors making land use decisions. The power of local governments to regulate land uses stems from their “police power” as authorized under the California Constitution. Article XI, Section 7 provides that “[a] county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.” Police power allows local governments to establish local zoning ordinances and land use laws that control development as a means to serve the “general welfare.” The Legislature has also historically recognized the primacy of “local control” over land use regulation and has codified “its intention to provide only a minimum of limitation in order that counties and cities may exercise the maximum degree of control over local zoning matters.”

However, the power of “local control” does have certain important limits. Local governments must already follow broad legal frameworks provided by the state Legislature that largely guide local and regional planning processes. State law also preempts local ordinances that conflict with state laws. In addition, the Legislature has mandated several affirmative requirements for local governments to “affirmatively further fair housing” and advance environmental justice.

As a result, the legal basis for “local control” should not be seen as a barrier to using state policy to advance community-led decision-making. Rather, the Legislature can and should play a proactive role in shaping the local land use process in order to protect public health, support EJ community self-determination, and to safeguard entire cities and communities.

f A conflict exists when the local ordinance “duplicates, contradicts, or enters an area fully occupied by general law, either expressly or by legislative implication.” Sherwin-Williams Co. v. City of Los Angeles (1993) 4 Cal. 4th 893, 897-98. However, “when local government regulates in an area over which it traditionally has exercised control, such as the location of particular land uses, California courts will presume, absent a clear indication of preemptive intent from the Legislature, that such regulation is not preempted by state statute.” See Big Creek Lumber Co. v. County of Santa Cruz (2006) 38 Cal. 4th 1139, 1149-50

g Since 1969, the state has required all local governments to plan for the housing needs of their residents by creating and updating the Housing element of their General Plan, and by providing opportunities for housing development based on their Regional Housing Needs Allocation (RHNA) and other identified community housing needs. See more at: https://www.hcd.ca.gov/community-development/housing-element/index.shtml. Similarly, SB 1000 (Leyva, 2016) requires all cities and counties to incorporate an EJ element or EJ goals and policies throughout their General Plan if they have disadvantaged communities within their jurisdiction.
IV. CASE STUDIES: THE POWER OF COMMUNITY-LED DECISION-MAKING

To better understand what community-led decision-making could look like on the ground, the following eight case studies illustrate the importance of listening to residents from EJ communities. While these community members are highly impacted by pollution and other environmental burdens, they also hold expertise and can offer viable solutions for creating healthier and more common sense land use decisions. These stories also demonstrate the injustices that often occur when local governments ignore residents’ needs and concerns and fail to hold polluters accountable for the harm that they inflict on EJ communities.

A. CASE STUDY: A Community Fight Against a Crematorium in East Oakland

In the Bay Area, Richmond residents and later East Oakland residents fought for more than a decade against a proposed crematorium project for their cities. Their campaign and the ultimate permitting of the crematorium reveals the inadequacies of the local land use permitting process in protecting community health, despite strong and vocal resistance.

In 2006, Stewart Enterprises, a corporate owner of crematoriums and funeral homes, made a proposal to move their crematorium out of Emeryville, a city that has become increasingly residential. The intended location was in North Richmond, a community that is predominantly low-income and people of color, where residents received no notice of the proposed project to incinerate up to 3,000 bodies a year. Even the planning commissioners who were considering the required zoning modification were not notified of the health risks that would result from the project’s vaporized mercury emissions—a fact that multiple commissioners later said would have influenced their votes. Once the community became aware of the project, however, 150 residents mobilized to the City Council meeting to protest the proposed zoning changes, prompting the Council to reject the zoning changes unanimously.
With the Richmond project no longer viable, Stewart Enterprises continued to operate its existing crematorium for several years, during which the company was acquired by Service Corporation International (SCI). Today, SCI is the largest single corporate owner of crematorium, cemetery, and funeral service facilities in North America, worth more than $7 billion and operating nearly 2,000 funeral homes and cemeteries.45

In 2011, the crematorium attempted to relocate to the Columbia Gardens neighborhood of East Oakland, a majority African American and Latinx community next to the I-880 freeway. That August, the company quietly applied for a zoning clearance in a commercial zone for a nearly identical crematory project. Planning staff determined that the project did not require discretionary review h and easily approved it. Once again, nearby residents were given no notice of the project.

After being alerted to the project, Communities for a Better Environment (CBE) and alarmed community members worked with councilmembers to introduce an emergency ordinance that would require discretionary review for all crematoriums, creating a mandatory public notice and community engagement process. Five days after SCI received the building permit for its crematorium, the emergency ordinance was passed,46 and SCI was given notice that the project would require a conditional use permit (CUP).

This battle continued for years, as SCI filed a lawsuit contesting the ordinance, and CBE sued the city over the original permitting of the project. Community members rallied, submitted hundreds of letters, and raised regional awareness of the dangerous project proposed for their backyard.47

After years of pressuring the City Council, community members won permanent rules requiring discretionary review for all crematories, including a health risk analysis for all proposed projects—a major victory for East Oakland residents.48

Ultimately, however, the courts ruled in favor of SCI in 2016, arguing that because the emergency ordinance was passed just days after they had secured their building permit, they had a right to develop. Despite widespread concern, the crematorium’s permit was granted in 2018 and began operations later that year.49

This campaign demonstrates the challenging context that EJ communities often face during land use struggles. SCI is just one example of the many large corporate polluters that have the ability to “forum shop” between different environmental justice communities to site a toxic facility, with the resources to defend against many years of community opposition. As demonstrated in both Richmond and East Oakland, community members are often given little, if any, notice of projects proposed for their neighborhoods, let alone warnings regarding the health risks of these projects.

B. CASE STUDY: Overcoming Politics with People Power and a Plan in National City

In 2017, residents from National City’s Old Town neighborhood fought and successfully won a campaign to stop an auto body shop from illegally expanding in their neighborhood. The company, Perry Ford of National City, was attempting to engage in new operations at the site when inspectors discovered that the business not only lacked a building permit, but also a business license and zoning approval to conduct such practices.50 In order to protect low-income and immigrant families living nearby at the Paradise Creek affordable housing development, local residents and community leaders utilized the city’s 2010 Westside Specific Plan (WSSP) to show that Perry Ford’s expansion would violate the WSSP’s

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h “Discretionary review is a process that permits local officials, usually the planning commission, to review a specific development proposal and either attach conditions or deny approval.” Fulton and Shigley, Guide to California Planning (139). Discretionary review requires a local government to evaluate a project beyond the zoning and planning code and provides the public with an opportunity to weigh in on the decision. See more at: Janis Birkeland. 2002. Design for Sustainability: A Sourcebook of Integrated Eco-Logical Solutions. Earthscan Publications (254).
aim to separate homes from nearby businesses that work with toxic and hazardous materials.51

This success was largely due to the perseverance of resident leaders who have been organizing for years with the Environmental Health Coalition (EHC), a community-based environmental justice organization that works throughout the San Diego/Tijuana region.52 The WSSP’s focus on separating incompatible land uses to protect community health was largely the result of feedback provided by local residents and EHC’s staff. Despite the plan’s approval in 2010 and a second time in 2017 to approve the Paradise Creek Apartments,53 the Perry Ford auto body shop is located directly behind the apartment development complex.54

According to Sandy Naranjo, former EHC staff organizer, when EHC first learned of Perry Ford’s request for permit, they quickly realized that it would violate the WSSP. It contains a clear matrix that defines the types of developments that are allowed with a conditional use permit, which does not include auto body uses.55 Local residents and EHC leaders mobilized in force to the Planning Commission meeting to protest the permit’s approval. Despite the Planning Commission’s vote to deny the permit following community members’ and EHC’s testimonies, Perry Ford successfully appealed the Commission’s decision and took their matter up to the City Council.

In turn, National City’s City Council voted 3 to 2 to overturn the Commission’s recommendation and hold a new vote to decide the fate of Perry Ford’s permit. It had a few options: 1) Deny the permit; 2) Approve the original permit; or 3) Approve the permit with modifications. By the end of the night, with local residents filling the entire chamber of City Hall in protest, the City Council voted to accept the permit, but with modifications that would prevent the shop’s operations from violating the policies of the WSSP.

While the local community was disappointed that a permit was approved for Perry Ford, they celebrated the fact that the modified permit would restrict the company from engaging in car detailing operations and from storing toxic and polluting substances at their site.56 The new permit also required the shop to adhere to protective guidelines so that its operations would not lead to any negative health impacts on nearby residents,57 such as using only certifiable biodegradable products.58

This community-led campaign to prevent Perry Ford from harming nearby residents illustrates the importance of listening to the voices of impacted EJ community residents. On the night of the final City Council vote, National City resident Alicia Sanchez reflected on the community’s collective achievement: “My neighbors and I have been involved for more than a decade to build a better future for Old Town National City. . . . Today, I feel proud to know that our elected officials found a way to protect our health while also keeping local business in the community. It’s a win for everyone.”59

C. CASE STUDY: Southeast LA Community Leaders Shut Down a Metal Recycling Facility

In Southeast Los Angeles, where industrial facilities are located next to homes and schools in a predominantly low-income and people of color neighborhood, local residents succeeded in shutting down a scrap metal recycling facility that had been polluting the neighborhood for years. Working alongside other community members, they demonstrated the illegality of Central Metal’s operations and convinced Los Angeles County to deny the facility’s permit.

The campaign first began in 2011, when residents approached Communities for a Better Environment (CBE) to address their concerns with Central Metal. Together, they observed the facility’s operations and interviewed nearby residents. They soon discovered that residents suffered from high noise levels, bad odors, metallic dust in homes, and constant vibrations from truck traffic.60 After conducting further research, they also found that Central Metal had committed numerous violations. For instance, while the facility had a permit to operate on four
acres, it had actually been operating on 12. And while the permit stated that Central Metal would only operate during certain daytime hours, it was in fact operating at all hours of the day and night. The facility also committed numerous violations over the years, including three for mismanaging stormwater runoff that contained toxic chemicals such as zinc and lead.61

However, when CBE and Southeast LA resident leaders initially went to their local elected officials to report these problems, they were discouraged by their lack of response. Some of the officials' staffers even told residents to “move out of the area” if they had concerns with Central Metal, as if that were an appropriate solution for the problems plaguing the entire area.

When Central Metal officially applied for a conditional use permit in 2016 to operate within 12 acres, CBE and resident leaders engaged in extensive neighborhood outreach to organize a high turnout for the Planning Commission’s hearing. As a result of their efforts, the Commission decided to deny Central Metal’s permit at the hearing, preventing the company from processing scrap metal moving forward.

Permit denials are extremely rare; in fact, this was the first time the county had ever denied a permit or had shut down a facility. The successful campaign to shut down Central Metal illustrates not only the power of resident leaders, but also the importance of centering community voices in land use decisions. CBE’s Dilia Ortega reported that the community's high level of vigilance was key to the campaign’s success: “Community leaders were excellent watchdogs. One person documented everything bad that happened at the facility and even took pictures and recorded videos. We constantly called the Planning Department to notify them of problems, and CBE’s legal team was crucial in working with decision-makers.”

Today, Southeast LA residents remain active CBE members and are creating a new community-led vision for the facility and the area. While site cleanup would be an extensive endeavor, residents are committed to turning the area into something that can benefit the neighborhood. “The community wants this area to be rezoned so that it’s no longer industrial,” says Ortega. “There are three schools within an immediate radius of the facility. Everyone wants this to be turned into a community resource. We are trying to envision what that new use should be, but we need to evaluate the contamination of the area first.”

Due to the success of their campaign, Los Angeles County has initiated a partnership with CBE to help determine the future of this site. Through the LA County “Green Zones” initiative, they are investigating the area, ground-truthing data, and are developing a community-led vision for a healthy and thriving Los Angeles.

D. CASE STUDY: The Importance of Notification for EJ Communities: AB 2447

Assembly Bill 2447 (Reyes, 2018), the Vulnerable Communities Inclusion Act, sought to ensure that disadvantaged community residents received adequate notice and had opportunities to provide input on CEQA-related projects that could
impact their health, housing, and neighborhood quality. Far too often, permitting decisions take place without community input, especially from populations that would bear the brunt of those decisions. Existing legal requirements to include EJ communities in decision-making processes are limited and often wholly ineffective.

The failure to incorporate the voices of the most impacted communities has real-life impacts. In 2017, the city of Fresno approved a 2.1 million-square-foot warehouse that would generate approximately 6,250 truck and car trips daily.62 The mitigated negative declaration (MND) for the project determined that the project would not produce significant impacts. However, the project site was located next to homes and an elementary school that was predominantly Southeast Asian and Latino students (90 percent of whom received free or reduced-priced lunches), and was ranked as one of the highest polluted communities according to CalEnviroScreen. Moreover, the neighborhood was already impacted by two industrial businesses: an Amazon warehouse whose construction-related dust coated residents’ homes and cars and triggered allergic and asthmatic symptoms, and an Ulta Beauty distribution center. Despite these factors, the project did little to mitigate the impacts on surrounding neighborhoods, and local residents were not notified of the project. Instead, they were alerted to the project through a local news story.

Given the makeup of the community and the potential negative impacts that would occur should the project move forward, Leadership Counsel for Justice & Accountability (LCJA) got involved by making sure that residents were notified of the proposed development and their rights under CEQA. Exhausting administrative steps, LCJA and Shute, Mihaly & Weinberger LLP filed a lawsuit63 on behalf of the resident group that formed in February 2018. The causes of actions included violating CEQA and General Plan inconsistency. The California Attorney General’s Office also intervened to support their cause. Finally, tremendous resident advocacy led the developer to rescind its development permit approval and the city’s adoption of the MND in January 2019.

While South Fresno residents succeeded in fending off the monstrous warehouse project, many communities are not informed of proposed projects until it is too late to engage. In order to ensure that input from EJ communities are considered in decisions, EJ advocates from across California came together to advocate for AB 2447, which would require notice and public outreach for developments that are likely to cause negative health and environmental impacts in disadvantaged communities. The bill also required that notice was provided in the most commonly spoken local languages to adequately inform and give communities an opportunity to comment on proposed development.

The bill successfully passed through the...
Legislature despite opposition from special interest groups and local control proponents. When it came time for Gov. Edmund G. Brown Jr. to sign or veto the bill in 2018, however, he decided to return the bill without his signature. His veto message stated in part, “Land use is quintessentially a local matter. I believe that the notice and meeting requirements, as outlined in this bill, are too prescriptive. Disadvantaged communities are entitled to clear and adequate notice, but zones of notice and the definition of projects subject to the requirements should be flexibly defined to reflect the vast diversity of our state.”

Gov. Brown’s comments unfortunately reflect the prioritization of local control over robust statewide protections that are intended to prioritize the needs and health of EJ communities, who are the most impacted by environmentally burdensome projects.

E. CASE STUDY: National City’s Amortization Ordinance

In National City, community members used an innovative land use tool to clean up their neighborhoods, demonstrating the kind of land use solutions that are possible when community members are deeply and meaningfully involved in the planning process.

For decades, local resident leaders who serve as organizers with the Environmental Health Coalition (EHC), or promotoras, have been central in organizing other community members to engage in land use planning for their neighborhoods. Through their leader training program called Salud Ambiental, Líderes Tomando Acción (or SALTA) and land use education sessions, organizers introduce community members to the planning process so that they can become leader advocates for the future of their neighborhoods.

In the early 2000s, the community was deeply engaged in developing the Westside Specific Plan (WSSP) to craft a vision that would ensure compatible land uses between industrial and residential areas, while also ensuring a vibrant community with affordable housing, high-quality public transportation, and improved environmental health. The WSSP is extremely important for this community, a majority Latinx neighborhood containing a mix of residential and toxic industrial uses. Homes are frequently surrounded by auto body shops, chrome plating facilities, and chemical
supply houses, on top of the diesel pollution from trucks coming in and out of the Port of San Diego. In 2010, the WSSP was successfully adopted.

However, a pervasive challenge with land use zoning is that it is primarily forward-looking, addressing where new development is permitted. Out of deference for facilities’ property rights, cities generally choose to “grandfather in” existing land uses, meaning that they can continue operating even if they are out of compliance with the local zoning. These so-called “nonconforming” uses can be hazardous to public health, and community members often have little recourse to make changes.

Community members in National City understood this limitation, and in the years prior had come up with a strategy to develop an “amortization” ordinance that would allow the city to phase out nonconforming uses. By working with the University of San Diego’s Environmental Law Clinic, EHC and community members developed an ordinance that would allow the Planning Commission to identify and prioritize nonconforming land uses to phase out over time. Community members, many of them mothers concerned for the health of their families, showed up to City Council meetings and gave testimony to demonstrate the need for this policy. In 2006, the city passed one of the nation’s first amortization ordinances designed as an environmental justice strategy.

Since the ordinance’s passage, National City’s Planning Commission has reviewed existing nonconforming land uses and has ranked the worst offending facilities. In 2013, the City Council approved a time frame to phase out two auto body shops that were two of the worst offending businesses in the neighborhood, demonstrating the initial success of the ordinance. At the same time, however, its effectiveness has been limited by the city’s hesitancy in using its powers to amortize nonconforming uses. This issue is further complicated by the fact that the rights of polluting businesses are often protected against the protests of community members.

While National City’s amortization ordinance has faced complications with implementation, it still remains one of the most promising solutions for addressing incompatible and grandfathered land use problems in California. This is important as a majority of communities across the state still lack options for phasing out nonconforming uses, proving that this issue remains a substantial gap in the local land use planning process. EHC’s promotoras demonstrated that EJ community members can devise innovative solutions for improving public health in land use planning, proving that EJ community residents deserve to have a voice in local decisions that may impact their health and well-being.

F. CASE STUDY: Planning for Environmental Justice Through SB 1000

Authored by Sen. Connie Leyva in 2016, Senate Bill 1000 has transformed the way in which many cities and counties now engage in long-range planning in California, by requiring General
Plans to incorporate environmental justice goals and policies in order to support the needs of “disadvantaged” or EJ communities. The law was inspired by the creation of California’s first two environmental justice elements for the cities of National City in 2011, led by the Environmental Health Coalition (EHC), and Jurupa Valley in 2014, led by the Center for Community Action and Environmental Justice (CCAEJ).

SB 1000 requires cities and counties to create an environmental justice element, or to integrate EJ goals, policies, and objectives throughout their General Plan, in order to reduce the “unique or compounded health risks” in disadvantaged communities. To achieve such goals, the plans are required to address, at a minimum, the following issues:

- Reduction of pollution exposure and the improvement of air quality
- Promotion of public facilities, such as infrastructure, parks, community facilities, etc.
- Promotion of food access
- Promotion of safe and sanitary homes
- Promotion of physical activity
- Promotion of civil or community engagement in the public decision-making process
- Development of improvements and programs that address the needs of disadvantaged communities.

While environmental justice is not new to the field of planning, SB 1000 is notable in clarifying this long-standing connection between planning, EJ, and public health. While the law promotes smarter and more holistic approaches to planning by providing an outline for incorporating EJ goals and policies into long-range plans, these requirements were intended to serve as a floor rather than a ceiling. By creating the SB 1000 law, Sen. Leyva and EJ communities statewide hope that more cities and counties will begin to create healthier land use decisions that can lead to improved outcomes for their EJ communities.

Nonetheless, a significant number of cities and counties still face challenges in implementing the law. For instance, some have failed to identify the most polluted and underserved communities or conduct a disadvantaged communities analysis, preventing those residents from having their needs and issues addressed in the plan. Second, many cities and counties do not actively engage the public, especially residents who are most impacted by poverty and pollution, during the General Plan development process. A lack of inclusion of the public is not only contrary to the values of EJ, it is simply poor planning as well. As stated throughout this report, those who are impacted often maintain some of the most valuable insight, data, and recommendations to create an effective General Plan. Third, some municipalities have chosen not to comply with SB 1000 at all, despite the law’s requirements and legal trigger. Unfortunately, cities and counties that decide to forgo SB 1000 are continuing a legacy of discrimination, neglect, and harms against long-standing EJ communities within their sphere of influence.

Despite such challenges, EJ communities across California are working to ensure that their local governments comply with SB 1000. In Kern County, community residents repeatedly shared their priorities and policy recommendations with decision-makers over the years, which has allowed community members to serve as key stakeholders as the General Plan update continues.

While statewide legislation is important for providing baseline protections and requirements for California’s most vulnerable residents and polluted neighborhoods, the story of SB 1000 shows how good state laws alone cannot guarantee sufficient safeguards. Cities and counties must carry out...
the law in good faith to ensure that plans will successfully lead to concrete pollution reductions and other benefits for EJ communities, and must listen to the voices of EJ community members throughout the process.

G. CASE STUDY: A Clean Up Green Up Ordinance for Los Angeles

For the past 24 years, the Los Angeles Collaborative for Environmental Health and Justice has been taking on industries, local governments, and regulatory agencies in order to improve the quality of life for communities disproportionately impacted by pollution. It was formed in 1996 when Communities for a Better Environment and the Liberty Hill Foundation joined forces with academic researchers to study, fund, and support the burgeoning field of environmental justice. The Collaborative expanded to include other environmental health and social justice organizations performing groundbreaking organizing, research, policy, and advocacy work throughout the LA region.

In its 2010 Hidden Hazards report, the Collaborative identified several parts of the city as “toxic hot spots,” or neighborhoods experiencing “cumulative environmental impacts” that are “particularly acute.” These communities are home to thousands of low-income, black, and brown Angelenos who reside in neighborhoods disproportionately overburdened with hazardous uses such as oil wells, refineries, metal plating operations, auto body shops, and other manufacturing facilities. While a number of agencies are charged with establishing regulations to ensure the safety of those living near hazardous industrial facilities, these watered-down regulations coupled with lax oversight and enforcement had repeatedly proven to be inadequate protections for vulnerable communities. What’s more, many industrial facilities’ true adverse health impacts have yet to be identified by regulatory agencies, creating an even greater concern for those living near unchecked facilities.

In recognition of these realities, the Collaborative mobilized community residents to advocate for improved environmental health policies and launched a campaign that would result in greater protections in some of the city’s most vulnerable neighborhoods. The Collaborative engaged in ground-truthing and community air monitoring
to highlight key neighborhood issues and further engage the community through research. All of their findings elevated the case for new and improved policies for protecting the community. In fact, the data revealed that many pollution sources were either misidentified or entirely missed by regulatory agencies.\textsuperscript{71} Using these findings, the Collaborative was able to develop appropriate place-based solutions and launch the nearly 10-year Clean Up Green Up (CUGU) campaign. In 2016, the CUGU campaign won a precedent-setting city ordinance that for the first time officially acknowledged the significant challenges that EJ communities face. The Clean Up Green Up ordinance also enacted policies to mitigate some of the impacts of incompatible land use in three Los Angeles neighborhoods: Boyle Heights, Pacoima, and Wilmington.

While CUGU’s measures largely focus on prevention, they also include provisions for identifying existing harmful practices in order to mitigate harm. Regulations implemented under CUGU include stricter health-protective standards for new and expanding industrial operations, specified enclosures for certain air emissions, required signage to deter diesel idling, and buffers for auto-related facilities. In addition, on a citywide scale, the ordinance mandates high-grade filters for developments sited within 1,000 feet of a freeway and requires conditional use permits for the geographic expansion of oil refineries and asphalt manufacturing plants. However, the Collaborative's attempt to create a robust framework for issuing conditional use permits for all refinery operations in LA was unfortunately taken out of the initial draft ordinance under pressure from major oil lobbyists.\textsuperscript{k}

Lastly, the ordinance also created an ombudsman position within the city to help oversee the implementation of the program and to assist small businesses in navigating the cleaning and greening up processes (such as permitting, achieving compliance, and accessing resources). Since 2016, the Collaborative has been working with the LA Department of Sanitation & Environment to implement the CUGU ordinance.

Despite decades of regulatory failure at multiple levels, LA community organizations and residents were able to successfully advocate for the establishment of a local Green Zones policy that would take the first step in transforming some of the city’s most heavily polluted neighborhoods. The work and visioning of these impacted residents resulted in the city acknowledging the problems and enacting policies that would mitigate and even reverse many of the area’s historically harmful policies—not only in their neighborhoods, but in other overburdened communities throughout Los Angeles as well.

\textsuperscript{k} The Wilmington/Carson neighborhood hosts the largest concentration of oil refining on the West Coast, and the city of LA has been reluctant to exercise its much-needed jurisdiction over refineries for community protection. See, for example, Suzanne Rust and Tony Barboza. Feb. 27, 2020, “Fire Exploded from Part of Carson Refinery Recently Cited for Workplace Safety Issues,” Los Angeles Times; https://www.latimes.com/environment/story/2020-02-27/carson-refinery-fire-california-workplace-safety-violations.
H. CASE STUDY: Committee for a Better Arvin and an Oil and Gas Ordinance

In 2018, community leaders in Arvin pressured city officials to pass an unprecedented, health-protective oil and gas ordinance, and used the California Environmental Quality Act (CEQA) in litigation to protect residents from four new oil and gas wells. Twenty miles southeast of Bakersfield, Arvin lies directly over an oil field in Kern County, where the oil and gas industry exerts immense political power. More than 80,000 wells exist in Kern County. In Arvin, a dozen oil and gas wells are already operating next to homes and schools. Due in part to local oil and gas drilling, Arvin residents are exposed to ozone and particulate matter at concentrations higher than 94 to 98 percent of the rest of the state. Many residents suffer from severe asthma, allergies, cancer, and other illnesses.

In 2014, the Committee for a Better Arvin (CBA) and the Center on Race, Poverty & the Environment (CRPE) decided to take action to protect Arvin families from further oil and gas pollution. Over the course of four years, CBA members collected more than 2,600 petitions and spoke to city officials to advocate for modernizing the city’s oil and gas ordinance. Finally, they convinced the Arvin City Council to pass a new oil and gas ordinance on July 17, 2018, that creates a 300-foot setback between wells and residences, provides additional monitoring and reporting requirements, and significantly increases permitting fees.

Unfortunately, during the same time, the city also approved Petro-Lud Inc.’s application to drill four oil and gas wells in the middle of a residential neighborhood without any review under CEQA. Represented by CRPE and Shute, Mihaly & Weinberger, CBA filed a lawsuit challenging the city’s approval with the Kern County Superior Court.

Despite dozens of community members’ testimonies on the severe health impacts that can result from these oil and gas wells—and despite the finding in Arvin’s newest oil and gas ordinance that all oil and gas operations can significantly impact the city’s air, water, and soil, and are “incompatible with residential uses”—the city of Arvin approved Petro-Lud’s project by finding it “exempt” from CEQA under the “small structures” exemption. This exemption, however, is reserved for the construction of single-family homes, small shops, and similar projects that do not typically cause significant environmental harm. Fortunately, the Court decided the case in favor of CBA, concluding that CEQA’s small structures exemption could not be stretched to include Petro-Lud’s oil and gas project, reasoning that “[oil] and gas exploration and production are intensive industrial operations with a reasonably possible potential for significant adverse environmental effects.” The Court’s decision sends a clear message to local governments and to the oil industry that environmental impacts caused by oil and gas projects cannot be masked by improper reliance on a CEQA exemption.

Just as the new oil and gas ordinance is a remarkable demonstration of a community-driven, health protective land use policy, the litigation underscores that CEQA is one of the few and most critical tools EJ communities have to protect polluted families from harmful projects. It also underscores how much EJ communities have to work in order to succeed: Just when they think that they are making progress, they often find that they must begin fighting the next battle. As Estela Escoto, president of Committee for a Better Arvin, says: “Para nosotros, el haber detenido la construcción de los cuatro pozos es un gran logro para CBA, y vamos a seguir adelante luchando por nuestra comunidad.” (“For us, having stopped the construction of the four wells is a big victory for CBA, and we will continue fighting for our community.”)
V. RECOMMENDATIONS FOR PROMOTING COMMUNITY-LED DECISION-MAKING, LOCALLY AND STATEWIDE

The eight case studies in Section IV illustrate the important role that community-led decision-making has in producing more informed, equitable, and inclusive decisions that can lead to the creation of healthier and more prosperous neighborhoods. Building from these stories, we present the following recommendations for promoting community-led decision-making in planning processes and policies at the local, regional, and state levels.

1. Solutions to Promote Inclusivity in Policies and Decision-Making
   a. Honor the expertise and wisdom of EJ residents who live on the frontlines. As evidenced throughout this report, EJ community residents encounter enormous barriers to participating in decision-making, including language, time, and technical barriers, as well as political power imbalances. In order to ensure equitable and inclusive governance, governmental entities should develop effective outreach strategies, increase meeting and hearing accessibility, and incorporate the experiences of and recommendations by EJ communities into final decisions that affect these communities.

   b. Establish community advisory boards and EJ positions within local and state-level decision-making bodies. Since impacted EJ community residents are often excluded from important decisions that affect them, two important ways to increase community-led decision-making are through the creation of community advisory boards (geographic or topic-specific in focus) and EJ positions on decision-making bodies. In order to be effective, however, it is crucial that these boards or EJ positions maintain sufficient authority and independence so that they can influence final decisions. To facilitate community member participation on boards or in EJ positions, representatives should be given...
sufficient training to assist them with decision-making and should be financially compensated for time spent on this work.

c. **Provide funding for community-led and community-serving projects.** In addition to reducing pollution levels in EJ communities, governmental entities should also direct more infrastructure, funding, and critical resources to those neighborhoods. Specifically, we recommend that governmental entities create or increase funding for grant programs that:

- Support residents and community-based organizations (CBOs) that are already working with EJ communities to improve the environmental health of neighborhoods.
- Support the implementation of community-led research projects that engage in ground-truthing pollution impacts within EJ communities.
- Assist small and community-owned businesses in cleaning up and greening up their operations. Funding could support educational green business programs to help clean up their practices, and to assist CBOs in conducting outreach to increase small businesses’ participation in these programs.

2. **Solutions to Advance Environmental Justice in State Policy**

a. **Strengthen SB 1000.** SB 1000 should include additional requirements to ensure that local governments implement the law according to its spirit and intent. Solutions could include the following requirements: 1) A thorough process to involve EJ community residents in decision-making during the development of the EJ element or EJ goals and policies; 2) The clear identification of disadvantaged communities through a DAC map and by providing an explanation of the methodology used to identify them; 3) The creation of an SB 1000 implementation plan that identifies meaningful actions that will be taken to address the EJ goals and policies, and to reduce health disparities in affected EJ communities; 4) An effective process for holding cities and counties accountable for complying with the requirements of the law; 5) A clear legal trigger to delineate the conditions for when a city or county is required to initiate an SB 1000 process, with an additional timeline for periodic updates; and 6) A requirement to coordinate with other government agencies and departments that can provide expertise on issues such as water quality, air quality, public health, etc.

b. **Enhance notification for EJ communities.** The California Legislature should pass legislation similar to AB 2447 to ensure that EJ communities are aware of and can meaningfully participate in decisions on proposed projects for their neighborhoods (especially for projects that may exacerbate disparities in environmental quality). Both notice and meetings should facilitate residents’ full participation in the California Environmental Quality Act (CEQA) process. For instance: 1) Notice should be provided in locally spoken languages, disseminated using communications that are accessible to local residents, and tailored to specific demographics that face higher vulnerabilities; 2) Outreach workers must be multilingual, culturally competent, and should be able to build relationships with different community members; and 3) Meetings to solicit public comment on a proposed project should be scheduled and located in areas that maximize attendance and accessibility. These meetings should also present information in ways that are
easy to understand, and should include residents who would be most impacted by the project, with a focus on those least likely to participate in the planning process on their own.

c. **Protect and strengthen CEQA.** CEQA is one of the only tools that allows EJ community residents to learn about and influence land use project proposals in their neighborhoods. In order to uphold its purpose to encourage public participation and informed decision-making, the Legislature should not only protect but also strengthen CEQA. For instance, it should be improved to require governmental entities to conduct an environmental justice analysis that includes analyzing a project’s environmental impacts in low-income communities of color, as well as how a project may result in associated health impacts for those communities. Governmental entities should also provide additional notice and translation for project proposals near EJ communities. (See also recommendation 2b., above.) Furthermore, state, regional, and local agencies should collaborate to ensure that project developers implement effective mitigation measures throughout all phases of a project, including the post-construction period. Finally, the California Office of Planning and Research should improve its State Clearinghouse to ensure that all CEQA documents are properly included for all local and state projects.

d. **Provide guidance for the new definition of environmental justice.** AB 1628 updated the state’s definition of environmental justice to include the meaningful involvement of all people in environmental and land use decisions, among other goals. (See Section III. A. for more information on AB 1628.) To support the law’s implementation, the Attorney General’s Bureau of Environmental Justice could provide a guidance document on how various governmental entities should implement the law to advance environmental justice in communities across the state. Furthermore, environmental justice training should be provided to governmental entities as well.
3. Solutions for Healthier Land Use Planning

a. Require discretionary review for industrial uses near EJ communities. Governmental entities should require conditional use permits (CUPs) for proposed industrial uses and other uses that generate significant amounts of truck and freight traffic within or near EJ communities. Since these projects will likely result in significant environmental and health impacts, governmental entities should, through the CUP process, carefully analyze and minimize these impacts for residents who are already suffering from pollution.

b. Establish buffers between polluting and sensitive land uses. Governmental entities should create buffers that separate industrial and other polluting land uses from sensitive uses such as homes, schools, and senior centers in order to reduce public exposure to pollution. Existing polluting land uses should be required to meet additional performance standards on air and water pollution, noise, number of vehicle trips per day, etc., to minimize their impacts on EJ communities. Governmental entities should also identify certain uses that can serve as transition uses between incompatible uses, such as business retail or office space. Lastly, since many cities and counties are moving away from traditional zoning that focuses on building design, performance standards should be integrated into building codes to regulate impacts such as noise and vibration, pollution emissions, and vehicle trips—not only between buildings, but also within structures that contain different types of uses.

c. Strengthen policies that aim to separate incompatible land uses, including grandfathered uses. While National City’s amortization ordinance is a promising solution for addressing incompatible land use, the ordinance could go further to ensure that a higher number of polluting land uses relocate or are amortized each year. Solutions could include: 1) Shortening the time period or creating a cap that limits the number of years to amortize a business; 2) Restricting facilities from making improvements that could be used to justify an extension of the period for amortization; and 3) Requiring the new site’s zoning to be compatible with the facility, and that the new site maintains high performance standards to reduce impacts on nearby land uses, such as by adding buffers or transition areas. In addition, local governments could create a reserve or a public trust fund to support the cleanup and relocation of polluting business. (Also see recommendation 1c., above).

d. Properly transform formerly polluted sites into a public benefit. Once a polluting land use is shut down or relocated, the community is left to figure out the future of the contaminated site. Local
governments must fully remediate the site and should partner with state agencies, CBOs, EJ community residents, and other stakeholders to create and implement a vision for bringing community benefits and improved health to the neighborhood.

4. Solutions for Stronger Accountability and Transparency

a. Enhance pollution monitoring and enforcement in EJ communities. Regional and state agencies should increase pollution monitoring and enforcement in EJ communities to ensure that all polluting facilities comply with the law and permits. (In particular, enforcement should be prioritized for facilities with repeat violations and those that pose immediate public health and safety threats.) Agencies should also place air and water quality monitors near facilities that are located in EJ communities. To make these efforts possible, state, regional, and local agencies should prioritize funding for pollution monitoring and enforcement activities.

b. Implement an electronic tracking system for permits. Governmental entities should collaborate in creating a centralized, online database that allows agencies and the public to track permits and other data related to industrial uses and other uses that generate significant amounts of pollution and toxins. The database should include, at the very least, the various required permits, criteria pollutant and GHG emission levels, past and current violations, and completed mitigation measures associated with the facilities.

It should also be logically organized and reasonably easy to navigate, in order to ensure more widespread accessibility. This database would improve the transparency of facility operations, and could facilitate enforcement efforts by governmental agencies and the public.

c. Utilize cumulative impact screening tools to direct both benefits and protections to overburdened communities. Since pollution exposure, health problems, and socioeconomic challenges are not experienced in isolation from one another, governmental entities should analyze the totality of issues that impact a community using a cumulative impact framework. Tools such as CalEnviroScreen that measure cumulative pollution exposure and related health and socioeconomic vulnerabilities are important for identifying the areas that experience the greatest burdens at the state, regional, or local levels. Such tools can be used in combination with other data and indicators, and can be tailored to identify specific communities for greater protections (such as more frequent facility inspections, stricter permitting requirements, and heightened enforcement for violators), as well as targeted investments (such as infrastructure, public improvements, grants, and other resources).
VI. CONCLUSION

In 2014, a research group focusing on resident involvement in community change initiatives asked participants to define “resident engagement” in their own words—and highlighted the following responses:

“The challenges facing our communities are too complex and too entrenched to be addressed by any one sector, or one organization.... No one sector can do it alone.”73

“When residents are involved in identifying and developing solutions to challenges that affect them, they create solutions that make sense. After all, who is more familiar with the issues affecting them than the residents themselves?”74

These comments illustrate the thesis of this report: that governmental entities are more likely to create impactful solutions when they meaningfully involve the people and groups that are most directly affected by the issues. Community residents living on the frontlines of pollution and poverty often maintain expertise that most government actors lack and that may be difficult to capture through traditional data and research. Moreover, when EJ community residents have an opportunity to contribute to a final decision, new solutions for addressing pollution and improving neighborhoods can be identified, allowing local, regional, and state agencies to break away from the typical, and sometimes less effective, ways that things have been always done.

Involving EJ community members in decision-making is an essential component of environmental justice.
justice, which includes the goals of procedural justice and advancing civil rights, among other principles. Historic, systemic practices of discriminating against low-income neighborhoods and people of color in planning and policy decisions have led to these communities experiencing some of the greatest environmental harms, poor health outcomes, and neighborhood deterioration in our state. These issues continue to be furthered by the sometimes limited desire or ability of state government entities to intervene in local situations, and a general deference to local control that has allowed local governments to become the sole deciders over environmental and land use decisions—ones who often employ practices that exclude the voices of overburdened EJ community residents.

Governmental entities at all levels must shift their approaches to environmental and land use decision-making by prioritizing the voices of residents from EJ communities. Centering a community-led process allows for knowledge- and power-sharing with residents, who are oftentimes some of the greatest experts when it comes to their communities. This practice must extend beyond traditional minimal outreach efforts and should encompass true decision-making power, in which residents’ feedback can inform the final decisions in ways that advance social and environmental justice while achieving the goals of an effective public process.

Until these critical changes are made, various EJ community residents and community-based organizations will continue to fight against the unfair practices that have placed a majority of harmful and polluting land uses in their backyards—while also advocating for improvements that can transform their neighborhoods into healthy and vibrant places to live. As this report’s case studies have illustrated, low-income residents and communities of color often face disproportionately high health burdens when local governments dismiss their concerns and fail to hold polluters accountable for their detrimental impacts on local neighborhoods. Moreover, even when policies are designed to advance environmental justice and improve public health, implementation efforts must provide EJ community residents with meaningful decision-making roles and must ensure the accurate enforcement of the law.

In order to amend past legacies of discrimination against EJ community residents and advance the goals of environmental justice, actors at the local, regional, and state levels should integrate community-led decision-making throughout their planning and determinations. To do this, they should also base their policies and programs upon the Principles of Environmental Justice, identify and implement solutions for healthier and more common sense land use planning (including proposals from affected community residents), and ensure greater accountability over polluters.

We hope that the recommendations and lessons from this report will serve to inspire policymakers, planners, and other governmental entities to incorporate community-led decision-making throughout their efforts to create stronger, more resilient, and more livable communities.
VII. ADDITIONAL RESOURCES

**Best Practices in Planning for Environmental Justice**


**EJ and Climate Justice Mapping and Tools**


VIII. REFERENCES


5. EPA 40 CFR PRT 60, Carbon Pollution Emission Guidelines for Existing Stationary, 45.


8. See King & Gardiner Farms, LLC et al. v. County of Kern et al. (2020); https://www.courts.ca.gov/opinions/documents/F077666.PDF. (CEQA overturned a local ordinance fast-tracking 72,000 oil wells over 25 years without onsite environmental review.)


13. CA Govt. Code §§ 65358 et al.


22. International Association for Public Participation. IAP2 Core Values; https://www.iap2.org/page/corevalues.


24. Ibid.


30. Introduction to the Public Participation Toolkit (6).

31. Introduction to the Public Participation Toolkit (4).


34. Ibid., at 94.


40. See DeVita v. County of Napa, ibid.

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