



March 9, 2020

Chair Mary Nichols and Board Members  
California Air Resources Board (CARB)  
1001 I Street  
Sacramento, CA 95814

**Re: Comments on AB 617 Community Emission Reduction Plans (CERP) for the East Los Angeles/Boyle Heights/West Commerce (ELABHWC) Community**

Dear Chair Nichols and members of the California Air Resources Board,

The history of East Los Angeles, Boyle Heights and West Commerce is steeped in discrimination. This discrimination extends to the very air residents breathe every day. Heavy industry and rendering plants are in close proximity homes and schools. Freeways and goods movement corridors bifurcate and pollute neighborhoods. While diesel particulate matter (DPM) is the predominate toxic air contaminant in the community,<sup>1</sup> the many industrial sources in the region emit significant amounts of pollutants, including hexavalent chromium, lead and 1,3 butadiene.<sup>2</sup>

Strong and effective implementation of AB 617 (C. Garcia) is the first step in bringing cleaner air to one of California's most polluted communities. Since its 2017 passage, Coalition for Clean Air (CCA) has been actively engaged with the AB 617 process at both the CARB and South Coast Air Quality Management District (SCAQMD) levels and has advocated for its funding and support in Sacramento. CCA acknowledges and appreciates the hard work by CARB, SCAQMD, the Community Steering Committee (CSC) members and advocates throughout this process. While there is much to applaud in this plan, the proposed ELABHWC CERP leaves much room for improvement in terms of its ambitions and its commitments to the community.

Finally, it should be noted that this comment letter is not intended to "speak" for the CSC or the communities that participated in the development of this CERP.

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<sup>1</sup> *Community Emissions Reduction Plan (Draft Final): East Los Angeles, Boyle Heights and West Commerce*, SCAQMD (September 6, 2019), retrieved March 6, 2020, <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2019/2019-sep6-025b.pdf?sfvrsn=10>, 3b-5

<sup>2</sup> *Community Emissions Reduction Plan (Draft Final): East Los Angeles, Boyle Heights and West Commerce*, SCAQMD (September 6, 2019), 3b-8

Our comments follow below:

**General comments on the CERP:**

- 1) CCA agrees with the top emissions and exposure concerns identified with the community. Robust engagement with the community, however, was occasionally lacking.**

CCA agrees with the seven priority community concerns identified in the CERP. The sources identified are among the largest sources of toxic air contaminants in both the local community and the region and have a significant impact on the community's quality of life. Focusing the CERP on these concerns will directly address the ELABHWC community's needs.

It should be noted, however, that attendance and participation at ELABHWC CSC meetings was frequently sparse. Attendance at the ELABHWC CSC meetings consisted of 40-65 individuals.<sup>3</sup> Meanwhile, the San Bernardino and Muscoy (SBM) CSC meetings had 50-80 attendees<sup>4</sup> and the Wilmington, Carson and West Long Beach (WCWLB) CSC meetings had 60-150 attendees.<sup>5</sup> At some of the ELABHWC CSC meetings, most if not all audience were CARB, SCAQMD and other agency staff. CARB and SCAQMD should commit to working with the ELABHWC CSC members to determine why participation was relatively low and identify strategies for improvement.

- 2) The proposed CERP includes other CARB and SCAQMD actions that were already underway, in the planning phases or are otherwise unrelated to AB 617. The CERP needs to demonstrate how it goes above and beyond current and planned actions to address the needs of the community.**

The proposed CERP includes projected emissions reductions from several CARB and SCAQMD proceedings as well as the strategies contained in the CERP itself. However, the proposed CERP gives the impression that all these programs are part of the CERP even though many of these efforts are unrelated. Though this is done to a lesser extent than the WWLBC CERP, it still does not provide a transparent picture of the ELABHWC CERP's projected emissions reductions. The proposed CERP

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<sup>3</sup> *Community Emissions Reduction Plan (Draft Final): East Los Angeles, Boyle Heights and West Commerce*, SCAQMD (September 6, 2019), Appendix 2-2 – 2-6

<sup>4</sup> *Community Emissions Reduction Plan (Draft Final): San Bernardino and Muscoy*, SCAQMD (September 6, 2019), retrieved March 6, 2020, <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2019/2019-sep6-025a.pdf?sfvrsn=8>, Appendix 2-2 – 2-5

<sup>5</sup> *Community Emissions Reduction Plan: Wilmington, Carson and West Long Beach*, SCAQMD (September 6, 2019), retrieved March 6, 2020, <http://www.aqmd.gov/docs/default-source/ab-617-ab-134/steering-committees/wilmington/cerp/final-cerp-wcwlb.pdf?sfvrsn=8>, Appendix 2-2 – 2-4

projects a “377.1 tons per year” reduction in oxides of nitrogen (NOx).<sup>6</sup> However, the July 2019 Draft CERP, which only included emissions reductions from AB 617 incentives, projected a “40-50 tons per year” reduction in NOx.<sup>7</sup> The CERP should be clear as to which reductions are related to the CERP itself and which reductions are related to separate actions.

**3) The proposed CERP is overly reliant on incentives, which limits its effectiveness. There needs to be a stronger commitment for increased regulation and enforcement.**

As with SCAQMD’s 2016 Air Quality Management Plan, the proposed CERP shows a strong preference for incentives over rules and enforcement. CCA supports using targeted incentives as part of the CERP’s implementation. Incentives should not, however, be prioritized over regulation. For example, creating strong Indirect Source Rules (ISR), mandating on-site mitigation and requiring (rather than just incentivizing) zero-emissions warehouse and railyard equipment will yield real emissions reductions. Additionally, rules must be enforced to be effective. SCAQMD should include tougher penalties as authorized in Section 9 of AB 617 and greater enforcement efforts as part of its overall strategy. We appreciate and support recent comments from SCAQMD Board Members and staff indicating increasing receptiveness towards stronger rules and greater enforcement.

**4) CARB, SCAQMD and local government policy and programmatic decisions need to be consistent with the CERP and AB 617. Additionally, the CERP needs to demonstrate a clearer nexus with other state and local plans.**

While we support the creation of a strong CERP, CCA remains concerned that policy decisions by CARB, SCAQMD and local governments could undermine the CERP. For example, on the same day it approved its Year 1 AB 617 CERPs, SCAQMD also halted a nearly completed rule in favor of voluntary “safety enhancements” proposed by regulated entities.<sup>8</sup> Prior to the CERP’s development, the Los Angeles Metropolitan Transportation Authority (LA Metro) capriciously endorsed expanding Interstate 710 over community objections and strong support for zero-emissions truck

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<sup>6</sup> *Community Emissions Reduction Plan (Draft Final): East Los Angeles, Boyle Heights and West Commerce*, SCAQMD (September 6, 2019), 5a-1

<sup>7</sup> *July 2019 Draft CERP, Chapter 5a – Actions to Reduce Air Pollution Emissions or Exposures – Overview*, SCAQMD (July, 2019), retrieved March 6, 2020, <http://www.aqmd.gov/docs/default-source/ab-617-ab-134/steering-committees/east-la/cerp/chapter-5-draft-intro-august-2019.pdf?sfvrsn=8>, 5a-1.

<sup>8</sup> Tony Barboza, *Air board kills regulation of dangerous refinery acid in favor of oil industry plan*, Los Angeles Times, (September 6, 2019), retrieved March 5, 2020, <https://www.latimes.com/environment/story/2019-09-06/oil-refinery-acid-pollution-regulation>

lanes.<sup>9</sup> As with the WCWLB community, this project will have major impacts for the ELABHWC community due to the increases in truck traffic through the region, as well as the inevitable congestion that will come with it.

If the CERP is going to be successful, state and local governments need to create policies which are consistent with the CERP's commitments and strategies. The CERP should demonstrate how it interacts and builds upon other state and local plans which may affect air quality, such as local sustainability plans, land use decisions and planning policies.

### **CERP Reduction Strategies:**

**5) The CERP needs to take stronger action in reducing toxic air contaminants. Emissions projections from future rules should be shared with the CSC.**

While the proposed CERP projects large reductions for criteria air pollutants like NO<sub>x</sub>, reductions in toxic air contaminants are significantly less. The only toxic air contaminant reductions directly associated with AB 617 implementation are 1.4 tons per year in DPM.<sup>10</sup> Yet, toxic air contaminants are the primary driver for negative health outcomes in the community. The CERP should take a more rigorous approach in reducing toxic air contaminants. This could include using the criteria required by the State Implementation Plan to ensure real emission reductions. Similarly, the CERP could commit to reducing frontline communities' scores in SCAQMD's Multiple Air Toxics Exposure Study (MATES.) SCAQMD staff have stated that some emission reduction projections are not currently available and as they are tied to future rule proceedings. SCAQMD should share these projections with the CSC as soon as they are available.

### **Mobile sources**

**6) SCAQMD has committed to developing ISRs for railyards and warehouses. These ISRs should be strong and effective, and CARB should consider further rulemaking over these polluters as well.**

Diesel sources, including locomotives, heavy-duty trucks and off-road equipment are the largest sources of emissions in the ELABHWC community. Unfortunately, these sources are difficult to regulate, as the facilities that attract those vehicles are not the direct emissions source. Further complicating matters is the Federal government's

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<sup>9</sup> Nicole Fish, *710 Freeway Expansion Decision Expected, Amid Residents' Displacement, Pollution Concerns*, KCET (March 1, 2018), retrieved March 5, 2020, <https://www.kcet.org/shows/socal-connected/710-freeway-expansion-decision-expected-amid-residents-displacement-pollution>

<sup>10</sup> *Community Emissions Reduction Plan (Draft Final): East Los Angeles, Boyle Heights and West Commerce*, 5a-2

preemption of regulating locomotive emissions and the ports' inadequate truck rate. As such, it is imperative indirect sources are required to undertake additional mitigation measures to reduce pollution. CCA supports creating a strong ISR for both warehouses and the railyards at both SCAQMD and CARB. We also urge SCAQMD to require other Facility-Based Mobile Source Measures at warehouses and railyards that will bring expedient emissions reductions.

CCA acknowledges that recent developments with SCAQMD's warehouse ISR have been positive. While the process is still evolving, we appreciate SCAQMD is pursuing a points-based ISR rather than a credit-based system. While no regulation is perfect and some reasonable flexibility may be need, ensuring that polluters can't game the system and achieve "paper" compliance will help bring cleaner air to the community.

**7) While light- and medium-duty transportation is not part of the proposed CERP, CARB and SCAQMD should create a focused effort to increase passenger vehicle electrification within AB 617 communities.**

Though the proposed CERP rightly focuses on freight-related emissions, AB 617 presents an opportunity to promote passenger vehicle electrification. The vehicles of low-income earners are significantly older than those of medium- and high-income earners.<sup>11</sup> Older vehicles, which are designed to meet less stringent standards and are suffering from wear-and-tear, pollute more than newer vehicles. CARB and SCAQMD should work with local community benefit organizations to develop an outreach strategy targeting AB 617 communities for the Clean Cars 4 All program and other wrap-around services. Similarly, there must be a greater effort to expedite the transition to electric transit buses in AB 617 communities.

## **Enforcement**

**8) AB 617's Best Available Retrofit Control Technology (BARCT) requirements will not be fully implemented by 2023, violating both the intent and letter of the law.**

In addition to creating the Community Air Protection program, AB 617 requires facilities covered by California's cap and trade to implement BARCT. These technologies are designed to reduce emissions from existing facilities. To this end, SCAQMD has tied much of the BARCT requirement to the wind down of its Regional Clean Air Incentives Market (RECLAIM) for NOx emissions. Further,

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<sup>11</sup> *U.S. households are holding on to their vehicles longer*, US Energy Information Administration, (August 21, 2018), retrieved March 5, 2020, <https://www.eia.gov/todayinenergy/detail.php?id=36914>

SCAQMD has projected that it will complete BARCT-related updates to its rules by 2022.<sup>12</sup> Yet, AB 617 requires air districts to implement BARCT no later than December 31, 2023.<sup>13</sup> It is very unlikely that BARCT will be fully implemented within a year. Due to this, CCA is concerned that AB 617's BARCT requirements will be violated. This is illegal, as agencies cannot pick and choose which laws to implement.

**Other issues:**

- 9) Several community concerns and proposed solutions were not included in the proposed CERP. These concerns should be addressed by CARB, SCAQMD or the appropriate government agency.**

Unfortunately, the CERP cannot address every single air quality issue facing the ELABHWC community. Yet, the CSC and public brought up several concerns and solutions that have strong support in the community. These issues deserve further consideration by CARB, SCAQMD and the appropriate local governments. Such issues include but are not limited to creating a buffer zone between sensitive receptors and oil and gas operations, the use of modified hydrofluoric acid at refineries and longstanding land use policies. CARB and SCAQMD should develop a way in which these issues can be catalogued and addressed or referred to the appropriate entity.

Thank you for your consideration of our comments. CCA looks forward to continued engagement with the AB 617 process.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher Chavez", with a long horizontal flourish extending to the right.

Christopher Chavez  
Deputy Policy Director

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<sup>12</sup> *Expedited BARCT*, CARB, (2020), retrieved March 5, 2020, <https://ww2.arb.ca.gov/our-work/programs/technology-clearinghouse/expedited-barct>

<sup>13</sup> Assembly Bill 617, California Legislative Information, (July 27, 2017), retrieved March 5, 2020, [http://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180AB617](http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB617)