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September 15, 2014

Ms. Shelby Livingston
Chief, Climate Investments Branch
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Mr. John Faust
Chief, Community Assessment & Research Section
Office of Environmental Health Hazard Assessment
California Environmental Protection Agency
1515 Clay Street, Suite 1600
Oakland, CA 94612

Re: Comments to CalEPA's Proposed Approaches to Identifying and ARB's Draft Interim Guidance on Investments to Benefit "Disadvantaged Communities"

Dear Ms. Livingston and Mr. Faust:

We appreciate the opportunity to comment on the California Environmental Protection Agency's (CalEPA) proposed "Approaches to Identifying Disadvantaged Communities" and the California Air Resources Board's (ARB) draft Interim Guidance concerning "Investments to Benefit Disadvantaged Communities." As the Congestion Management Agency for Marin County, the Transportation Authority of Marin (TAM) is interested in providing feedback on these draft documents and the potential implications for disadvantaged populations we serve, as well as the surrounding areas, as they relate to climate goal funding and AB 32.

As proposed, the CalEPA approaches to identifying disadvantaged communities miss the mark with the intent of SB 535, and will entirely leave out many bona fide disadvantaged populations around the state. The proposed CalEPA approaches do not appear to recognize any "disadvantaged communities" whatsoever in 33 of California's 58 counties, including Marin County. CalEnviroScreen was never meant to be used for this intent. It seems that the traditional definition of "disadvantaged communities" and what basic Census information tells us about our populations no longer apply. In addition, by limiting projects and their "benefits" to within a ½-mile radius of disadvantaged communities, the draft project evaluation criteria threaten to undermine the efforts of our region's integrated transportation and land-use strategy, Plan Bay Area, which adopted the Sustainable Communities Strategy to reduce commute trip distances and GHG emissions by not only encouraging new affordable housing near jobs centers, but also promoting local climate change action plans, transportation mode shift and transportation demand management.

TAM advocates for a common sense definition of “disadvantaged communities” that relies on basic population characteristics based on straightforward application of U.S. Census data and avoids bias and geographic inequity. A good current example of such a definition is the approach taken by the Active Transportation Program (ATP) Guidelines, which partly rely on the CalEnviroScreen tool, but also other factors, and allow project applicants some flexibility in demonstrating why a community should be considered “disadvantaged.” TAM strongly urges CalEPA and ARB to an approach that will more appropriately define what “disadvantaged communities” are and recognize each county’s unique challenge to fight climate change in vulnerable communities, including the Bay Area’s senior population which is expected to increase by 131% by 2040. If the draft approach is not revised, it will squander the opportunity of setting “the course for transformative investments in these disadvantaged communities” and the efforts of AB 32 and SB 535.

In the identification of “disadvantaged communities” and the determination of what benefits such communities, TAM also suggests that the State consider and apply indicators of jobs-access and housing that address the fundamental relationship between the core concerns of AB 32 and the protection of disadvantaged populations: people who do not have access to good jobs nearby or who cannot afford to live close to job opportunities are forced to commute long distances to find work. This circumstance imposes hardship on those affected and results in higher vehicle emissions. The State can best help disadvantaged populations and simultaneously further the goals of AB 32 by investing Cap & Trade revenues in ways that incentivize transportation mode shifts, public transit, car share, electric vehicle adoption and other congestion relief programs.

TAM submits the following comments that apply to both draft documents:

1. Identification of Disadvantaged Communities

CalEPA’s proposed “Approaches to Identifying Disadvantaged Communities” considers five different possible methodologies to identify “disadvantaged communities.” All five are based on the CalEnviroScreen tool. The five methodologies involve various weightings of indicators, grouped in two categories: “pollution burden” and “population characteristics.”

From the maps published with the draft document, it appears that none of the methodologies identify any disadvantaged communities in Marin County. Per CalEnviroScreen, no tracts within Marin County have combined pollution burden and population characteristics profile scores over 80 (which is the proposed cut-off for recognizing disadvantaged populations). This is critical criteria since SB 535 requires that a minimum of 10 percent of cap-and-trade-funded projects must be located in “disadvantaged communities” and a minimum of 25 percent of such projects must benefit such communities. For the new Affordable Housing and Sustainable Communities (AHSC) Program, which per SB 862 would receive 20 percent of Cap and Trade revenue, fully 50 percent of projects must benefit “disadvantaged communities.”

Contrary to the CalEnviroScreen definition of disadvantaged communities, according to U.S. Census data, Marin County has a notable disadvantaged population that must be recognized by any common sense definition. For over 10 years the Congestion Management Agency has been working to identify and implement projects and programs in our designated disadvantaged communities of Canal Neighborhood and Marin City. The State’s support for these ongoing efforts is critical.

2. Proposed CalEPA Approaches Result in Statewide Geographic Inequity

Area-wise, the proposed CalEPA approaches exclude more than half of the state. If the CalEnviroScreen analysis is correct, only 25 of California’s 58 counties (43%) have any populations that would qualify as “disadvantaged.” CalEnviroScreen, as it is proposed to be applied, is highly selective and results in serious

regional geographic inequity in the identification of disadvantaged populations. There is inequity because many excluded areas, like Marin County, actually do have populations that should, by rights and by any common sense understanding of the term, be recognized as “disadvantaged.”

3. Common Sense - Check Needed

TAM recognizes the level of effort that has gone into the development of the CalEnviroScreen tool and the great care that has been taken to keep the proposed methodologies objective. However, at this point, a common sense-check is needed that evaluates the results of the proposed approaches against our understanding of what constitutes “disadvantaged.”

If communities that meet a common sense definition of “disadvantaged” are being excluded, and more than half the state is entirely left out, the methodology is unacceptable. The populations you are trying to serve will not be served. A definition of “disadvantaged communities” that excludes largely low income and minority communities over more than half the state will make these communities ineligible for a significant portion of this funding and result in clear inequity.

While we respect the science that has gone into this commendable effort of developing CalEnviroScreen, we argue that disadvantaged populations are disproportionately vulnerable to environmental harm, without requiring a direct measure of “pollution burden.”

4. CalEPA Discretion

SB 535 gave CalEPA broad discretion as to how to define “disadvantaged communities” and did not explicitly require the use of CalEnviroScreen. While the law stated broad categories (“geographic, socioeconomic, public health, and environmental hazard criteria”) upon which CalEPA must base the identification of “disadvantaged communities,” it did not stipulate precisely how CalEPA should weight different indicators and offered CalEPA a non-mandatory, non-exclusive list of criteria to consider.

5. More Equitable and Simple Indicators

TAM supports a conventional understanding of what “disadvantaged” means. At minimum, basic measures such as low income and minority status should be given higher weighting or should be used as a stand-alone qualifying criterion in a manner similar to the way the ATP Guidelines apply median household income less than 80% of the statewide median.

In this regard, the approach taken by the recent Active Transportation Program (ATP) Guidelines is worth close study and emulation. This approach has the advantage of allowing project applicants to rely either on the CalEnviroScreen tool or on direct measures such as median household income. It also gives applicants flexibility to make their own demonstration as to why a community should be considered disadvantaged.

6. The State Should Consider Jobs-Housing Indicators That Address Both Disadvantaged Communities and GHG Emissions

As a further approach to identifying “disadvantaged communities,” we also suggest that the State seriously consider other indicators related to jobs access and housing. Such indicators simultaneously address the relationship between “disadvantaged” status and the goal of reducing GHG emissions, supporting the stated goals of both AB 32 and SB 535. Some such indicators might include:

- Travel time
- Jobs/housing relationship

7. Investments to Benefit Disadvantaged Communities

ARB's draft Interim Guidance concerning "Investments to Benefit Disadvantaged Communities" provides guidance to State agencies administering Cap & Trade Revenue programs on how to determine what projects benefit disadvantaged communities identified by CalEPA. The draft document laudably recognizes the dual purpose of both helping disadvantaged communities and reducing GHG emissions at the same time. However, the criteria for project evaluation do not effectively serve these goals.

For example, the draft criteria in Appendix 1 often mention that, in order to be eligible as "benefitting" a disadvantaged community, projects must be located within ½ mile of a disadvantaged community. Circumscribing eligible projects within a narrow, ½-mile band around disadvantaged communities may undermine AB 32's core goal of reducing commute congestion, vehicle miles traveled and GHG emissions.

In closing, TAM respectfully requests CalEPA and ARB consider our comments to the proposed approaches to identifying "disadvantaged communities" and what counts as "benefitting" them. We encourage CalEPA to consider a broader and more flexible approach. We similarly encourage ARB to make certain that incentives for projects to "benefit" disadvantaged communities are in alignment with the larger goals of AB 32 to reduce GHG emissions and account for fundamental jobs-housing relationships responsible for commute distances and vehicle emissions. Thank you again for the opportunity to comment and please do not hesitate to contact me with any questions.

Sincerely,



Dianne Steinhauser
Executive Director