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**Lawsuit Filed Against East Oakland Foundry and Bay Area Air Quality  
Management District To Protect Neighbors From Toxic Air Pollution**

*Residents suffer from extremely high rates of asthma, nausea, headaches, and burning eyes as a result of facility's noxious fumes; Bay Area Air Quality Management District fails to act on 700 complaints*

**Oakland, CA** – Communities for a Better Environment (CBE) [filed a lawsuit](#) today against AB&I Foundry in East Oakland, California and the Bay Area Quality Management District (BAAQMD), the air pollution regulatory agency in the nine Bay Area counties. The suit alleges that severe air pollution from the foundry's metal melting and casting processes and BAAQMD's lack of enforcement has long put East Oakland residents at risk of illness, cancer, and other health conditions, creating a public nuisance.

BAAQMD has received more than 700 odor complaints against the foundry since 2000, with the vast majority of complaints - more than 600 - since 2019. The suit alleges AB&I's noxious and toxic odors are a public nuisance.

Esther Goolsby CBE's Northern California Program Co-Director and a longtime East Oakland resident, commented, "AB&I has been contaminating the air we breathe with noxious odors and toxic fumes for years. Despite the community filing hundreds of

complaints with BAAQMD, the agency has done nothing. It's time East Oakland residents are finally able to breathe clean air.

East Oakland resident Jasmine Gonzalez complained, "I am so sick of AB&I getting away with polluting the community and causing a nuisance with the toxic odors they emit."

Another resident affected by AB&I, Christina Deluca, said, "BAAQMD knows exactly where it's coming from as they have been responding to complaints about this foundry for years. It's been a frustrating process to say the least."

Derrick Soo, who lives in a tent downwind of AB&I, noted, "I developed respiratory issues within a year of living in my first outdoor shelter 200 yards from AB&I. I started having coughing bouts that lasted for 15-20 seconds, and I couldn't catch a breath. I would cough up a lot of phlegm. I had never had respiratory issues before."

The suit against BAAQMD is far-reaching because it will affect hundreds of toxic polluters in addition to AB&I. It alleges that BAAQMD unlawfully adopted "underground" regulations without the legally required public participation, excluding the very people the rule is intended to protect.

In 2017, the District adopted Rule 11-18, which requires it to conduct Health Risk Assessments of existing facilities to determine if their toxic emissions exceed regulatory limits established by BAAQMD. However, in 2018 and again in 2020, without any notice to or participation by the general public or affected communities, BAAQMD issued documents that undermined Rule 11-18, favoring the polluter over the public by giving facilities that emit toxic air contaminants *six additional years* to reduce their emissions below regulatory thresholds. If the lawsuit prevails, the district would be forced to far more quickly address toxic air pollution throughout the nine-county Bay Area, starting with the 40 most serious polluters.

Despite public comments to the Rule 11-18 specifically warning BAAQMD that self-reported data from polluters could not be trusted, BAAQMD assumed the emissions inventories, which form the basis for assessing a facility's health risks, were accurate. *It did not verify the accuracy of polluters' self-reported emissions inventories and later discovered they are not reliable.* To correct this failure, BAAQMD added verification steps to its implementation plans, resulting in significant delays—which further burden the health of nearby communities.

"BAAQMD has failed in its ultimate duty to protect the public's health," said Tyler Earl, CBE Staff Attorney. "While implementing a rule designed to protect the community from toxic air contaminants, BAAQMD subverted democracy by barring public participation.

BAAQMD bowed to industry and delayed implementation of their own rule by at least 6 years. In the meantime, the East Oakland community will continue to breathe toxic air.”

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### **About CBE**

For more than 40 years, **Communities for a Better Environment** has fought for environmental justice. CBE’s mission is to build the people’s power in California’s communities of color and low-income communities to achieve environmental justice by preventing and reducing pollution and building healthy and sustainable communities and environments. CBE organizes in East Oakland with community whose purpose is to aid in the community members building up the power they already have to participate in decision making that affects their health, including fighting for clean air. Through its organizing, CBE seeks to reduce the harmful effects of air pollution from stationary sources in East Oakland.

### **About the Environmental Law Clinic**

Berkeley Law’s **Environmental Law Clinic** represents CBE in this action. The Clinic tackles critical environmental justice and health issues, while providing students with hands-on experience representing live clients. Our tools include litigation, agency practice, legislative drafting, and policy analysis. Clinic projects reduce human exposure to pollution, toxic chemicals, and radiation; promote racial and economic equity in environmental policy; and increase access to nature for all. The clinic aims to make students creative, effective, culturally competent lawyers; to make an environmental difference; and to address unmet legal needs.

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