Emily Gable
West Hollywood, CA 90046

Chairwoman Mary D. Nichols and Board Members
California Air Resources Board
1001 I Street
Sacramento, CA 95814

CC: California Environmental Protection Agency

September 15, 2014

Dear Chairwoman Nichols and Board Members:

The majority of my high-level recommendations are contained in two comment letters you have received from a group of Los Angeles environmental justice and community development organizations. I am writing to express my complete agreement with their points and add some detailed recommendations regarding the criteria in Appendix 1 of the Investments to Benefit Disadvantaged Communities: Cap-and-Trade Auction Proceeds Interim Guidance to Agencies Administering Greenhouse Gas Reduction Fund Monies released on August 22, 2014 by the California Air Resources Board (CARB) and CalEPA.

Overarching Recommendations

The points made by the LA group, all of which I fully support, are (and I refer you to their letters, attached to this message, for more detail):

- Method 1 of the proposed CalEnviroScreen 2.0 methods makes the most sense for California because it is supported by scientific evidence and a robust public process.
- Disadvantaged communities (DACs) must receive significant, focused funding to transform historic burdens into future benefits. In order for DACs—which suffer disproportionate impacts from pollution and disinvestment—to receive the disproportionate investment that they deserve, the cutpoint for selecting census tracts must be lower than the amount of funding allocated to them. In addition, the DACs with the greatest need should be prioritized for investment.
- Program criteria, metrics, and evaluation should emphasize accountability and a performance management approach to ensure that investments create true benefits and meet requirements under the law.
- Programs and projects incorporating authentic community engagement should receive funding priority.
- Programs and projects must “Do No Harm” in DACs.
- SB 535 investments must benefit DACs in a significant and measurable manner. Currently proposed criteria must be reevaluated regarding whether nearby (within ½-mile or ZIP code) investments truly “provide benefits to” a DAC.
- SB 535 investments should also support transformative policy planning and regulatory activities.

Specific Recommendations

The following recommendations are identified by the table and step (1 or 2) of Appendix 1 in which the criteria in question appear.

Table 1-1 Low-Carbon Transit Projects, Step 2

Item A. Providing improved local bus transit service for riders using stops within ½ mile of a DAC is not a significant benefit. Improved local bus service should only count if located within a DAC, since, in general, a ¼-mile walkshed from stops is the most one should assume for local bus service. Buses are a critical transportation method for many residents of DACs, and people would benefit from truly accessible transit. Also, refer to the overarching point that in most cases, the criteria that allow investment within a ½-mile radius or the surrounding ZIP code to count as "providing benefits to" DACs should be reevaluated.

Table 1-1 Low-Carbon Transit Projects, Step 2

Items F and G. These two workforce criteria are inadequate to guarantee significant, lasting, measurable benefits. In Los Angeles, residents of DACs already provide well over 25% of construction project work hours—particularly in cases where a Project Labor Agreement is in place—so this is not a transformative criterion. In addition, construction jobs—while always welcome—are temporary positions guaranteeing no long-term benefits to a DAC and thus should be ranked differently than projects that provide more permanent employment. Note that a ranked scoring system, as recommended in the LA letter, would allow for projects that provide a certain percentage of jobs to residents of DACs to be ranked favorably, but those that provide a larger percentage or permanent jobs to be ranked even higher and therefore receive prioritization for funding.

Whether or not a ranked scoring system is utilized, the criteria could be revised to (with credit to Strategic Actions for a Just Economy for this language): At least 50% of project work hours should be performed by residents of the local disadvantaged communities, with 25% of those hours reserved for disadvantaged workers in those communities defined as a low-income resident who is either a veteran, a single custodial parent, has a criminal record, has low education levels, or is chronically under/unemployed.

Note this comment is repeated for:
Table 1-2 Affordable Housing and Sustainable Communities Projects
Table 1-4 Energy Efficiency and Renewable Energy
Table 1-5 Water Use Efficiency
Table 1-6 Land Preservation or Restoration
Table 1-7 Urban Forestry
Table 1-8 Waste Diversion and Utilization

Table 1-3 Low Carbon Transportation, Step 1

Item A. Projects that provide incentives for vehicles or equipment to those with a physical address in a DAC should do no harm, as should all investments of the Greenhouse Gas Reduction Fund. In this case, incentives should only be for projects that create an improvement (upgrade or replacement) of vehicles that already exist in DACs, and not for any project that would increase the number of vehicles housed in a DAC. Although existing State programs currently allocate funding in this way, the criterion should be explicit about what projects could qualify in order to ensure no harm is done in the future.

Table 1-3 Low Carbon Transportation, Step 1

Item C. The phrase "primarily within a DAC" deserves greater definition to prevent loose interpretations.

Table 1-3 Low Carbon Transportation, Step 1

Item D. In this case, "clean transportation" refers only to clean cars, although many other types of clean transportation exist. Consider revising the phrasing, or consider including other types of transportation such as bike shares. In addition, it may not be enough for such projects to locate within a DAC, as the car-share services must also be affordable to residents.

Table 1-3 Low Carbon Transportation, Step 2

Item D. Car sharing services within ½ mile of a DAC should not count as a benefit. Projects that require residents in need of a car to walk farther than they normally would to use a bus are not providing a significant benefit.

Table 1-4 Energy Efficiency and Renewable Energy, Step 1

Item A. Projects that provide upgrades for public buildings in a DAC do not inherently benefit the residents of the DAC—it benefits the bottom line of the City or other jurisdiction. While that is a worthy goal, and systems upgrades often come with other building upgrades that benefit visitors and the community, energy upgrades of public buildings may not be sufficient on their own to qualify as providing a benefit in a DAC. In order to qualify, such projects should also include an education and outreach component or other significant and measurable benefits to the DAC residents.

Table 1-7 Urban Forestry, Step 2

Item A. While I defer to urban foresters, the benefit of trees planted within ½ mile of a DAC does not seem significant enough to qualify a project.

Table 1-8 Waste Diversion and Utilization, Step 1

Items A and B. In all situations where funding could result in an industrial project serviced by trucks, the Do No Harm principle must be seriously considered. These already heavily burdened DACs may not benefit from additional facilities, even "green" ones.

Thank you for the opportunity to provide comments.

Sincerely,

Emily Gable
Urban Planner

Arsenio Mataka, Assistant Secretary for Environmental Justice and Tribal Affairs
California Environmental Protection Agency
1001 I Street
P.O. Box 2815
Sacramento, CA 95812-2815

CC: California Air Resources Board

September 15, 2014

Dear Mr. Mataka:

We, the undersigned, are organizations and individuals working on environmental justice and community development issues in the Los Angeles area. We submit this letter to express our shared reactions and recommendations regarding the *Approaches to Identifying Disadvantaged Communities* document put forward in August by CalEPA and OEHHA.

Many of us have watched—and contributed to—the development of the CalEnviroScreen 2.0 (CES 2.0) tool over the past five or more years. We stand behind the tool because it is based on the best available science and data, and was developed through a lengthy and robust process involving public participation and academic input. While we believe there is room for CalEnviroScreen to improve in future years, and we urge OEHHA to continue to make revisions as the understanding of indicators of both socioeconomic vulnerability and environmental health hazards evolves, we are fully and strongly in support of using the tool to identify disadvantaged communities (DACs) for use in the implementation of SB 535.

Method to Identify Disadvantaged Communities
Because of the lengthy and inclusive vetting process CalEnviroScreen has already been through, we support the use of Method 1 as the option that is best supported by existing scientific evidence and which applies the least arbitrary weighting of the indicators that are used in the tool. We find that Methods 2 and 3 do not meet the requirements of the law, while Methods 4 and 5 apply a variety of weighting schemes that have little scientific evidence or guidance behind them. We want to express our support with advocates across California who agree the tool and method used should successfully identify known environmental justice communities that suffer from both high pollution burden and socioeconomic vulnerability.

Cutpoint for Identifying Disadvantaged Communities
The communities that are identified as disadvantaged by CalEnviroScreen suffer from the burden of historic—and current—pollution and disinvestment. In order to begin to relieve the disproportionate burdens on these communities, they must see a greater (or disproportionate) share of investment of the Greenhouse Gas Reduction Fund (GGRF). In other words, allocating 25% of the funds to benefit 25% of the census tracts (and 25% of the State's population) does not concentrate resources and will not address the serious inequities that exist today.

CalEPA must ensure that the cutpoint for identifying disadvantaged communities is smaller than the proportion of funding allocated to them. Whether this cutpoint is 10% or 20% is an open question, but we believe the scientifically and ethically defensible position is to guarantee more (disproportionate) funding to the identified communities in order to meet the goals of AB 32, SB 535 and effect the "transformative" change noted in other CalEPA guidance documents.

We also observe that the distribution of CES 2.0 scores has a long tail on the high end, meaning that many of the census tracts in the top 5% score markedly worse than the next set of census tracts in the top

6-25% range. To address this, we recommend a system in which projects in the communities with the greatest need (the highest scoring census tracts) are prioritized for funding.

Investment of 35% of Funds in Disadvantaged Communities

In addition, the State must guarantee the largest possible investment of funds to benefit DACs. All agencies must treat the 10% and 25% thresholds as spending floors, not ceilings. We also urge the State to interpret SB 535 such that the 10% of funds spent *in* DACs do not double-count towards the 25% of funds that must *benefit* DACs. A total commitment of 35% of available funds for DACs meets the spirit of SB 535 and will create opportunities for more significant investment and more meaningful transformation of these neglected and overburdened neighborhoods.

In summary, we support Method 1 as a well-vetted and rigorous system for identifying disadvantaged communities and argue for a cutpoint that ensures disproportionate and concentrated investment of the Greenhouse Gas Reduction Fund in our increasingly overburdened communities. We also urge CalEPA and CARB to set a spending goal of at least 35% of the GGRF to meet the combined mandate of benefitting DACs, while investing within them.

Sincerely,

John Kim
Managing Co-Director
Advancement Project

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Dear Chairwoman Nichols and Board Members:

We, the undersigned, are organizations and individuals working on environmental justice and community development issues in the Los Angeles area. We submit this letter to express our shared response to the document *Investments to Benefit Disadvantaged Communities: Cap-and-Trade Auction Proceeds Interim Guidance to Agencies Administering Greenhouse Gas Reduction Fund Monies* released on August 22, 2014 by the California Air Resources Board (CARB) and CalEPA.

The Greenhouse Gas Reduction Fund (GGRF) and SB 535 present major opportunities to not only reduce carbon emissions that contribute to global warming, but to also significantly reduce the co-pollutants that harm human health. The GGRF monies also provide the opportunity to stimulate job growth in the new "green economy" and contribute to overall community revitalization. However, we want to caution that the "cap-and-trade" scheme that generates these investment dollars has an inherent potential to increase pollution levels in already-overburdened communities since industries located in these neighborhoods can simply purchase permits for their emissions. This is especially concerning for "environmental justice" communities that are now home to power plants, oil refineries, and concentrated goods movement and industrial activities. As GGRF dollars are invested throughout our state, we urge CARB, CalEPA and member agencies to remain keenly aware of this dynamic, and to ensure that current environmental justice communities do not experience worsened health and environmental quality over time.

Our comments on CARB's "SB 535 Draft Interim Guidance" document relate to six main themes:

- Disadvantaged communities (DACs) must receive substantial, focused funding to transform historic burdens into future benefits, with priority given to those communities with the greatest need.
- Program criteria, metrics, and evaluation should emphasize accountability and a performance management approach to ensure that investments create true benefits and meet requirements under the law.
- Programs and projects incorporating authentic community engagement should receive funding priority.
- Programs and projects must "Do No Harm" in DACs.
- SB 535 investments must benefit DACs in a significant and measurable manner.
- SB 535 investments should also support transformative policy planning and regulatory activities.

SUBSTANTIAL FUNDING FOR DISADVANTAGED COMMUNITIES

The communities that are identified as disadvantaged by CalEnviroScreen 2.0 (CES 2.0) suffer from the burden of historic—and current—pollution and disinvestment. In order to begin to relieve the disproportionate burdens on these communities, they must see a greater (or disproportionate) share of investment from the Greenhouse Gas Reduction Fund (GGRF).

The State must guarantee the largest possible investment of funds to benefit and be spent within DACs. All agencies must treat the 10% and 25% thresholds as spending floors, not ceilings. We also urge the

State to interpret SB 535 such that the 10% of funds spent *in* DACs do not double-count towards the 25% of funds that must *benefit* DACs. A total commitment of 35% of available funds for DACs meets the spirit of SB 535 and will create opportunities for more significant investment and more meaningful transformation of these neglected and overburdened neighborhoods.

In addition, we note that the distribution of CES 2.0 scores has a long tail on the high end, meaning that many of the census tracts in the top 5% score markedly worse than the next set of census tracts in the top 6-25% range. To address this, we recommend a system in which projects in the communities with the greatest need (the highest scoring census tracts) are prioritized for funding. This could be accomplished through a scoring system that would incentivize investments to achieve as many benefits as possible, as will be discussed in the Process section below.

PROCESS

Accountability of government agencies as well as funded projects is essential for the success and legal compliance of the GGRF. As written, CARB's "SB 535 Draft Interim Guidance" and its project evaluation criteria allow for excessive leeway in interpretation.

The interim guidance document contains many principles that we are pleased to see incorporated. For instance, Section VI, "Guidance on Maximizing Benefits to Disadvantaged Communities," calls for agencies to:

- Make investments that address commonly identified needs of DACs or key factors that cause area(s) to be identified as DACs;
- Use scoring criteria to prioritize projects that maximize benefits to DACs; and
- Work together to provide multiple benefits in DACs.

However, CARB has not put forth an approach to help agencies accomplish these objectives, nor is it clear how agencies will be compelled or incentivized to implement them. Instead, Appendix 1 puts forth an overly simplified approach that allows an agency to determine that a project qualifies for SB 535 if it meets any ***one*** of the broad eligibility criteria. In other words, the approach outlined in the Appendix relieves agencies of the need to provide more than one co-benefit. Meeting one generic criterion from the list does not ensure CARB's stated goal of multiple benefits.

<u>Ranking / Scoring</u>

Although CARB's guidance should have built-in flexibility, it needs to have a framework that enables each agency to abide by the relevant statutes (at a minimum) while being rewarded for maximizing co-benefits. The State should hold agencies accountable and provide more support to operationalize the recommendations contained in the guidelines report.

We recommend creating a ranking system, also known as a "performance management approach," such as the one suggested by the Luskin Center and advocates.[1] A performance management approach would use a ranking/scoring system to prioritize smart and equitable investments. Such a system could prioritize projects that meet the other objectives we believe are essential to the success of the GGRF and meeting SB 535's goals: projects that benefit the DACs with the greatest need, come out of authentic community engagement, create the opportunity for long-term program/policy investments, provide significant and measureable benefits, and do no harm.

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[1] Callahan & DeShazo. June 2014. *Investment Justice through the Greenhouse Gas Reduction Fund: Implementing SB 535 and Advancing Climate Action in Disadvantaged Communities.* UCLA Luskin Center for Innovation.

COMMUNITY PARTICIPATION
The "SB 535 Draft Interim Guidance" states that outreach efforts are required for agencies investing in DACs. However, neither carrots nor sticks have been developed to compel agencies to ensure robust and genuine community participation. We recommend that CARB provides more clarity on how agencies will be evaluated for their outreach and engagement efforts to ensure legitimate community representation in planning, implementation, evaluation, and/or selection processes. CARB should start by defining "authentic community engagement." Possible qualifications could include partnerships with community-based groups, letters of community support, translation, or the utilization of models such as LEED ND's "Community Outreach and Involvement" requirements.[2]

DO NO HARM
Investments of Greenhouse Gas Reduction Fund monies must avoid negative impacts on DACs across all sectors, particularly when projects qualify as benefiting or being located in DACs. Many well-intentioned GHG-reducing projects may have negative side effects, such as causing displacement of current residents through TOD build-out, gentrification, and loss of affordable housing, or increasing truck pollution by siting a high-traffic "green" facility in or adjacent to a DAC. "Avoided burdens" language should be included in overall criteria for all SB 535 projects so that communities can truly experience the benefits of the investments.

SIGNIFICANT AND MEASURABLE BENEFITS
Investments must create substantial, lasting benefits for DACs, and the funding process outlined by CARB must be strengthened to ensure these goals. Unfortunately, the guidance document as currently written does not guarantee this will be the case. Possible specific improvements include:

- Targeting investments within DACs rather than in adjacent areas such as a ½-mile buffer or the surrounding ZIP code. Some leniency may be allowed when projects such as affordable housing or creation/preservation of open space require purchase of land, which may be scarce or too costly within a highly developed DAC census tract.

- Focusing more attention on the criteria listed in Appendix 1 of the guidance document. In particular, the two workforce criteria are inadequate to guarantee significant, lasting, measurable benefits. In Los Angeles, residents of DACs already provide well over 25% of construction project work hours—particularly when a Project Labor Agreement is in place—so this is not a transformative criterion. In addition, construction jobs—while always welcome—are temporary positions guaranteeing no long-term benefits to a DAC and thus should be ranked differently than projects that provide more permanent employment.

LONG-TERM PROGRAM / POLICY INVESTMENTS
SB 535 investments should be considered to support transformative initiatives that may not be project-based. For example, the exciting Clean Up Green Up initiative in Los Angeles has great potential to reduce pollution and GHG emissions in three Los Angeles EJ communities through land use planning and strengthened performance standards, but does not readily fit into any of the Appendix 1 sectors which are decidedly project-centric. Jurisdictions across the State that are ready to use policy levers to address the longstanding inequities affecting their disadvantaged communities need the funds to do so.

CONCLUSION
The Los Angeles region, with half of its census tracts ranking in the top 20% of scores when using the CalEnviroScreen 2.0 tool, stands to gain tremendously from the strategic and timely investment of GGRF

[2] US Green Building Council. LEED – Community outreach and involvement. Accessed 9/11/14: http://www.usgbc.org/credits/neighborhood-development/v10-pilot/npdc15

monies. As community-based and advocacy organizations that work to improve the lives and conditions of residents and communities who suffer from concentrated pollution, historic disinvestment, and lack of opportunity, we urge you to consider how to use this unprecedented program to reverse these inequities and set California's most vulnerable communities on a new path towards sustainability, health, and opportunity.

We appreciate the chance to comment, and hope you will contact us with any questions.

Sincerely,

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