

June 21, 2021

Governor Gavin Newsom  
1303 10th Street, Suite 1173  
Sacramento, CA 95814

Re: Intervention in Public Health Rulemaking

Dear Governor Newsom,

On behalf of the below signed organization and our hundreds of thousands of California supporters, we urge you to take immediate action to protect frontline communities and all Californians directly threatened by the impacts of living, working, or learning near oil wells. Today CalGEM has failed to meet its Spring 2021 deadline for a draft rule, marking yet another delay in the public health rulemaking process. It's been almost a decade since the California Legislature commissioned a study that recommended the state institute public health and safety buffer zones. Frontline communities cannot afford more delays. Your leadership can deliver equitable and effective relief today. By directing CalGEM to instate setbacks of *at least* 2,500-foot, you can ensure the forthcoming public health protections are meaningful and effective. And second, you can provide much needed protections today — by immediately enacting a moratorium on all new oil and gas permits within 2,500 feet of sensitive sites until the regulatory process is complete.

**Given CalGEM's long track record of failing to prioritize public health outcomes over fossil fuel interests, please direct your agency to instate nothing short of a 2,500-foot setback between fossil fuel operations and all sensitive sites.** By providing clear and unambiguous direction to CalGEM's public health rulemaking process, you can ensure that your agency delivers on its public health mission. Without your intervention, frontline communities will continue to be reliant on a regulatory agency that has a long history of inadequately regulating the fossil fuel industry.

Despite your efforts to reform the agency in 2019 — including an agency name change;<sup>1</sup> a new mission focused on public health, safety and environmental quality; new leadership;<sup>2</sup> and a new ethics policy<sup>3</sup> — CalGEM remains too close to the industry they are charged with regulating. Documented cases of lax enforcement,<sup>4</sup> giveaways to the fossil fuel industry<sup>5</sup>, and continued

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<sup>1</sup> <https://calconservation.blog/2019/12/31/calgem-replaces-doggr-in-2020/>

<sup>2</sup> <https://consumerwatchdog.org/news-story/newsom-appoints-two-top-oil-and-gas-regulators-including-for-mer-chevron-staffer>

<sup>3</sup> <https://www.desertsun.com/story/news/environment/2020/07/15/new-ethics-policy-imposed-california-oil-mining-land-regulators/5434802002/>

<sup>4</sup> <https://www.propublica.org/article/are-california-oil-companies-complying-with-the-law-even-regulators-often-dont-know> Also see:

<https://www.desertsun.com/in-depth/news/environment/2021/03/22/california-oil-regulator-calgem-struggles-enforcement-fines/4765429001/>

<sup>5</sup> <https://www.kqed.org/news/11817384/with-oil-industry-in-slump-state-offers-a-break-on-some-well-regulations> Also see:

threats to protect health, safety and the environment<sup>6</sup> all provide strong indication that your leadership is needed, in order to ensure the rulemaking outcome is trustworthy and effective.<sup>7</sup>

**Despite the urgent need to address public health risks facing frontline communities living near drilling, CalGEM has failed to meet multiple rulemaking deadlines, including those in your November 2019 and September 2020 directives and now their own delay until Spring 2021. Frontline communities cannot afford for this rulemaking process to drag on indefinitely with no concrete actions to address the real and immediate threat of neighborhood drilling. We urge you to issue a temporary moratorium on new oil and gas permits within 2,500 feet of homes, schools, and other sensitive sites, until the rulemaking process has produced equal or stronger protections for new and existing permits.**

For almost a decade, scientific studies, analysis, and community experiences have made it clear that communities living near fossil fuel extraction are exposed to harmful pollution, putting them at a greater risk of preterm births<sup>8</sup>, asthma, respiratory disease<sup>9</sup>, cancer<sup>10</sup>, and even dying from COVID-19<sup>11</sup>. These impacts don't affect all communities equally — frontline communities living near oil and gas extraction are predominantly Black, Latinx, Asian American, Indigenous, and working class.<sup>12</sup> Both legislative and regulatory efforts have so far failed to produce any meaningful improvement to the fossil fuel racism that is impacting the lives of more than 2 million Californians living within 2,500 feet of an oil or gas well.<sup>13</sup>

- In 2013, Senate Bill 4 called on the California Council on Science and Technology (CCST) to issue a report and independent recommendations regarding well stimulation in California.
- The resulting *Independent Scientific Assessment of Well Stimulation in California* from CCST was released in 2015.<sup>14</sup> This report found “significant” health risks at a distance of one-half mile (2,640 feet) from drill sites and potentially harmful community exposures as

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<https://www.kqed.org/news/11818575/newsom-kills-proposal-to-add-oil-regulators-even-though-industry-would-have-paid>

<sup>6</sup> <https://capitalandmain.com/engineers-warn-pressure-at-los-angeles-oil-well-site-is-building-0524>

<sup>7</sup> See full exposé of CalGEM's history of mismanagement here:

<https://www.greenpeace.org/usa/captured-agency-in-charge-of-oil-and-gas-regulation-in-ca/>

<sup>8</sup> [https://journals.lww.com/environepidem/Fulltext/2020/08000/Oil\\_and\\_gas\\_production\\_and\\_spontaneous\\_preterm.1.aspx?context=LatestArticles](https://journals.lww.com/environepidem/Fulltext/2020/08000/Oil_and_gas_production_and_spontaneous_preterm.1.aspx?context=LatestArticles) Also see: <https://doi.org/10.1289/EHP5842>

<sup>9</sup> [https://stand.ia/uploads/5/3/9/0/53904099/2500\\_literature\\_review\\_report-v2-share.pdf](https://stand.ia/uploads/5/3/9/0/53904099/2500_literature_review_report-v2-share.pdf)

<sup>10</sup> <https://doi.org/10.1021/acs.est.7b05983>

<sup>11</sup> <https://www.hsph.harvard.edu/news/hsph-in-the-news/air-pollution-linked-with-higher-covid-19-death-rates/>

<sup>12</sup> <https://www.nrdc.org/sites/default/files/california-fracking-risks-report.pdf> Also see:

<https://www.fracktracker.org/2020/12/people-and-production/>

<sup>13</sup> <https://www.greenpeace.org/usa/reports/fossil-fuel-racism/> Also see:

<https://www.fracktracker.org/2020/12/people-and-production/>

<sup>14</sup> <https://ccst.us/reports/well-%20stimulation-in-california/publications/>

far away as 2 miles (10,560 feet).<sup>15</sup> Authors recommended development of “science based surface setbacks, to limit exposures.” CalGEM could have acted then, but did not.

- In November 2019 — more than four years later with still no action, you directed CalGEM to begin a process to update public health and safety protections for communities near oil and gas production.<sup>16</sup>
- Public hearings took place in February 2020, followed by a public comment period in the spring of 2020, which produced more than 40,000 public comments overwhelmingly in support of a 2,500 foot buffer zone between oil and gas operations and sensitive areas.<sup>17</sup> CalGEM could have acted then, but did not.
- You issued, as part of your September 2020 clean cars executive order, a commitment for CalGEM to produce a draft public health rule by December 31, 2020.<sup>18</sup>
- CalGEM failed to meet your deadline, and on December 31, 2020 announced it would delay the release of a draft rule until Spring 2021.<sup>19</sup>
- As of today, still no draft rule has been released and there is no timeline for when actual protections might ultimately take effect for impacted communities.

While the CalGEM rulemaking process continues to drag on, you have the opportunity to stand up for environmental justice and follow the science today — by issuing a moratorium on all new oil or gas permits within 2,500 feet of homes, schools and other sensitive sites until your agency is able to deliver equal or stronger protections for new and existing permits.

While you and the state more broadly have a reputation as a trailblazer on environmental protections and climate action, California is one of the only oil producing states that does not already have public health setbacks in place. Colorado,<sup>20</sup> Pennsylvania,<sup>21</sup> and even Texas,<sup>22</sup> have all established a public health and safety baseline. You made news in April by making California the first state to announce a phase out of oil production by 2045; however, frontline

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<sup>15</sup> <https://ccst.us/wp-content/uploads/160708-sb4-vol-II-7.pdf> page 412

<sup>16</sup> <https://www.conservation.ca.gov/index/Pages/News/California-Establishes-Moratorium-on-High-Pressure-Extraction.aspx> ;

<sup>17</sup> <https://www.conservation.ca.gov/calgem/Pages/Public-Health.aspx> ; Also see <https://www.latimes.com/environment/newsletter/2020-08-13/boiling-point-california-rejected-oil-well-safety-bill-boiling-point>

<sup>18</sup> <https://www.gov.ca.gov/wp-content/uploads/2020/09/9.23.20-EO-N-79-20-text.pdf>

<sup>19</sup> <https://www.conservation.ca.gov/calgem/Documents/public-health/CalGEM%20PH%20Rulemaking%20Update%2012.31.2020.pdf>

<sup>20</sup> <https://www.reuters.com/article/us-usa-drilling-colorado/colorado-regulators-approve-tougher-rules-for-new-oil-and-gas-wells-idUSKBN2832GS>

<sup>21</sup> <https://www.dep.pa.gov/Business/Energy/OilandGasPrograms/Act13/Pages/Act-13-FAQ.aspx>

<sup>22</sup> [https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=16&pt=1&ch=3&rl=37](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=16&pt=1&ch=3&rl=37)

communities will suffer an unjust pollution burden for almost 25 more years until this phaseout is complete. Your leadership can provide the protection that is urgently needed now.

The below signed environmental, health, justice, and community organizations urge you to:

1. Direct CalGEM to issue a public health rule that includes *at least a* 2,500-foot setback between new and existing fossil fuel operations and all sensitive sites.
2. Issue a moratorium on all new oil or gas permits within 2,500 feet of homes, schools and other sensitive sites until the rulemaking process has delivered equal or stronger protections for new and existing permits.

Signed:

1000 Grandmothers for Future Generations  
198 methods  
350 Bay Area Action  
350 Sacramento  
350 Silicon Valley  
350 South Bay Los Angeles  
350 Ventura County Climate Hub  
Active San Gabriel Valley (ActiveSGV)  
Animals Are Sentient Beings, Inc.  
Aytzim: Ecological Judaism  
Breast Cancer Action  
Bucks Environmental Action  
CA Alliance of Nurses for Healthy Environments  
CA Interfaith Power & Light  
Center for Biological Diversity  
Center on Race, Poverty & the Environment  
Central California Environmental Justice Network  
Church Women United in New York State  
Citizens Coalition for a Safe Community  
Clean Water Action  
Climate 911  
Climate Hawks Vote  
Climate Health Now  
Concerned Health Professionals of New York  
Conejo Climate Coalition  
Consumer Watchdog  
Earthworks  
EcoEquity  
Environmental Defense Center

Food & Water Watch  
Fossil Free California  
FracTracker Alliance  
GAIA  
Glendale Environmental Coalition  
Greenpeace USA  
Indivisible San Jose  
Livelihoods Knowledge Exchange Network (LiKEN)  
Los Padres ForestWatch  
Mothers Out Front  
Mothers Out Front SF  
Natural Resources Defense Council  
NextGen California  
North American Climate, Conservation and Environment(NACCE)  
Oceanic Preservation Society  
Oil and Gas Action Network  
Oil Change International  
Project Super Bloom  
RAC-CA/California Religious Action Center of Reform Judaism  
Romero Institute  
RootsAction.org  
Sacramento Climate Coalition  
San Francisco Bay Physicians for Social Responsibility  
San Francisco Baykeeper  
SanDiego350  
Santa Barbara County Action Network  
Santa Barbara Standing Rock Coalition  
Sequoia ForestKeeper  
Sunrise Movement Los Angeles  
The Climate Center  
The Shame Free Zone  
Unitarian Universalist Justice Ministry of California  
Venice Resistance  
WESPAC Foundation, Inc.  
Western Watersheds Project  
Wild Oyster Project