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RE: Comments on AB 1550 Implementation in Greenhouse Gas Reduction Fund Funding Guidelines

This letter is submitted on behalf of the California Climate Equity Coalition (CCEC) Steering Committee. We have been involved in crafting and passage of SB 535 (De León, 2012) and heavily engaged in its implementation, including development of the Greenhouse Gas Reduction Fund (GGRF) Funding Guidelines that were adopted in December 2015. CCEC was similarly involved in crafting and passage of AB 1550 (Gomez, 2016). We appreciate the opportunity to begin providing input on AB 1550 implementation, and respond to the questions posed in the Air Resources Board (ARB)'s discussion document toward that end. We also provide brief, initial recommendations on how ARB could update the Funding Guidelines to foster community engagement and leadership in climate investments, and to ensure that GGRF-funded projects avoid increasing burdens to the residents of disadvantaged communities, low-income communities, and low-income households. Our recommendations include:

- Maintain the existing 25 percent threshold for identifying disadvantaged communities (DACs), and designate as DACs an approximately 35 additional census tracts located near major freight hubs with high pollution burden;
- Use a two-step process for identifying eligible low-income households and low-income communities (LICs), using both income standards in AB 1550 for mapping purposes and then allowing administering agencies to choose one standard for program implementation;
- Consider establishing a single form, or other mechanism, that low-income households can use to verify their income status for all relevant GGRF programs;
- For projects that cross multiple census tracts, ensure that a majority of a project's physical footprint (i.e., at least 51%) remains within DACs and LICs and that the project *meets a need* that low-income residents in the community have identified as a priority, in order to meet AB 1550 requirements;
- Consider the needs of, and potential benefits to, low-income community residents the same as those for DAC residents generally, and strengthen requirements for

meaningful community engagement to ensure that the unique needs of DAC or LIC residents are adequately addressed in program or project design;

- Require that investments provide and demonstrate multiple benefits to disadvantaged community residents, low-income community residents, and low-income households , in order to be counted toward complying with AB 1550.

(1) Identifying disadvantaged communities (DACs), low-income communities (LICs), and low-income households

Disadvantaged Communities

We strongly recommend that CalEPA maintain the current “top 25 percent” threshold to identify disadvantaged communities (DACs) using CalEnviroScreen (CES) 3.0. We would oppose expanding the threshold to the top 30 percent of census tracts, because doing so would lessen the positive impacts that have resulted from a targeting of GGRF dollars to communities struggling with high pollution burden and socio-economic vulnerability to the effects of pollution.

In addition, we would support designating as a DAC the approximately 35 census tracts where pollution burden is very high, but the small population size results in neither a Population Characteristics score nor overall CES score. These census tracts are found adjacent to or near freight hubs (e.g., seaports and airports), which are major sources of air pollution. However, we would only support such a designation if the investments within these census tracts, as with other investments that ARB counts toward compliance with AB 1550, benefit low-income residents living in these DACs, provide multiple benefits to residents, and ensure that any potential additional harms to these residents is avoided.

Low-Income Communities and Households

We believe that identifying low-income communities (LICs) should occur on two levels - first, for mapping purposes and then for program implementation at each agency administering GGRF programs. For mapping, we recommend showing LICs based on both income standards listed in AB 1550 (i.e., “Map of proposed low-income communities per AB 1550” on ARB’s website), because that map is an inclusive representation of LICs that are eligible for climate investments. Agencies administering GGRF programs should then select an appropriate household income standard between the options listed in AB 1550 in order to identify low-income communities and households for their particular program. That is, each administering agency should choose between using the statewide median household income or the county-specific state income limits published by the California Department for Housing and Community Development (HCD) for their respective GGRF program(s).

We support the three options presented for verifying a household's low-income status (i.e., pre-qualification using public assistance programs, self-reporting with random sampling for verification, and submittal of income verification), and suggest leaving the choice to administering agencies. All three methods are used to verify low-income status in different light-duty projects under ARB's Low Carbon Transportation Program. For instance: the equity-based pilot projects utilize the pre-qualification and submittal of income documentation approaches, and the first-come, first-served Clean Vehicle Rebate Project (CVRP) relies on self-certification (with random sampling for verification) currently, in order to process a high volume of transactions. CVRP will be transitioning to a pre-qualification approach although the program administrator plans to continue relying on random sampling to verify low-income status. Therefore, ARB should consider providing guidance to administering agencies that self-certification and random sampling should be used only for GGRF projects involving a large number of households, perhaps even identifying specific programs for which this approach would be suitable. ARB should also encourage administering agencies to consider the burden income verification entails for both low-income participants and program administrators in choosing a particular method. These recommendations notwithstanding, we suggest ARB explore the possibility of establishing a single form (or some mechanism) that individuals and households could complete in order to demonstrate their low-income status for any household-targeted GGRF program or project (e.g., for clean vehicle rebates and financing and for low-income weatherization and solar).

(2) Describing AB 1550 requirements for projects that do not neatly fit into defined community boundaries

A project that does not neatly fit into defined DAC or LIC community boundaries should be counted to meet AB 1550 requirements if *two conditions* are met: a) the majority of the project (i.e., at least 51% of the project's physical footprint) is *located within* those boundaries, and b) the project *meets a need* that low-income residents in the community have identified as a priority.

First Condition: Location. For most projects, which have a singular location, the first condition is met if the majority of the project (i.e., at least 51% of the project's physical footprint) is located within the relevant DAC(s) or LIC(s), whether or not it is entirely contained within it. This is the case, for example, for Affordable Housing and Sustainable Community, Urban Forestry, and Urban Greening projects.

Transportation projects, however, require a more nuanced analysis. By its nature, transportation connects two or more locations, while passing through others. Where the intended benefit of the program is *mobility* (as is the case in the Low Carbon Transit Operations

Program and the Transit and Intercity Rail Capital Program), the project must have a direct mobility connection within the DAC or LIC. This condition can be met by the location of a stop or station in the community, or by providing bus passes to residents living in that community that allow residents to access transit service with stops or stations within the community. In addition, we recommend that transit projects implementers demonstrate that these projects serve predominantly low-income riders, in order to be counted toward AB 1550 compliance.

Low Carbon Transportation Program (LCTP) investments, on the other hand, are primarily intended to improve air quality and public health outcomes, while providing additional co-benefits. The current Funding Guidelines account for the mobile, cross-boundary nature of LCTP investments to an extent, by requiring clean freight projects to "reduce air pollution on fixed routes that are primarily within a disadvantaged community," for instance (p. 2.A-6). Therefore, we recommend extending the framework outlined in the "investments-within criteria" for LCTP investments (Table 2.A-1) to projects that cross census tracts, by requiring the operation of low carbon vehicles to occur primarily within DACs in order to address AB 1550 and ensure that DAC residents benefit from improved air quality and public health as a result of these investments. Also, we intend for the recommendation regarding DAC designation for census tracts near freight hubs to prevent undue restrictions on much-needed investments in cleaner freight technologies while targeting benefits and avoiding harms to low-income residents in those communities, as discussed above, and will explore the DAC/LIC maps further to assess the impact of these changes to the list of freight hubs listed in the Funding Guidelines currently.

Second Condition: Meeting a Community Need. AB 1550 now requires projects not only to be located within DACs or LICs, but also to "benefit[] individuals living in" those communities. (Health & Saf. Code sec. 39713, (a), (b) & (c).) ARB's current Funding Guidelines (p. 2-6) appropriately require that no project may be counted toward SB 535 requirements if it does not "provide direct, meaningful, and assured benefits to a disadvantaged community, and *meaningfully address an important community need*." The same standard should now be extended to AB 1550 investments located outside of DACs.

However, the new guidelines must go further. The experts on what the most important community needs are and which projects meaningfully address them, are the community residents themselves. To meet the existing standard, therefore, project sponsors should be required to demonstrate that the project meets a need that low-income residents in the project area have identified as a priority. To that end, as well, we urge ARB to incorporate our recommendations in section 4, below, regarding meaningful community engagement.

In addition, as discussed in section 4 below, project sponsors must be required to specify, both in their applications and in their reports on outcomes, the needs of community residents-especially those of low-income households-that the project will meaningfully address. At the application stage, the sponsor should be required to specify the anticipated project outcomes and demonstrate that they will meet the standard of "*meaningfully addressing an important community need*." And at the reporting stage, the sponsor should be required to quantify, if possible, the extent to which promised outcomes have, or have not, been achieved.

(3) Describing benefits to residents of low-income communities

We understand that there is substantial overlap in the location of disadvantaged and low-income communities. Therefore, we believe that the common needs of disadvantaged communities identified in the current GGRF Funding Guidelines (Table 2-2) are similar for low-income communities - and that addressing these needs represents a common framework for identifying benefits that GGRF programs can deliver to disadvantaged and low-income communities. Similarly, the criteria for evaluating benefits to disadvantaged communities (GGRF funding Guidelines, Appendix 2.A) could be used for assessing benefits to low-income communities. Lastly, we note that AB 1550 requires investments within DACs and LICs to benefit individuals living in these communities, and strongly recommend that the Funding Guidelines emphasize or prioritize benefits to *low-income* individuals living in these communities.

We also recommend that investments to meet AB 1550 requirements be held to a higher standard than in previous rounds of climate investments in DACs. Specifically, we urge ARB to revise the criteria tables referenced above (i.e., Appendix 2.A) to require that projects are designed to deliver multiple benefits to low-income households and individuals living in DACs and LICs, including environmental, social, and economic benefits. The new Transformative Climate Communities (TCC) program has already incorporated the principle of multiple benefits into their Revised Draft Scoping Guidelines. In order to be eligible for funding, TCC applicants must address, and identify strategies and indicators to meet, three Program Objectives: reduce greenhouse gases (GHGs), improve public health and environmental benefits, and expand economic opportunity.[1] At minimum, this guidance should apply to projects (or a share of a project's funding) that are planned or expected to count toward AB 1550 compliance. In other words, projects that do not provide and report on providing multiple benefits should not be counted toward meeting AB 1550 requirements.

[1] Strategic Growth Council, Transformative Climate Communities Program Revised Draft Scoping Guidelines, February 2017. http://sgc.ca.gov/resource%20files/20170209-RevisedDraftScopingGuidelines-TCC.pdf.

Additional Priority Principles

As ARB updates the Funding Guidelines, we also recommend that staff consider and incorporate the following principles: a) ensure meaningful community engagement and leadership, and b) avoid increasing substantial burdens in disadvantaged and low-income communities.

(4) Ensure Meaningful Community Engagement and Leadership

As noted above, communities are the experts on identifying and meeting their own needs. While the current Funding Guidelines include some provisions for community outreach (pp. 2-11 to 2-12), they are not sufficient to ensure real community engagement. Accordingly, two years into the implementation of SB 535, it is now clear that administering agencies have allowed inconsistent and largely insufficient community engagement, at both the programmatic and project levels.[2]

Even if all administering agencies were actively requiring applicants to conduct the most exemplary community outreach, outreach alone is not enough to ensure that community needs are identified and embedded in project outcomes. That is because they do not provide avenues for community residents to *shape* the various programs and projects according to their needs. We therefore urge ARB to amend the Funding Guidelines to strengthen the requirement for administering agencies to supplement outreach efforts with proven methods for directly engaging residents of DACs and LICs, and low-income households more generally, so that the wisdom of community residents in identifying and meeting the needs of their communities can be unleashed to shape future climate investments. We are developing specific recommendations to help direct and guide administering agencies in executing meaningful

[2] For instance, at the program level, Caltrans failed to directly reach out to any DAC residents prior to conducting its October 2016 workshops on the Low Carbon Transit Operations Program (LCTOP) guidelines update; informed the CCEC Steering Committee of the workshops less than a week prior to conducting the workshops; and held the workshops before releasing the draft FY 2016-17 program guidelines. Caltrans also does not require, but simply "encourages all agencies to conduct outreach to the DAC(s) they serve and fund projects that target the specific needs of these communities to the maximum extent possible." *See* California Department of Transportation, Low Carbon Transit Operations Program FY 2016-2-17 Final Guidelines. Available at: http://www.dot.ca.gov/drmt/docs/lctop/final_guidelines.pdf (p.14). Conversely, the Urban & Community Forestry program grant guidelines require each project to include a community education and outreach component in order to be eligible for funding, which ensures that DAC residents are at least aware of such projects. *See* California Department of Forestry and Fire Protection Urban and Community Forestry Program, California Climate Investments Grant Guidelines 2016/2017 ("Projects shall include an education and outreach component. Not more than 20% of grant funds may be used for this component. This component, as part of the overall project, may be shown as project match dollars by the applicant if so desired."). Available at: http://calfire.ca.gov/Grants/downloads/UrbanForestry/2016_2017/CAL%20FIRE_UCF_GRANT%20GUIDELINES_16_17_FINAL_v2.0.pdf (p.23).

community engagement with low-income households, and residents of disadvantaged and low-income communities.

(5) Avoid Substantial Harms

ARB's current Funding Guidelines require administering agencies to design projects to "avoid substantial burdens, such as physical or economic displacement of low income disadvantaged community residents and businesses or increased exposure to toxic or other health risks."[3] This requirement is a promising start to prevent well-intended climate investment projects from resulting in substantial harm to disadvantaged and low-income communities, and to low-income households. However, the updated Funding Guidelines should include unequivocal and mandatory language requiring implementing agencies and project sponsors to at least qualitatively demonstrate how projects have avoided "substantial burdens," to ensure that all projects are in compliance with the avoid substantial burdens requirement. We are developing specific recommendations for how agencies and project applicants can better demonstrate that programs and projects are in fact avoiding substantial burdens in and on the residents of disadvantaged and low-income communities.

We hope these comments are constructive in helping revise the GGRF Funding Guidelines to meet AB 1550 and to maximize the benefits of climate investments to low-income households and disadvantaged and low-income community residents, and look forward to reviewing ARB's draft updates. As stated above, we are working to develop more specific recommendations to support the comments presented here. Please contact us if you have any questions about the input provided or to discuss additional recommendations regarding the Funding Guidelines update.

Sincerely,

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[3] Funding Guidelines, at 2-6.

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cc: Arsenio Mataka, Assistant Secretary for Environmental Justice & Tribal Affairs,
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