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The Two Hundred
National Minority Community Leaders & Advocates
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VIA Hand Delivery and Federal Express

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Richard Corey, Executive Officer
1001 "I" Street
Sacramento, CA 95814

RE: Draft 2017 Scoping Plan

Dear Board Members and Mr. Corey:

The Two Hundred is a group of community civil rights leaders advocating for homeownership for California's minority families. We are committed to increasing the supply of housing, to reducing the cost of housing to levels that are affordable to California's hard working families, and to restoring and enhancing homeownership by minorities so that our communities can also benefit from the family stability, enhanced educational attainment over multiple generations, and improved family and individual health outcomes, that white homeowners have long taken for granted.

We also support the quality of the California environment, and the need to protect and improve public health in our communities.

We have, for many decades, watched with dismay as decisions by government bureaucrats discriminate against and disproportionately harm minority communities. We have battled against this discrimination for our entire careers, which for some of us means working to combat discrimination for more than 50 years. In litigation and political action, we have worked to force government bureaucrats to reform policies and programs that included blatant racial discrimination – by, for example, denying minority veterans college and home loans that were

available to white veterans. We sued and lobbied and legislated to force federal and state agencies to end redlining practices that denied loans and insurance to aspiring minority home buyers and small businesses. We sued and lobbied to force regulators and private companies to recognize their own civil rights violations, and end discriminatory services and practices, in the banking, telecommunication, electricity, and insurance industries.

We have learned, the hard way, that environmental regulators and lobbyists are as oblivious to the needs of minority communities, and are as supportive of ongoing racial discrimination in their policies and practices, as their banking, utility and insurance bureaucratic peers. Several years ago, we waged a three year battle in Sacramento to successfully overcome environmentalist opposition to establishing clear rules for the cleanup of the polluted properties in our communities, overcoming the cozy crony relationships between regulators and environmentalists who financially benefited from cleanup delays and disputes instead of creating the clear, understandable, financeable, insurable, and equitable rules for the cleanup and redevelopment of the polluted properties that blighted our communities.

Having successfully fought for decades to overcome government and business discrimination against minority working families, we were deeply saddened – but not surprised – that the predatory lending practices and discriminatory regulatory oversight deficiencies that led to the Great Recession disproportionately harmed minority homeowners, who lost homes to foreclosures at a far greater rate than white families. Just as the civil rights promises of laws enacted in the 1960s and 1970s had reached their stride, and the homeownership race gap was starting to close, the Great Recession wiped out generations of homeownership progress in our communities.

We were not surprised, but were likewise deeply saddened, when the regulatory climate change passions of California's environmental leaders were quickly distorted from their purported goals of reducing global GHG emissions to address climate change, into a series of regulatory proposals that impose stunningly regressive new costs on California middle income families. This regressive new regulatory regime, which punishes most harshly those Californians who work hard in middle income jobs, is presented by CARB as a global necessity – but in fact imposes higher costs for basic necessities like utilities, transportation, and housing that decades of anti-discrimination and pro-consumer protection statutes and agencies have sought to prevent. CARB's regressive and discriminatory agenda also embraces as California GHG "reductions" the relocation of higher wage manufacturing jobs accessible to those with high school degrees to other states and countries that have far higher per capita GHG emissions and then importing these formerly made-in-California products back to California, with still more GHG produced from transportation back to California! It is no surprise that the GHG habits of the wealthy, like jet plane travel, is ignored in favor of charging more for basic necessities, to be paid as a disproportionately greater share of earned income, by California's majority minority households.

We write to object to the 2017 Scoping Plan as a violation of the equal protection clause of the Federal and California constitution by disproportionately placing new cost burdens and regulatory obstacles on aspiring minority homeowners, while also disproportionately and arbitrarily reducing access to the higher wage jobs that allow members of California's minority communities to become homeowners. Approval of the proposed 2017 Scoping Plan would also

violate numerous other federal and state statutes, including but not limited to the federal Clean Air Act and Fair Housing laws, as described below.

We urge your Board to reject the 2017 Scoping Plan, and direct preparation of a revised Scoping Plan (inclusive of a revised environmental and fiscal analysis) that actually advances your climate change goal of reducing global GHG emissions with California leadership that does not discriminate against minority communities or violate constitutional and statutory protections, that advances rather than the discriminates against aspiring minority homeowners, and that results in meaningful global GHG reductions rather than simply causing the "leakage" of people and jobs to higher GHG states and countries that result in higher global GHG emissions.

While we recognize that the Scoping Plan also increases costs and reduces higher wage job access for aspiring white working families and workers, because California is now a minority majority state the imposition of new regulatory programs that unfairly burden middle and working class families and workers – the majority of which are now minorities - are unconstitutional.

CARB's constitutional violation is particularly egregious in the context of GHG emission reduction mandates that allow California to claim GHG reductions for driving people and jobs out of California, while ignoring both the increased GHG emissions caused when people and jobs move to higher per capita and per gross domestic product (GDP) states and countries as well as the GHG emissions created by Californians' consumption of goods and services (like cement imported from China and jet travel for the wealthy). As recently demonstrated in a joint study completed by scholars from the University of California at Berkeley and regulators at the Bay Area Air Quality Management District, high wealth households cause far more global GHG emissions – yet the Scoping Plan ignores this scientific truth and unfairly, and unlawfully, burdens California's minority and middle class households with new regulatory costs and burdens to further reduce the less than 1% of global GHG emissions that are actually produced within California's borders.

Background

As has been our lifelong mission, we have resolved to once again advocate for equity, and against discrimination, on behalf of our communities and against discriminatory bureaucracies.

California has the nation's highest poverty rate, highest housing prices, greatest housing shortage, highest homeless population - and highest number of billionaires. The housing supply and housing cost crisis has resulted in a diaspora of minority families from the core metropolitan cities with the greatest number of jobs and highest wages to ever more distant suburbs, exurbs, and even regions. Hard working families, which are disproportionately minorities in contrast to the wealthier whiter elites who bought into or can afford to remain in our wealthiest job centers, are forced to "drive until they qualify" for housing they can own (or even rent). Workers and their families then suffer a cascading series of adverse health, educational, and financial consequences from their unconscionably long commutes – sometimes sleeping during the week in cars and trucks parked overnight on construction job sites, in industrial neighborhoods, and in abandoned parking lots. This problem is not limited to minimum wage, other low income workers, and college students already struggling with staggering debt burdens: our skilled

construction workers, teachers, nurses, firefighters, police officers and sheriff's deputies, city staffers and truck drivers and union members – all once solid middle class California jobs that produced the world's greatest middle class of homeowners – can no longer afford to buy homes near where they work.

In our communities, homeownership is not a "developer" issue – it is a core value that allows each monthly housing check to contribute to financial security, and it is the only proven pathway to create the family wealth needed to pay for the inevitable periods of illness or lost jobs, and the inevitable multi-generational needs of financing college educations and senior health care.

Yet we see, over and over and over again, our government agencies taking actions to deny our people access to homeownership – always purportedly a "color blind" approach that they are shocked (shocked!) to learn has a disparate impact on minority communities.

If the California Air Resources Board (CARB) approves the October 2017 version of its Scoping Plan, CARB will enter the hall of shame occupied by other federal and state agencies who violate the equal protection clause of the federal and state constitution, and other federal and state laws – not the least of which is the Clean Air Act itself – by discriminating against California's minority communities.

California produces less than 1% of global GHG emissions, and has lower per capita GHG emissions than any other large state except New York – which unlike California still has multiple operating nuclear power plants. As everyone from Governor Brown to members of this Board have repeatedly stated, California climate change leadership depends not on further mass reductions in the 1% of global GHG emissions generated within our boundaries, and instead demands leadership that can and will be politically emulated by other states and countries.

Promoting leakage of jobs and people to higher per capita GHG states and jurisdictions, and exacerbating the state's extreme poverty, homelessness and housing crisis while depriving hard working minority Californians from homeownership and middle class stability, achieves only the twin goals of increasing global GHG emissions and promoting ever more acute income inequality and racial discrimination. The Legislature and Governor directed CARB to reduce GHG emissions – and did not direct CARB to violate applicable constitutional and statutory protections and mandates. California's climate leadership in promoting renewable energy and other technologies, such as solar panels and electric vehicles, can and has spurred GHG reduction measures that can and have been replicated by other states and countries. CARB's proposed expansion of the California Environmental Quality Act, and its promotion of "Vibrant Community" state agency land use interventions designed to intentionally increase road congestion and home prices throughout California, do not create meaningful reductions in GHG emissions in California – they just increase costs and misery for California's working families, and promote migration to other higher GHG states.

We Urge You To Direct Staff To Revise The 2017 Scoping Plan To Avoid Increasing Poverty and Worsening Housing Crisis for California's Minorities and Other Working Families

There are four components of the Scoping Plan that must be eliminated, and a revised Scoping Plan along with corresponding revisions to the Scoping Plan's statutorily required fiscal and environmental analyses must be completed and circulated for public review and comment, to avoid federal and state constitutional and statutory violations, and avoid increasing California's acute poverty, homelessness, and housing crisis.

I. Disapprove Expanding the California Environmental Quality Act.

Numerous non-partisan analyses and expert studies have confirmed that CEQA is a significant factor in discouraging, downsizing, delaying, and increasing the cost of housing – especially in urban job centers. *See generally,* several housing crisis reports confirming that CEQA as a problem prepared by the non-partisan California Legislative Analyst office such as http://www.lao.ca.gov/Publications/Report/3470 ; *see also,* https://www.mckinsey.com/global-themes/urbanization/closing-californias-housing-gap ; http://www.milkeninstitute.org/videos/view/if-you-lived-here-youd-be-home-by-now-addressing-californias-housing-shortfall ; https://www.sandiego.gov/blog/housing-action-plan ; https://bpr.berkeley.edu/2017/04/11/housingcare-how-to-solve-californias-affordable-housing-crisis/ ; https://www.bizjournals.com/sanfrancisco/blog/real-estate/2016/08/unions-against-gov-browns-as-of-right-housing-plan.html ; http://www.sacbee.com/news/politics-government/politics-columns-blogs/dan-walters/article25352200.html ; http://www.caeconomy.org/content/landing-page/housing-landing . [1]

Earlier this month, the Office of Planning and Research (OPR) separately released a massive regulatory amendment package that would make changes to the regulatory requirements implementing CEQA (CEQA Guidelines) with the convenient (for state agency bureaucrats assured lifetime employment, pension and medical insurance) and disgraceful (for California working families hoping to spend any quality time at home instead of in multi-hour daily commutes) public review process to begin over the holidays.

The Scoping Plan's vague and ambiguous CEQA provisions, coupled with the massive unknowns and ambiguities in OPR's proposal, would raise housing and homeowner transportation costs - and further delay completion of critically needed housing by increasing CEQA litigation risks – and thereby exacerbate California's acute housing and poverty crisis. This effect would be disparately felt by the disproportionately minority population of renters unable to afford homeownership, younger workers more generally including even the well-paid technology, artist and internet workforce that organized the new Yes In My Backyard (YIMBY) party with the bold motto that "Housing Is Not Illegal," and Californians that do not already have

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[1] A recent report prepared for the Senate Environmental Quality Committee concluded that CEQA litigation was not a problem – a conclusion made possible by the study's omission of housing entirely notwithstanding the housing crisis, with a methodology that ignores both the cost and time required to deal with CEQA compliance and litigation in relation to taxpayer funded public projects such as the CEQA lawsuit threat against expiring federal funding that caused "Carmageddon). http://sd10.senate.ca.gov/news/2017-12-07-survey-state-projects-finds-ceqa-not-barrier; *see also*, http://ceqaworkinggroup.com/carmageddon

adequate housing supply options at prices they can afford. Recent studies have confirmed that higher density infill housing is the most frequent target of CEQA lawsuits statewide. https://www.hklaw.com/news/holland-knight-study-uncovers-widespread-ceqa-litigation-abuse-08-04-2015/; http://sites.uchastings.edu/helj/publications/recent-volume/

For example, in the part of our state that has the greatest population, highest density, and most acute housing affordability problem – the six-county area that comprises the Southern California Association of Governments (SCAG) region – 98% of the 14,000 housing units targeted by CEQA lawsuits between 2013 and 2015 are located in urban infill locations, 70% are within one-half mile of transit, and almost 80% are located in the whiter, wealthier and healthier areas of the region. Another study confirmed that California's transit projects were more frequently targeted by CEQA lawsuits than roadway and highway projects combined! *Ibid.*

If CARB actually cared about increasing density and transit services as a GHG reduction strategy, the Scoping Plan should have identified CEQA litigation – pursued by anonymous shadowy groups, business competitors, NIMBYs and labor unions - as a major obstacle and delay factor in achieving its ambitious GHG reduction goals for promoting infill housing, transit and public services. If CARB cared about working Californians, or about the poverty or housing crisis, or the transportation gridlock that is causing criteria air emissions from the transportation sector to actually increase for the first time in decades, then the Scoping Plan would have strongly advocated for statutory amendments to CEQA that would expedite housing, transportation, schools, parks and public infrastructure. If CARB cared about global climate change, the Scoping Plan would have strongly advocated for amendments to CEQA and other statutes that help California retain its middle income workforce instead of driving this disproportionately minority population to higher per capita GHG states for housing they can afford based on jobs they can access based on the educational attainment levels delivered by California's schools and colleges.[2]

Instead of taking any of these constructive steps, all of which would improve the political resiliency of climate change policies in the face of hyper-partisanship and staggering income inequality, the Scoping Plan proposes to actually expand CEQA by adding ambiguous, litigious, and unlawful new expert agency net zero CEQA thresholds, substantial reductions in total Vehicle Miles Travelled (VMT), land use growth controls such as urban limit lines and new ecosystem service fees which further increase housing costs in existing communities, and legally infeasible local climate action plan standards under CEQA. These components of the Scoping

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[2] With respect to education, we note that separate legal action is again underway to force California leaders to meet even minimal educational standards for its minority students, including an elementary school for which fewer than ten percent of students pass reading competency tests in yet another round of litigation forced by California leaders' repeated inaction on core civil rights in the educational arena. Elitist special interests continue patterns of discrimination against California's minority communities with many established policies, but only CARB (and OPR) are proposing to launch a new generation of "environmental" mandates to actually worsen the housing, poverty, and transportation gridlock crises that continue this unlawful history of racial discrimination against minorities.

Plan, like the massive OPR rulemaking just initiated, will benefit only the "CEQA industry" of lawyers, consultants, special interests, and bureaucrats who profit from repetitive studies, gain financial advantages from secret lawsuit settlements and duplicative lawsuits against projects that have already gone through one or more rounds of CEQA. The Scoping Plan is an elitist tool that will further empower our BANANA (Build Absolutely Nothing Anywhere Near Anyone) republics of wealthy coastal elites who refuse to build their fair share of housing that is affordable to California's hard working families.

A. Eliminate Presumptive Net Zero GHG CEQA Threshold

The Scoping Plan recommends, based on CARB's status as an expert state agency on GHG, that all new development projects – of all kinds – achieve no net increase in GHG emissions ("net zero GHG") unless the lead agency or project proponent can prove that a project cannot meet this CEQA threshold based on "substantial evidence."

This Scoping Plan component is not proposed to go through any future rulemaking proceeding: it stands, as senior CARB official Kurt Karperos recently confirmed at a Sacramento Climate Conference, as a "self-implementing" element of the Scoping Plan that takes legal effect as of CARB's adoption of the Scoping Plan.

First, this Scoping Plan component is flatly at odds with OPR's contradictory legal conclusion that CEQA cannot be interpreted to impose a "zero molecule" standard and prior definitive rejection of a "net zero" GHG mandate in the only completed CEQA GHG rulemaking in effect today. OPR's voluminous new proposal on CEQA rulemaking includes a variant of this Scoping Plan CEQA threshold, but this new OPR proposal is the beginning – not the end – of the rulemaking process. There is zero evidence in the CARB record supporting presumptive imposition by a lead agency of this net zero GHG threshold for each type of individual project – from home renovations to high-rise towers, from rail to ferry to carpool lane expansions, from wineries to hotels, from universities to hospitals, from parks to schools – that is subject to CEQA.

Second, GHG emissions are the most litigated CEQA topic, and notwithstanding several decade-long lawsuits, the California Supreme Court declined to decide in two recent cases what CEQA (a 1970 statute) actually requires in the context of determining when a GHG emission is potentially "significant" under CEQA.

It is the height of agency irresponsibility and racial insensitivity, given the severity of the housing, poverty and homelessness crisis and their collective effect on California's minority communities, for CARB in its expert agency role to interpret CEQA as requiring use of this net zero GHG CEQA threshold unless a lead agency can prove otherwise with substantial evidence.

It is also the height of arrogance, similar to decisions by California's redevelopment agencies to demolish whole minority communities, for a billion dollar Sacramento agency staffed with hundreds of well-paid scientists and policy advisors to suggest that a CEQA lead agency – most often a city struggling with numerous complex budget and policy priorities, operating with minimal staff and no climate change experts – to develop its own "substantial evidence" to

withstand a CEQA court challenge to rejection of this expert agency net zero GHG CARB standard.

There have been examples of "net zero" buildings which rely on a combination of rooftop solar generation, various voluntary building construction materials and techniques that have not met California's statutory consumer protection mandate of a ten year payback in reduced energy costs, and elimination of natural gas for heating and cooking (which thereby raises monthly utility costs for building occupants). All of these "net zero" buildings increase housing costs, which are already nearly triple the average housing costs for the nation.

However, none of these examples included the other components of a "project" as defined under CEQA, which span a much larger group of project-related activities including initial construction and ongoing occupancy as well as transportation fuel use by future project residents, guests, employees, and service providers.

CARB's version of a CEQA net zero GHG threshold imposes even higher housing costs than the "net zero" housing structures in existence by including all of these project-related construction and future occupant transportation emissions, such that new project occupants will double pay in perpetuity for driving: once at the pump under the cap and trade program, and again (and again) as part of owning or renting and doing the same routine transportation activities living next door in pre-Scoping Plan housing. Since CEQA applies only to new projects, the Scoping Plan also doubles down on the broadly perceived generational inequities created by Proposition 13, where a new home owner can pay ten thousand dollars more than their next door neighbor – under the Scoping Plan, the new neighbor will also pay tens of thousands of dollars more in transportation-related GHG offsets or allowances than households not subject to this new CEQA regime.

Further, the CARB CEQA expansion proposal for net zero GHG would be triggered today for new projects (at the height of the housing crisis) notwithstanding the fact that over time less and less fossil fuel/GHG emissions are expected from future vehicle fleets.

In short, the direct effect of CARB's net zero GHG project threshold CEQA expansion is to impose even higher housing costs on California families that are already suffering from an acute housing supply and affordability crisis.

Third, as noted in the studies cited above, the most frequent targets of CEQA lawsuits statewide are housing projects – and the most frequently challenged category of housing projects is higher density, multi-unit projects located in existing communities served by public transit. Anti-housing lawsuits are the reality of CEQA litigation, which is at odds with the academic theory of planners who believe that all neighbors (and CEQA leverage litigants like competitors and labor unions) welcome high density and crowded parks, schools and roads - or the idealized vision of what CEQA lawsuits "should be" in the minds of Sacramento agency lawyers bureaucrats.

If it is indeed a climate goal of CARB to promote costly, high density housing over the objections of neighboring voters, then again the solution is to reform and update CEQA – not to create a new litigious "net zero" standard for each new housing project that can be litigated for a decade or more while no housing is built, and California workers continue to suffer as well as migrate to other higher per capita GHG states.

Fourth, this "net zero" CEQA approach violates consumer protection statutes that were separately enacted to prevent Sacramento's regulators from imposing on California homeowners (and renters) every last bell, whistle, and gizmo with a lobbyist or agency special interest champion behind it. CEQA is not, as courts have consistently held, a giant "workaround" to avoid compliance – or mandate "beyond compliance" measures that conflict with specific statutory mandates, or that attempt to impose through bureaucratic fiat what the Legislature has itself repeatedly rejected as a statutory mandate such as the Scoping Plan's unlawful conflation of the SB 32 enacted mandate of reducing GHG 40% by 2030 with the decidedly NOT approved notwithstanding multiple years of unsuccessful legislative proposals mandate of reducing GHG 80% by 2050.

The Legislature, and not CARB, enacts new statutory standards.

California already has, and can enact future amendments to, vehicle standards and fuel standards that make vehicles and gas more costly for California consumers. The Legislature has done this twice already in 2017, with the new vehicle tax and the expansion of the cap and trade program. However, expanding CEQA to require ***only*** future occupants of acutely needed housing units to double-and triple-pay to get to and from work with a CEQA mitigation obligation to purchase GHG credits/offsets to satisfy CARB's new "net zero" CEQA threshold unlawfully and unfairly discriminates against new occupants in violation of Constitutional protections for interstate commerce and equal protection, in addition to other fatal legal deficiencies.

California already has, and can enact future amendments to, building code standards that result in lower GHG emissions while also protecting consumers from excessive costs; expanding CEQA to impose "net zero" building mandates that are not cost-effective even over the ten year statutory payback period harms consumers in violation of this statute.

California already has, and can enact future amendments to, its renewable portfolio standards and electricity generation grid physical and governance configurations. Given the "duck curve" challenge of California's current inability to consume the solar/wind power produced during some afternoons (as documented by the California Energy Commission's building standards staff) coupled with the far lower rooftop ratios available in multi-story higher density housing advocated by CARB, forcing new home occupants to pay for ever more costly (and currently unproductive) rooftop solar arrays and/or pay for offsite renewable energy generation facilities in addition to paying normal consumer costs for electricity and natural gas (or banning natural gas entirely) increases housing project costs and CEQA uncertainties with virtually no corresponding GHG reduction benefits from lost afternoon renewable generation peaks.

Other GHG emissions of simply occupying a home – like composting and reusing trash or using a transit system instead of owning a car – likewise cannot be meaningfully assumed by the vast majority of individual housing projects, because these are community-scale facilities and systems that are neither feasible nor cost-effective measures applied to the individual projects subject to CEQA (and CEQA lawsuit challenges).

For example, does an apartment project near transit maximize density – or decide to use part of its property for composting its food waste but not the food waste of its neighbors, and then spending more money to arrange for the offsite use of the composted materials? Marin County is

among the most famously hostile to new housing, and notwithstanding its purported "environmental" values has also declined to allow any food waste composting facility to be built within the County. Is it CARB's intention to hand Marin County NIMBYs still more CEQA lawsuit claims to block apartments near transit that decline to compost their own food waste because Marin County won't provide this GHG reduction service to its residents?

On a much more significant cost and GHG emission scale, the existence of effective transit systems is far outside the control of an individual 20-unit housing project. The University of Minnesota's authoritative, multi-year national metro region study of transit system confirms that far less than 10% of a metro region's jobs can be accessed in a 60-minute one-way ride on public transit anywhere in California with the sole exception of the 49-square mile San Francisco peninsula. Notwithstanding billions of transit investments, and robust rail and express bus transit ridership, routine bus ridership has plummeted in California and nationally with transportation mode shifts to Uber/Lyft (and soon automated vehicles. Reforming CEQA – and rail projects in California routinely take 20 years or more (and multiple rounds of CEQA lawsuits) to get completed. Is it really CARB's intention to let our whitest, wealthiest, healthiest enclaves – the wealthy communities who have fought for decades to block affordable housing, "crime trains" and transit stations – use the absence of effective transit systems as yet another reason to claim CEQA deficiencies in a lawsuit against housing??

The Scoping Plan's "net zero" CEQA threshold violates multiple provisions of the state and federal constitution, and discriminates against future occupants of new housing units who are disproportionately members of minority communities, in violation of federal and state fair housing laws.

B. Eliminate CEQA Numeric Standards for Local Climate Action Plans

The Scoping Plan purports to endorse current CEQA Guidelines and court decisions upholding project compliance with locally-approved climate action plans as an alternative to the "net zero" CEQA compliance pathway. Our courts have struggled, to no clear outcome, to understand and apply CEQA to global climate change. Appellate courts and the current CEQA Guidelines both recognize that a project that complies with an approved local climate action plan is a valid compliance pathway through CEQA, and the California Supreme Court has opined that this "may" be a compliance pathway but also urged establishment of clearer CEQA thresholds for GHG emissions.

As with the "net zero" threshold itself, however, CARB's proposal that local governments – cities and counties – adopt climate action plans that are themselves designed to reduce per capita greenhouse emissions from current levels of eleven metric tons per year, to six metric tons per year by 2030, and then two metric tons per year by 2050, demonstrates willful ignorance of the statutory jurisdictional authority of local government to substantially reduce the sources of GHG emissions that result in already low per capita emissions.

As the 2017 Scoping Plan itself acknowledges, the vast majority of GHG emissions are from the transportation sector (where local governments lack any legal authority to regulate passenger vehicle fuels or technology), from electricity generation (where local governments have made substantial strides in encouraging and producing rooftop and canopy solar power generation, but

at tiny fractions of what would be needed for an entire community), from stationary sources (which are regulated through the cap and trade program, with fees collected and disbursed by the state and not local government), and from sector-specific activities like agriculture and landfills that typically are not located in the cities where most new housing is proposed to be developed based on the eight-state agency "Vibrant Community" Scoping Plan Appendix vision of focusing future development only in higher density, transit-oriented cities).

Even the CARB Scoping Plan Appendix recommending local government actions does not identify any measures that would contribute more than a tiny fraction toward reducing the community's per capita GHG emissions to CARB's six and two metric tons per year numeric criteria, respectively. The mandate for achieving a "declining trajectory" in mass GHG emissions is likewise inconsistent with substantially increasing population densities in California cities, since GHG emissions do indeed track population growth – and any substantial increase in population includes a mass increase in GHG emissions even if per capita greenhouse emissions are reduced.

There is no question that cities and counties can reduce GHG emissions, by for example reducing emissions from their own municipal facilities. Even these strategies can have a significant fiscal consequence to financially struggling communities burdened with ever-increasing pension and other costs. For example, converting a municipal swimming pool to solar and eliminating gas heating will reduce GHG emissions, but also reduces the ability of the young and infirm to swim during the winter and on cloudy or cool days. Backup electricity generation from the grid will help maintain appropriate pool temperatures, but at a much higher operating cost give the availability of inexpensive natural gas. If CARB believes that local jurisdictions must never use natural gas to heat swimming pools, then it should conduct a rulemaking to impose this requirement. Country club kids will continue to swim; poor kids and the infirm will not. How important is eliminating occasional natural gas use in public swimming pools to global climate change is an issue to be appropriately addressed in a separate rulemaking, but the CARB-mandated six and two ton per year numeric thresholds for legally adequate local climate action plans demand an immediate "all of the above" GHG reduction strategy regardless of the tradeoffs.

Although the two ton per person metric has won support from many scientists, the hard work of approaching that target – even from California's very low 11 ton per year per person rate – is appropriately managed with regulation, not a bureaucratic putsch. In the 1970's, the chairwoman of CARB believed that the only possible strategy for reducing air pollution from cars was to prohibit driving every other day – an impossible proposition for middle income workers who must be physically present at their jobs or risk falling into homelessness and poverty, even then. Over time, through methodical and transparent rulemaking, US EPA officials under President Obama reported that vehicular emissions were reduced by 98-99% in relation to tailpipe emissions from the 1960s. We removed lead from gasoline entirely, eliminated the risk of carbon monoxide poisoning at intersections, and vastly decreased other smog-creating pollutants. If CARB was serious about local climate action plans, it would prioritize, quantify, fiscally and environmentally assess, and then recommend regulatory standards to be met by local government. Instead, by again conflating the statutory 2030 statutory reduction standard with the 2050 unenacted policy, CARB's local climate action plan numeric standards are accompanied only by an unquantified and unquantifiable list of Appendix mush measures. Cities

and counties have already experienced the joys of being targeted by – and losing - CEQA lawsuits seeking to overturn local climate action plans. The Legislature has also repeatedly declined to mandate local agency adoption of climate action plans. It is illusory, disingenuous, and hugely litigious, for CARB to suggest that a 2 ton per capita climate action plan is an alternate compliance pathway for projects under CEQA.

The Scoping Plan is a major step in the wrong direction: it prescribes a clearly unattainable numerical per capita GHG emission standards for 2030 and 2050, identifies loosely framed and largely unquantifiable examples of potential measures that local government can seek to achieve in local climate action plans, and utterly fails to provide any clear direction on what local governments should do about the vast majority of GHG emissions sources over which local governments have no jurisdiction or control. CARB's impractical, legally infeasible, and poorly-conceived mandatory numeric standards for local climate action plans will spawn even more CEQA lawsuits against local climate action plans, and spawn more judicial confusion and conflicting outcomes. Because adoption of climate action plans itself triggers CEQA, it will also discourage rather than encourage local jurisdictions to adopt such plans and face costly environmental impact report preparation and litigation defense gauntlets.

Like the ill-considered "net zero" presumptive CEQA threshold for projects, the bottom line of this Scoping Plan local climate action plan CEQA compliance pathway is to increase costs, add more delays, and expand litigation risks, for those filing CEQA lawsuits against housing, transit, and other critical local services and infrastructure projects.

Like the "net zero" presumptive CEQA threshold for projects, the numerical GHG per capita and trajectory criteria for climate action plans should be removed from the Scoping Plan. The quantum of GHG emissions that can feasibly be attained under existing legal authorities by local governments should be separately and clearly calculated and explained, and if this is indeed a new mandate then it should be separately legislated as such so that it can be placed in the context of the multitude of other legal and policy priorities, and fiscal opportunities and constraints, placed on local government.

At minimum, if this Scoping Plan numeric per capita and trajectory adequacy standard for local climate action plans is to be incorporated into CEQA, then this – like the GHG threshold issue – should be deleted from the Scoping Plan and assessed in the context of the OPR CEQA Guidelines update proposal for which the formal rulemaking process has just begun.

C. Delete CEQA and Land Use "Vibrant Communities" Appendix Scoping Plan Components, All of Which Ignore Regional, Racial, Economic, and Project Diversity

CARB is a state agency, with an extremely poor track record of CEQA compliance and multiple CEQA litigation lawsuit losses, and has virtually no experience, expertise, or statutory authority to regulate local land uses. CARB's mission does not encompass even a small fraction of the public health and welfare, safety, economic development, public services, infrastructure development and maintenance, representative government by elected officials, or law enforcement duties or obligations placed on local government by the California constitution and myriad state laws.

At even the most conceptual level, the Scoping Plan's assertion that a single "net zero" GHG emissions threshold should apply to projects in climates as varied as Mendocino and Palm Springs, and should apply equally to all project types including wineries, universities, hospitals, housing, carpool lanes, reclaimed water plants, bike lanes on busy urban streets, replacement homes lost to fires and earthquakes, ski resorts and marijuana grows, the High Speed Rail project and the Twin Tunnel project (to name just a few), confirms why CARB is not the appropriate agency to assert its "expert agency opinion" on how either GHG or land uses should be regulated under CEQA.

With respect to climate variants, to impose "net zero" as a threshold in a wealthier milder climate such as the Bay Area will increase housing costs and reduce the affordability of housing for minority communities. In the inland and desert areas of the state, in contrast, pricing new projects to achieve "net zero" compounds already extraordinarily high utility costs and will literally kill people – disproportionately minorities – who cannot afford either new housing, or monthly utility bills in excess of $1000 during the summer. A "net zero" structure that deprives new homes of far less costly natural gas extends this new CARB CEQA death zone to mountainous regions during cold winters.

Utility subsidies for the very poor do not come close to recognizing the scale of suffering and economic distress that already affects working Californians and their families, and it ignores in the housing context conclusions by the Governor and numerous other political and academic experts that we simply cannot count on public funding to solve this problem for us.

While CARB staff will undoubtedly point to utility cost assistance programs for the very poor, United Way of California determined that a full 40% of the state's population cannot regularly meet even routine monthly costs even when taking into account public subsidies for food and health care. https://www.unitedwaysca.org/realcost How much more will Scoping Plan implementation cost these families – our teachers, health and food workers, retail clerks and truck drivers, construction workers and public safety employees – to heat and cool their homes, cook their foods, and get to and from work, school, and medical care?

Similarly, with respect to project variants, how much more will a "net zero" mandate add to the cost of subsidized affordable and supportive housing? How much more will it cost transit projects? How much more will reclaimed water treatment facilities cost, and how much will water cost consumers, with a "net zero" mandate? And is "net zero" paid up front, over time – and if over time is this a brand new annual cost imposed on the residents of all new housing everywhere??

Using CEQA – which applies solely to "new" projects - to impose these new costs – means that wealthier existing homeowners will never pay the same high cost as the unhoused victims of California's current NIMBY-driven housing crisis, it means that existing businesses will always have a permanent economic advantage over competitors even if that drives up prices for consumers, and it means that the already extraordinarily high infrastructure costs in California will get higher still – at a time of diminishing availability of federal infrastructure investment.

As patiently, and exhaustively explained by NAACP and Haas Business School Fellow Richard Rothstein in his book, The Color of Law, government bureaucrats don't always intentionally and

expressly engage in racial discrimination – but the repeated pattern of agency actions in California and nationally does indeed have this disparate discriminatory effect.

Discriminating against minorities by expanding CEQA will do nothing to advance California's leadership role in global climate change. It will instead cement the growing reputation of Californians as elitists that openly demonstrate their contempt for middle class workers.

We do not believe that the Legislature enacted climate laws that authorized or anticipated that CARB would expand CEQA to intentionally increase housing costs, drive up poverty rates, and increase global climate change by eliminating homeownership opportunities for middle class workers. We do not believe that the Legislature intended CARB to drive middle income families to states with far higher per capita GHG emissions, and within California to further burden housing costs and CEQA litigation risks while still protecting CEQA litigation abusers that have forced more Californians to live in housing located ever-further from temperate climate coastal jobs centers to inland areas with health-critical needs for more summer air conditioning and winter heating.

d. Conclusion: Delete All CEQA Provisions from Scoping Plan

Prescribing new CEQA requirements that are practical, lawful, equitable and affordable given our poverty, homeless and housing crisis, existed as a Scoping Plan opportunity for CARB, us, and other Californians committed to the twin goals of civil rights and equal protection, along with environmental protection and climate change leadership.

However, the political sloganeering behind the 2017 Scoping Plan's "net zero" CEQA threshold and local climate action plan numeric standards is irresponsible, inequitable, and unlawful. Because approval of the Scoping Plan is intended by CARB to give these CEQA expansions immediate legal effect as expert agency determinations regardless of the OPR or any other rulemaking, CARB's CEQA expansions also cause the greatest harms to the housing, transit, public service, infrastructure, park and school projects, that are most likely to be targeted, threatened, forced to pay "greenmail" in secret settlements using taxpayer dollars or private sector dollars that get rolled into increased housing costs, and ultimately delayed or derailed, in CEQA lawsuits.

The Scoping Plan's expansions to CEQA were also entirely ignored in the environmental and fiscal analyses prepared for the Scoping Plan, and thus also violated applicable rulemaking mandates for the Scoping Plan, as yet another set of legal violations by CARB in this ill-considered CEQA power grab.

CARB has previously received comments on its draft Scoping Plan, which instead of "net zero" proposed an equally opaque, litigious, and inequitable "all feasible" GHG mitigation standard on new projects. The 2017 Scoping Plan is even more extreme, and more unlawful, than earlier drafts by adopting the numeric "zero" threshold, and unveiling for the first time the six/two ton per capita standards for climate action plans.

All CEQA components of the 2017 Scoping Plan should be deleted (including the related land use measures in the Vibrant Communities Appendix). CEQA GHG requirements should be determined in the context of the just-commenced rulemaking process for amending the CEQA

Guidelines. We close these comments with a simple resolution that we ask you to approve in lieu of staff's recommended approval of the entirety of the Scoping Plan.

II. Delete Limits on New Vehicle Miles Travelled from Scoping Plan.

The 2017 Scoping Plan states that CARB staff is "more convinced than ever" about the need for Californians to drive less – a lot less. However, CARB staff also recently issued a notice confirming that CARB staff was not ready to propose updated targets for GHG and vehicle mile travelled (VMT) reductions as part of the SB 375 process, and would not be ready to do so until sometime next year.

Like the CEQA components of the Scoping Plan discussed in Part I, the VMT reduction component of the Scoping Plan is not quantified or assessed in either the required environmental or fiscal analysis, and accordingly CARB has violated the fiscal and environmental review statutory requirements applicable to the Scoping Plan.

As background, while it has become a "political truth" that higher density transit oriented housing reduces VMT, the actual truth as documented in numerous studies including those funded by CARB and others is that adding density to transit-served urban neighborhoods adds VMT (even if it potentially reduces per capita VMT), that VMT is higher for the higher wealth households that can afford to pay the $4000/month rents charged in the tony Bay Area and Los Angeles neighborhoods that have sprouted high rise residential density in recent years, and that the only peer reviewed academic study of VMT reduction in higher density transit neighborhoods confirmed that there is almost no correlation between VMT reductions and the expensive high density transit oriented housing development sought by the Scoping Plan authors. See, e.g., https://www.arb.ca.gov/research/apr/past/13-310.pdf , www.tandfonline.com/doi/abs/10.1080/01944363.2016.1240044

Add to this the fact that bus ridership has plummeted nationally and throughout California, even in San Francisco, which is the West Coast's most transit-oriented city (and the only city that largely took shape before the automobile became the dominant mode of transportation). Gentrification and the outmigration of minorities and working class families from the central city neighborhoods with the most transit has also been well documented, including the "diaspora" for example of African Americans to the San Joaquin Valley and distant suburbs like Antioch, Fairfield and Santa Rosa from the cities of Oakland, San Francisco and San Jose. While lower income workers may feasibly take transit where transit service can reasonably connect people to jobs (e.g., within cities like San Francisco), once such workers are forced by the housing crisis to "drive until they qualify" for housing they can afford regional VMT actually increases. Emerging transportation technologies and services like Uber and Lyft provide increasingly popular last-mile service between rail stations and work/home, but studies have confirmed these services also increase VMT. Automated vehicles likewise are projected to increase rather than decrease VMT.

Intentionally increasing road congestion as a climate strategy, as was explained in the "road diet" proposed in OPR's second Discussion Draft of SB 743 CEQA Guidelines, and as has been with less inflammatory words adopted as policy by Caltrans without benefit of notice to or statutory authorization from the Legislature, compounds the racial injustice of the housing crisis since the

victims of intentionally increasing congestion are the workers already forced to more distant inland locations away from higher wage jobs and more ample job opportunities.

The "cause more gridlock" transportation strategy also doesn't work from an environmental and public health perspective: for the first time in the many decades since the state started comprehensively tracking air pollution from vehicles, criteria and GHG and toxic air emissions actually increased rather than decreased – even as cars and fuels emit less pollution – because people are forced to drive longer distances, and spend more time stuck in traffic congestion. And who lives closest to the freeways and ports where vehicular emissions increase from this intentional gridlock? No surprise answer: these are neighborhoods dominated by poor and minority residents, who also have disproportionately high rates of pollution-induced asthma and other adverse health conditions.

Increasing congestion to induce bus transit has never been approved by Californians, is contrary to several existing federal and state laws, and is absolutely contrary to the political will of California voters. In recent years, several of California's most congested counties voted to approve roadway and transit system improvements in an effort to get the transportation systems working again. The state's congestion management statutes, the enacted duties of Caltrans and regional transportation agencies, federal transportation statues, and the federal and state clean air act, all require efficient goods movement and vehicular passenger mobility as strategies to reduce air pollution and protect and enhance the efficient movement of passenger and commercial vehicles. California's agricultural sector, its ports, and its tourism industry – to name just a few examples – must have adequate transportation mobility.

We have watched with dismay the enforced "road diet" that CARB and other bureaucrats and academic want to impose on California's minority communities, and we will weigh in when next the opportunity arises in the SB 375 context, as regional transportation agencies and CARB attempt to identify ever more stringent VMT reduction targets. We will again, in that context and all others, note the real truth that differs from the political truth: VMT has actually risen (by about 3% in the SCAG region for example) as a common sense outcome of increased population, jobs, and economic activities notwithstanding billions spent on transit improvements

Ahead of the new SB 375 targets, we have been stunned by CARB's willful refusal to accept the reality of the multi-year national study coordinated by the University of Minnesota that confirms that less than 10% of jobs even in California's metro regions can be accessed in 60-minutes by public transit, and that roadway gridlock makes bus ridership – which has plummeted nationally – even less viable for minority residents forced by the housing crisis to live far from their jobs.

We have remained stunned by CARB's refusal to accept the inequitable and unlawfully discriminatory outcome of VMT fees, which take the same poorer and browner populations forced to travel the longest distances – and impose regressive new VMT fees and mandatory reduction crackdowns on people who are barely making ends meet notwithstanding having two or more jobs per household.

We already have the most economically regressive vehicle use taxation scheme in the nation: Californians pay about 75 cents more for gasoline than the national average, and this high fuel price will further increase with new cap and trade costs, new transportation system taxes charged

for each gallon of gas, and higher vehicle registration fees. California's middle income families, forced to live ever greater distances from their jobs and ever closer to the poverty line, also have the dubious privilege of paying far higher taxes and fees to the state than their proximate, wealthy, whiter work colleagues fortunate enough to be able to afford to live in coastal job centers – helped with financial inheritances or other contributions from parents who actually received the veteran home and college and small business loans that were denied to minority veterans by agency bureaucrats who also sincerely believed themselves to be acting in the public interest.

While recognizing that electric cars will comprise the majority of California's future car fleet under the Scoping Plan, the Plan provides no transition plan – and certainly no practical or equitable transition plan – for the 25 million registered California vehicles that are not electric, or for the 95% of the 2 million new cars sold annually in California that are not electric, or for the fact that new cars generally – electric or otherwise – are typically well outside the budget reality for Californians already burdened with excessive housing costs. It should come as no surprise that the majority of hard-working Californians driving used cars are minorities, or that the modest subsidies and occasional give-aways of green cars to the lowest income Californians or politically favored workers, such as public employees, do not "trickle down" to the vast majority of California's financially strapped middle income workers.

The social and racial inequity of imposing a VMT reduction mandate on California families cannot be overstated. A recent Stanford study shows that construction workers spend the absolute highest percentage of their income on transportation: is it really equitable, or necessary, to make that worker spend even more in VMT taxes and fees? Or perhaps CARB actually endorses the all-too common practice of having construction workers sleep in pickup truck beds at job sites or in city streets since they can't afford to live near work, and can't manage the 4+ hour daily commute between the Central Valley and Bay Area? Or is it better still for California to import construction workers from out of state, crammed into extended stay hotels with infrequent plane trips to their home state, since the residential GHG emissions for these workers and their families aren't counted as GHG emissions within California so this temporary worker import model helps us achieve the illusive 80% GHG reduction target?

Assuming CARB is not trying to force workers to sleep in cars during the work, and not trying to play a shell game by counting only GHG emissions of California's residents rather than its non-resident Reno/Phoenix/Las Vegas-based workforce, the fact is that mandating reductions in VMT discriminates against minority workers who drive the farthest because they can't afford to live near their jobs. It is also arbitrary and capricious in relation to CARB's focus on supporting clean car technologies that have steadily eroded the correlation between a vehicle mile driven and GHG emissions.

In fact, when asked to quantify the GHG reduction from an avoided vehicle mile travelled, CARB's senior executive and VMT staff could not do so in meetings in both Los Angeles and Sacramento. This equation (one mile travelled = how much GHG?) is, however, the single most important metric to understanding the need for, and effectiveness of, CARB's unquantified but unambiguous decision that significant VMT reductions are necessary and must be achieved as part of the Scoping Plan. If arbitrarily reducing VMT causes a million more Californians to slip into poverty, and 10,000 more to slip into homelessness, while only reducing GHG by 100,000

metric tons per year – is that really a necessary component of the Scoping Plan? Will this example really inspire other states or countries to follow California's lead?

Or is this another example of the radical, unjust, and never implemented CARB proposal of this Governor's first term, when allowing people to drive to work only every other day was identified as a necessary regulatory mandate to reduce criteria air pollutants? Of course this was not true, but the past is indeed the prologue in this tale – rather than embrace its own vision of an electric car future that reduces GHG emissions to a small fraction of today's fleet, in reliance on the absolutely technically feasible existing electric car technology that already exists, the Scoping Plan imposes the longstanding desire environmentalists well before climate change policies took center stage to force people out of cars. Federal and state Clean Air Act mandates require cost-effectiveness transparency and accountable rulemaking, and absolutely worked to dramatically reduce criteria and toxic air pollutants based on technology that hadn't even been invented at the time – without depriving people of the ability to get to work, school, and medical appointments.

CARB should have learned from the error of its over-the-top green advocacy against people thirty years ago, and engaged in a methodical GHG emission reduction regulatory process that focused on the most cost-effective, least harmful measures first. There is no mystery in identifying these measures: in 2017's Drawdown: The Most Comprehensive Plan Ever Proposed To Reduce Global Warming," an award-winning, New York Times bestselling treatise on reducing climate change by renowned environmentalist Paul Hawkins, scores of measures are identified that do not discriminate against the working poor by depriving them of the right to drive to necessary destinations via a mandatory vehicle mile travelled reduction regime. In fact, transportation changes (trains and ridesharing) rank as 74th and 75th of the 80 GHG reduction strategies that made the cut for inclusion in the plan at all – while electric vehicles ranked a respectable 26th in effectiveness ratings, with cleaner cars slotting in at 49th. The Scoping Plan's CEQA, VMT and Vibrant Communities fixation on high density urbanized "walkable" communities slotted in at 54th of 80 – which when coupled with its racial and economic disparate incomes, including perpetuating the virtual end of homeownership for middle income and minority families in California, would not make the political cut of any elected decisionmaker as a politically resilient or lawful component of the Scoping Plan.

CARB's decision effectively limits the ability of the vast majority of Californians to get to work, school, and medical care. While asserting that "on average" Californians will only have to drive a mile or two less each day, CARB ignores both assumed population growth in California as well as the fact that the "average" driving distance increases dramatically for minorities forced to move inland and away from their jobs in order to pay rent or purchase homes. While a wealthy Santa Monica or San Francisco resident may have the luxury of walking to work, or catching an Uber or Lyft ride, or hopping on a luxury employer-provided direct service bus, the rest of California is stuck – for hours and hours – in traffic. Long gone are the days when average Californians decided to take a drive for fun: today Californians grit their teeth and suffer backaches, headaches, high blood pressure and heightened stress – and miss hours of time which should have been spent helping children with homework or afterschool activities – because CARB and other California bureaucrats have managed our most populated regions into gridlock.

Of course there are people – mostly wealthier and whiter people – who will flock to luxury city apartments after college, spending every spare nickel on rent and student loans, before getting

married and having kids – and moving to a suburb where they can buy a house and raise their kids. Notwithstanding the academic hopes and aspirations of the "green blob," data compiled from non-partisan experts (including Obama-era federal agencies like Fannie Mae) confirm that millennials want to raise their kids in the suburbs, and baby boomers are staying in their homes as long as their health allows. Suburbs are the fasting growing areas nationally, and a humane – and respectful of humans – transportation agenda would focus on expediting (inclusive of CEQA reform) construction of efficient rail service between suburban nodes so that suburbs can increase downtown densities and provide a more affordable range of multi-family housing options without worsening gridlock. Instead, the Scoping Plan engages in the "magic thinking" that there will be no future Californians needing to drive anywhere, that the steep fall in transit ridership in California metro areas (especially buses) notwithstanding major new transit funding investments can simply be ignored, and the use of our desired future fleet of electric cars – which have negligible GHG emissions – must be shut down in the same GHG reduction effort as a 1970 muscle car. If this makes no common sense, it's because – as Mark Twain says – common says isn't so common, and climate bureaucrats talking to each other have managed to park common sense – and the needs of California's workforce – in a dark closet and tried to close the door.

We are not willing to be put in a dark closet and deprived of the ability to access work, school, medical care, and other driving destinations that wealthier white elites take for granted. Dedicated Latino leaders in the California Legislature battled for years to provide drivers' licenses to undocumented immigrants: understanding and complying with traffic laws, and having appropriate insurance, were among the many reasons why providing drivers licenses to immigrants and driving is a necessity, and not an option, in our communities.

CARB's "back to the future" version of forcing people to drive less, now expressed as a VMT reduction rather than the easier-to-understand "you can only drive to work every other day" proposal, represents an advance in obfuscatory communications in a failed attempt to mask its racial and economically disparate, and unconstitutional, effect.

CARB's refusal to postpone Scoping Plan approval until the SB 375 VMT reduction target decision can be appropriately disclosed and factored into the unspecified VMT reduction Scoping Plan mandate is also unlawful piecemealing, in violation of both the environmental and fiscal disclosure, analysis and mitigation mandates applicable to the Scoping Plan. This unlawful bureaucratic tactic splits the whole of CARB's Scoping Plan action into smaller pieces – which in this case include OPR's proposed amendments to the CEQA Guidelines and CARB's future decision to adopt VMT reduction targets for all California regions.

As described in the proposed conditional approval of most of the Scoping Plan described below, all references to VMT reductions and reduction proposals should be deleted from the Scoping Plan. Any future VMT reduction proposal, including imposition of VMT reduction mandates that are separate from GHG reduction mandates in SB 375 plans, must be subject to its own comprehensive rulemaking process which includes environmental and fiscal disclosures that do not conceal today's costs on today's Californians behind the veil of the "social cost of carbon."

We also note that the Legislature provided zero express authority to CARB to regulate VMT, just as it provided zero express authority to CARB to impose a "drive only every other day" mandate

several decades ago. Then, like now, legislation to vest this authority to limit Californians' ability to drive created unconstitutional limitations on both intrastate and interstate commerce, and was considered and rejected by the California Legislature.

CARB should focus on measures to hasten completion of regional transit systems at lower costs, making such systems more quickly accessible, and more affordable, for more Californians. The Legislature and direct voter approval of taxes and bonds to fund designated transportation projects are aimed at improving transportation and mobility, in direct democracy opposition to the highway gridlock and increase in health-damaging vehicle pollution promoted as a climate strategy in the VMT components of the Scoping Plan and OPR proposal. More CEQA lawsuits targeted transit projects than highway and roadway projects combined over the first three year study cited above: why doesn't the Scoping Plan find transportation solutions to keep more California workers here with their families, rather than forced to move to higher per capita GHG emitting states, as a global climate strategy?

Meanwhile, methodical and cost-effective promotion of lower GHG emitting vehicles – notably the Clean Car initiative for which Californians have invested hundreds if not billions of dollars – remains the signature transportation objective that actually does fall within CARB's statutory mission, unlike VMT reductions even for electric cars and CEQA expansions creating new litigation risks for critically needed housing, transportation and infrastructure projects. Trying to falsely "balance the books" with an 80% GHG reduction scheme that has no practical or foreseeable alternative to replacing California's 25M registered vehicles, or converting the 5% of electric vehicles sold annually to 95% of vehicles sold in 5 years, are just examples of the difference between the radicalized/politicized GHG regime which ignores people, and the success of the methodical rulemaking process (inclusive of technology promotion and recognition) that delivered 98+% decreases in vehicular tailpipe emissions under the federal Clean Air Act, thereby protecting both people and the environment.

III. Delete "Vibrant Communities" Appendix

Further increasing the threat to the timely development of more than a million critically-needed housing units that are affordable to working families, and restore homeownership opportunities to California minorities, is the EIGHT-state agency consortium that has appointed itself in the "Vibrant Communities" Appendix to the Scoping Plan to "help" local governments manage land use. This EIGHT-agency cabal formed in the absence of any statutory authorization from the Legislature, under the cover of addressing global climate change. With the exception of the California Department of Housing and Community Development (HCD), none of the other seven agency participants in "Vibrant Communities" has the expertise or statutory authority to regulate the approval of local land use plans and housing projects. In fact, based on the extreme housing emergency, the Legislature enacted, and the Governor signed, a package of 15 housing bills in 2017 – none of which authorized EIGHT state agencies to interfere with local and state agency statutorily-prescribed housing roles. Both the Legislature and the Governor have committed to taking further action to address the housing crisis in 2018, and again there is not a single introduced piece of Legislation that brings EIGHT state agencies into housing land use decisions.

No sane human being would agree that adding EIGHT state agencies in an unstructured and unauthorized consortium to the housing approval process will expedite the timely completion of

more than a million new homes, at costs that are actually affordable to Californians. The only state agency that has this direct land use authority in California communities is the Coastal Commission, with prescribed authorities and procedures enacted by both the Legislature and separately approved by popular vote. Even within this very prescribed legal structure, no sane human being would agree that the Coastal Commission in its state agency role has expedited (or even tolerated) much new housing construction.

The fact is that we need a lot more housing built, at prices that are affordable to working Californian families including our majority minority community members. Neither we nor the Legislature want EIGHT state bureaucracies waging turf battles for money and staff and control in an unstructured "Vibrant Communities" groupthink paradigm shift away from the enhanced local government accountability measures and the strengthened state enforcement tools like the Housing Accountability Act that were actually enacted by the Legislature in 2017. The "Vibrant Communities" appendix is yet another Scoping Plan workaround for decades of failed aspirational legislative proposals by environmental activists seeking top-down state control of local communities so they can impose urban growth boundaries (consistently shown to increase housing costs) and new urban ecosystem service taxes (direct new tax on urban area residents).

The Scoping Plan's Vibrant Communities appendix, like the Scoping Plan's proposal to expand CEQA's litigation risks while doing nothing to expedite critically needed housing and related infrastructure for California's low per capita GHG residents, and imposing regressive new costs and driving restrictions on the minority workforce forced by the housing crisis to drive the most, collectively reflect the profoundly negative cultural shift in the environmental advocacy community to an openly anti-human agenda.

Succinctly described by the co-founder of Greenpeace 1986, this anti-human agenda continues to persist today among the environmental advocacy community and environmental agency representatives.

It was not until 2017 and the election of Donald Trump that the Sierra Club and other environmental groups executed an accord to recognize the importance of civil rights and social justice to the environmental agenda. In describing the schism this caused (including membership resignations from protesting Sierra Club members), on November 18 of 2017 the Sierra Club's Executive Director Michael Brune noted in defense of the accord that he was "proud of how the Sierra Club has begun to address the intersection of climate with inequality, race, class and gender, and I guarantee that we'll go even deeper." As described in an Outside Magazine article chronicling the environmental movement's troubling history of ignoring minority community concerns:

> What Brune is acknowledging is the darker legacy of the green movement. Some may believe that environmentalism has little to do with social justice issues, but the mission of the Sierra Club, and many conservation groups like it throughout the late-19th century and most of the 20th century, was anything but race neutral. In many ways, racial exclusivity actually shaped the environmental mission, which is what makes the Sierra Club's leap toward civil rights advocacy such a radical move. . . . Given the history of conservationists elevating endangered plant life over endangered people of color, it is environmentalism's soul that most needs saving.

https://www.outsideonline.com/2142326/environmentalism-must-confront-its-social-justice-sins

This profoundly racist historical underpinning of the environmental movement continues to exist today. Look no further than political deference still provided to special interests NIMBY environmentalist donor strongholds, such as the Legislature's 2017 capitulation to Marin County's demand for still more delays in ever having to build its share of affordable housing – this in a California subject to a consent agreement for violations of federal Fair Housing Act laws.

The CEQA, VMT and Vibrant Communities components of the Scoping Plan represent either the oblivious or intentional continuation of this environmentalist racist tradition; neither attitude, however, makes these Scoping Plan components morally acceptable or lawful.

As the San Francisco Chronicle reported on December 10, the reason the Oakland A's aren't leaping at the opportunity to build a stadium at the Coliseum site to be paid for by the "profit" from redeveloping the sea of surface parking into acutely needed dense transit-oriented housing comes down to the simple math, and hash, that has created the housing crisis:

> At a minimum cost of $4.50 per square foot for construction, a 1,000-square-foot, two-bedroom apartment at the Coliseum would have to rent for as much as $4,500 a month. You might be able to charge that downtown, but it would be a tough sell in East Oakland. http://www.sfchronicle.com/bayarea/matier-ross/article/Oakland-has-a-Plan-B-for-A-s-It-s-called-the-12418059.php

The United Way report and numerous other non-partisan sources report that households are supposed to spend 30% of their income on housing so that there is enough money to pay for food, medicine, childcare, insurance, taxes, and savings. Under this 30% criteria, households would need to earn nearly $170,000 per year to rent one of these new urbanist, transit-oriented, dense apartments. Given that the median household income in Alameda County is less than half of that amount (just under $80,000), the "infill" high density apartments favored by the environmental community and threatened to be enshrined by CARB into the Scoping Plan can't even be rented, let alone owned, by the vast majority of Alameda households, including Alameda's hard-working minority families.
https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml?src=bkmk
https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF

Confronted with the harsh reality of an entire region's housing costs, Alameda's households – the majority of whom are minorities - can leave the region or the state (an outward migration pattern that surveys report is in fact occurring, *see, e.g.,* https://sf.curbed.com/2017/3/31/15140036/bay-area-leaving-poll-san-francisco). It should come as no surprise that this "environmental" agenda of intentionally displacing minorities from California's coastal communities has occurred only now in our minority majority state.

The EIGHT agency Vibrant Communities appendix, like the CEQA and VMT components of the Scoping Plan, should be deleted as unlawful and discriminatory, and as exacerbating rather than helping solve our housing, homeless, poverty, and transportation gridlock problems.

III. Correct Environmental and Fiscal Analytic and Procedural Deficiencies Prior to Implementation of Remaining Scoping Plan Provisions

The 2017 CARB Scoping Plan fails to comply with applicable statutory mandates requiring completion of CEQA and fiscal analyses and public review process for the remainder of the Scoping Plan components. Even with deletion of the CEQA Expansions, VMT restrictions, and Vibrant Community appendix, final agency approval of any implementing actions under the Scoping Plan must be postponed pending lawful completion of the required CEQA and fiscal review procedures.

a. Violations of the California Environmental Quality Act

Notwithstanding its foray into expanding CEQA in the 2017 Scoping Plan, CARB has been sued, and has appropriately lost, numerous CEQA lawsuits. The same pattern of CEQA compliance deficiencies plague this Scoping Plan's environmental document. No version of the Scoping Plan can be approved until these CEQA deficiencies are corrected. Specifically:

Regional agencies charged with implementing just the transportation/land use planning requirements of SB 375 have approved environmental impact reports documenting scores of significant impacts warranting mitigation, and scores of unavoidable adverse impacts that remain even after mitigation, which are associated with high density, transit oriented development of housing and transit systems required to comply with CARB's panoply of GHG mandates, policies and directives including but not limited to those identified in the Scoping Plan. Examples of significant impacts warranting mitigation, and significant unavoidable impacts, from significantly increasing density and reducing vehicular mobility as a climate strategy include:

- adverse aesthetic impacts (e.g., from changes to public and private views and the character of existing communities based on increased building intensities and population densities),

- adverse air quality impacts (e.g., from increases in per capita emissions of GHG, criteria and toxic air pollutants, which has already occurred from the longer commutes caused by intentionally increasing auto congestion in advance and independent of the availability of any time- or cost-effective transportation alternatives for Californians forced to "drive until they qualify" for rental or ownership homes they can afford),

- adverse biological resource impacts (e.g., from increased usage intensities in urban parks from substantial infill population increases),

- adverse cultural impacts (e.g., including adverse changes to historic buildings and districts from increased building and population densities, and changes to culturally and religiously significant resources within urbanized areas, from increased building and population densities),

- adverse impacts to urban agriculture (e.g., from the conversion of low intensity urban agricultural uses to high intensity, higher density uses from increasing populations in urbanized areas, including increasing in the urban heat island GHG effect),

- adverse impacts to geology/soils (e.g., from building more structures and exposing more people to earthquake fault and other geologic/soil hazards in intensifying the intensity and use of these urbanized areas),[3]

- adverse impacts hazards and hazardous materials (e.g., by locating more intense/dense housing and other sensitive uses such as schools and senior care facilities near freeways, ports, and stationary sources in urbanized areas)

- adverse impacts hydrology/water quality (e.g., by increasing volumes and pollutant loads from stormwater runoff from higher density/intensity uses in transit-served areas as allowed by current stormwater standards),

- adverse impacts from noise (e.g., from substantial ongoing increases in construction noise from increasing the density and intensity of development in existing communities, and ongoing operational noise from more intensive uses of community amenities such as extended nighttime hours for parks and playfields),

- adverse impacts to population/housing (e.g., from substantially increasing both the population and housing units in existing communities,

- adverse impacts to recreation/parks (e.g., from substantially increasing the population using natural preserve and open space areas as well as recreational parks and other amenities),

- adverse impacts to transportation/traffic (e.g., from substantial total increases in total vehicle miles travelled in higher density communities, increased VMT from rideshare/carshare services and future predicted VMT increases from automated vehicles notwithstanding predicted future decrease in private car ownership),

- adverse impacts from traffic-related gridlock and multi-modal congestion impacts (e.g., noise increases, adverse transportation safety hazards in multi-modal dense areas including bike/pedestrian/bus/truck/car accidents and fatalities),

- adverse impacts to first responder fire, police, and paramedic services (e.g., from congested and gridlocked urban streets with high population densities;

- adverse impacts to public utilities and public services (e.g., from substantial increases in population and housing/employment uses and demands on existing water, wastewater, electricity, natural gas, emergency services, libraries and schools).

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[3] Although the California Supreme Court has determined that CEQA does not encompass impacts from existing environmental conditions on a project, OPR has repeatedly declined to recognize this decision and hence it is included here and in most other SB 375 SCS EIRs).

CARB is legally obligated to complete a comprehensive CEQA evaluation of these and related reasonably foreseeable impacts from forcing all or most development into higher densities within existing urban area footprints, intentionally increasing congestion and prohibiting driving, and implementing each of the many measures described in the "Vibrant Communities" appendix.

This CEQA analysis does not presuppose that CARB is prohibited from proceeding with these provisions of the Scoping Plan, or of the other provisions of the Scoping Plan. CEQA requires full disclosure, a comprehensive analysis, and approval of feasible mitigation measures. CEQA also requires an analysis of other feasible alternatives for achieving the Legislatively mandated GHG reductions, and separately considering the feasibility and differential impacts of achieving an 80% GHG reduction based solely on existing technologies, services, incomes, and constraints.

While outside the scope of CEQA, we also urge CARB to evaluate the gentrification and displacement impacts of its Scoping Plan.

While we very much respect the work of the environmental justice advocates assigned by law to a seat at CARB's table, the civil rights of minority communities extend well beyond environmental justice: we are constitutionally entitled to equal protection under all laws, from education to housing to financial services to health care. California's top national ranking in poverty and homelessness, and its acute housing shortage and extreme housing prices, require all agencies – including "environmental" agencies such as CARB, to carefully weigh their actions through the prism of equal protection – and not thoughtlessly ignore or dismiss the disparate racial consequences of purportedly color-blind actions like expanding CEQA or limiting driving.

Although the CARB Scoping Plan and environmental assessment are fulsome in their praise of GHG reductions and open space protection – including imposition of still more costs in the form of "ecosystem service fees" on urban area residents – the Scoping Plan's willful refusal to acknowledge the corresponding adverse environmental and public health/welfare impacts of Scoping Plan implementation violates CEQA. The Scoping Plan's equally unlawful inclusion of numerous strategies that will actually increase housing costs and poverty, and reduce housing affordability and homeownership opportunities in California communities, is equally unlawful. The purported "Vibrant Communities" appendix and the Scoping Plan itself include such discriminatory housing and pro-poverty strategies as growth control boundaries that numerous studies have confirmed actually increase in-boundary housing costs and reduce supplies (*see, e.g., http://www.tandfonline.com/doi/abs/10.1080/02673037.2013.825695*), its priority on the development of small high density housing units that cost 3-5 times more per square foot to build than homeownership units like single family, duplex, and town homes (*see, e.g.,* https://ternercenter.berkeley.edu/right-type-right-place), and its endorsement of raising taxes on urban residents still higher to achieve "eco-system service" wealth transfers to rural areas, and for imposing VMT fees and restrictions on all new.

The only honest effort to translate the "Vibrant Community" vision into actual housing cost and housing production, completed by UC Berkeley professors, confirms that under the CARB vision families will pay the same for an 800 square foot apartment as they pay for a 2000 square foot home or town home – and that building the necessary number of homes to address California's housing crisis within the growth control constraints imposed under this Vibrant Communities

vision will require the "demolition of tens of thousands, if not hundreds of thousands, of single family homes." *(Ibid.)*

The 200 has lived through the last round of bureaucratic "do gooder" land use policies in the form of redevelopment programs that wiped out minority communities, permanently deprived minority homeowners of their equity and homeownership status, and took the already "vibrant" minority neighborhoods that white middle class agency elites concluded were "blighted" with sterile, failed, and largely unrealized new land uses more than 40 years later. Using climate change is this generation of bureaucrat's new excuse to wipe out minority homeowners – since it's obvious the "tens if not hundreds of thousands" of demolished homes will not be in Malibu or Marin, or Hillsborough or Beverly Hills, but will again be the last remaining homes owned by California's minority and working class communities. Everyone associated with this latest "vision" of what constitutes a "vibrant community" should visit the actual existing minority vibrant communities that they are intent on demolishing, and visit with the minority families who have actually attained homeownership and used their equity to weather financial setbacks from temporary job losses and illnesses, fund college or senior care, and provide a modicum of multi-generational middle class security that is so scornfully dismissed by the anti-human environmentalist elites driving so much of California's climate politics (and policies). As the co-founder of Greenpeace, ecologist Dr. Patrick Moore, announced when he resigned from that organization:

> Greenpeace is an "evil organization" which has "lost concern for humans" and is part of an environmental movement that is now dominated by the "self-serving" and "highly-paid" network of environmental pressure groups that comprise the "green blob."

The Scoping Plan is a dream come true for the "green blob" – it will further accelerate the elimination of younger, browner, working class people off of that piece of the planet that it governs: the state of California.

The CEQA expansion and driving limit provisions of the Scoping Plan are also unconstitutional, and unlawful.

For example, the Scoping Plan's CEQA analysis wholly ignores substantial evidence of significant adverse impacts – conclusions reached by the SB 375 implementing agencies in the Bay Area, Sacramento, San Diego and Southern California – in violation of CEQA. Sustainable Communities Strategy EIRs approved throughout the state likewise identify scores of significant impacts warranting mitigation, and significant unavoidable impacts even with mitigation. The Program EIRs for current Sustainable Communities Strategies in each of these jurisdictions is hereby incorporated by reference in this comment letter, and all are available on the websites maintained by each regional agency. The Scoping Plan's failure to identify, assess, and prescribe feasible mitigation measures, for each of the significant unavoidable impacts identified in each of these Program EIRs, and in a programmatic CEQA evaluation of the many components of the Scoping Plan such as the increase in transportation emissions associated with the production of goods once produced in California but now produced in other jurisdictions and transported to California (e.g., cement), is a prejudicial abuse of discretion and per se violation of CEQA given the ready availability and substantial evidence of significant adverse CEQA impacts identified in the regional SB 375 certified EIRs, in CARB's prior environmental

assessments, and in the EIRs and CEQA equivalent documents approved by other agencies charged with the past and ongoing implementation of Scoping Plan components such as the California Energy Commission and California Public Utilities Commission. The Scoping Plan certainly does not acknowledge, nor does its environmental analysis disclose or assess, the environmental – or any other – impacts of the "demolition of tens or hundreds of thousands of single family homes" and the dispossession of minority homeowners and denial of aspiring minority homeowners.

b. Violations of Fiscal Evaluation Requirements

CARB was required to conduct a comprehensive fiscal evaluation to allow members of the public as well as Board members to understand the fiscal impact of its Scoping Plan.

CARB's fiscal evaluation makes a mockery of this statutory requirement by completely failing to identify the reasonably foreseeable costs to California households of Scoping Plan implementation. Instead, CARB relies on the "social cost of carbon" metric to justify its determination that the Scoping Plan meets applicable fiscal consequence legal requirements. CARB's reliance on the social cost of carbon includes two fundamental legal deficiencies.

First, this methodology allows CARB to fully conceal costs to current Californians in reliance on a methodology that presumes that all adverse future climate change costs will be avoided based on worldwide GHG emissions achieved at some future time. Current Californians struggling with poverty and the homeless crisis will bear these fiscal costs; future avoided costs will benefit future Californians.

Second, this methodology assumes that climate change adaptation costs will be avoided because the rest of the world will reduce GHG to the prescribed metric of two tons per capita per day – a metric that is indeed achieved by some of the poorest countries in the world, which no countries seek to emulate. Instead, growing economies like China and Indian continue to substantially increase their GHG emissions with robust ongoing growth in such technologies as coal-fired electric plants and petroleum-powered vehicles – and even countries committed to reducing GHG like Germany continue to derive nearly half of their electricity from coal. It is simply delusional – and economically false - to think that today's Californians will never be burdened with the cost of climate adaptation infrastructure and related improvements, given the ongoing strong linkage in international and national GHG emission trajectories and economic productivity and human health.

The social cost of carbon is not a lawful "McGuffin" factor that can be used to mask the Scoping Plan's actual costs on actual Californians today. At minimum, the Scoping Plan's fiscal analysis needs to identify those actual projected costs to California households, by region, to allow for informed decisionmaking. The social cost of carbon is at a supplemental narrative explanation of this theory, and a hypothetical emissions and cost adjustment tables at the back of this real world analysis. The actual fiscal analysis, presented ahead of and separately from the social cost of carbon factor, must be a far more realistic assessment of the adaptation costs of climate change that must also be borne by today's Californians.

These comments should not be interpreted to dismiss future climate change costs and risks to society in general, and Californians in particular. The scale of pain to individual Californians, especially the minority hard working Californians in our communities, needs to be assessed in relation to today's costs as well as tomorrow's costs. We have read with alarm that "leakage" of people from California to much higher per capita GHG states may have nearly offset all of California's GHG reduction regulatory achievements. We have read that California successfully reduced GHG emissions this past year by almost 5%, but that this was almost entirely due to the unusually high rainfall that allowed greater reliance on hydropower from dams and reduced use of fossil fuels to produce electricity. http://www.mercurynews.com/2017/12/10/walters-the-ironic-cause-of-our-greenhouse-gas-decline/ We have read that California's greenhouse gas emission reductions were in turn wiped out by the Northern California fires; with Southern California we assume that California's total GHG emissions for the year are far higher than our reductions. http://www.sfchronicle.com/bayarea/article/Huge-wildfires-can-wipe-out-California-s-12376324.php

We do not intend that our comments be interpreted in any way that could be read as denying the importance of addressing climate change, or reducing greenhouse gas emissions. We do not believe that that this objective can only be achieved, or is politically or scientifically required to be implemented, so as to worsen California's housing and poverty crisis. An honest cost-benefit analysis of measures to reduce GHG emissions should be completed as required by law, which steps back from the chaotic paralysis of an EIGHT-agency Vibrant Community policy, expanding CEQA, a mythic local climate plan, and regressive schemes to punish those forced to drive the longest distances – or the end of homeownership as an achievable aspiration for hard working California families.

It is a testament to the power the "green blob" that the intentional obfuscation of fiscal consequences and racial equity has been allowed to permeate climate policy. California has a remarkably effective track record in vastly reducing air and water pollution over 40 years, to levels that could not be effectively predicted based on technologies and processes that existed 40 years ago. Instead, the hard work of science and politics required a methodical cost-benefit analysis of potential air pollution reduction strategies, it required implementation of the most cost-effective strategies first to avoid or minimize economic disruption to California's working families, and it established future objectives that could be – and were – ultimately met by innovative solutions such as technological advances.

The hard work of science and politics in reducing criteria and toxic air pollutants could not have been accomplished in the retaliatory echo chamber culture of what the Greenpeace co-founder calls the "green blob."

Instead of rationally attempting to reduce GHG emissions to address climate change while also respecting the role of people on the planet (and the state), the Scoping Plan's priorities and California's climate change politics are hemmed in by a long list of "we oppose" environmentalist admonitions: we must shutdown nuclear plants and tear down hydro power (the only non-fossil fuel electric production options that provide close to the reliability of fossil fuel power generation); we must oppose utility-scale solar and wind in favor of far less efficient rooftop solar (and indeed solar/wind utility plants were the most frequent industrial/utility CEQA litigation target in California), we may not build powerline improvements anywhere near any one

or any species, we must shut down dairies and farms, we must end California extraction of oil and gas and "keep it in the ground" even though leading climate scientists like UC's Severin Borenstein agree that this will simply result in importation of fossil fuels from other states with higher resultant GHG emissions while eliminating workforce jobs often held by minorities for which there are no financially equivalent proximate replacement job opportunities. Most unbelievably, given documented evidence of routine CEQA litigation abuse for non-environmental reasons by all major newspapers, the Governor, and other leaders, the 2017 Scoping Plan avoids suggesting revisions to CEQA that would expedite its desired transit and dense housing priorities because CEQA reform is, as the Governor reported, blocked by construction unions demanding project labor agreements. Instead the Scoping Plan proposes to expand CEQA with the litigation magnets of "net zero" GHG projects (unless they aren't) and local climate action plans to reduce per capita GHG emissions by 80% (although local governments lack authority to do anything to come close to that outcome).

The Scoping Plan vision for minorities in California consists of bus riders calmly sitting through 4 hour daily commutes, giving an exhausted hour or two to their kids (or better yet having no kids at all) in a tenth floor micro-apartment in a neighborhood that once had porches and playgrounds, and where grandma used to own her own home (imagine!). And the alternative Scoping Plan vision is for California to achieve its 80% GHG reductions by simply exporting its people and jobs to other states, and not counting that pesky GHG consumption that's so nettlesome to billionaires – and who cares about "global" greenhouse emissions anyway?

Californians didn't vote for this vision, nobody's figured out how to pay for it, and CARB's environmental and fiscal assessments didn't come close to honestly disclosing or "mitigating" the adverse equity, environmental and economic impacts of implementing the Scoping Plan's CEQA expansions and driving restrictions. These components of the Scoping Plan make fundamental necessities (housing, transportation, utilities) more expensive for precisely the people who cannot afford it and are victims of the environmental NIMBYists who use (and continue to use) CEQA to block housing and transit projects. These components of the Scoping Plan would permanently end the ability of minorities to become homeowners, to raise kids safely, and to get where each of us needs to go without three bus transfers and highway gridlock. The biggest difference between the 2017 Scoping Plan and Paul Hawken's vision for effective global climate change strategies, is encapsulated in the mission statement of Drawdown:

> Drawdown is a message grounded in science; it also is a testament to the growing stream of humanity who understands the enormity of the challenge we face, and is willing to devote their lives to a future of kindness, security, and regeneration.

Expanding CEQA and restricting driving shows neither a commitment to science, nor a vision of the future that includes kindness, security, and regeneration to actual people (including minorities and the poor). Instead, the Scoping Plan's CEQA, driving restrictions, and Vibrant Community measures, are an extension of the "green glob" political culture of "no" to the needs of people and "no" to "win-win" solutions that benefit the environment and also solve the state's housing and poverty crisis.

None of this is news to CARB: we and our colleagues have submitted comment letters and had multiple conversations with CARB and OPR staff, to no avail.

We have been forced to sue government agencies in the past to protect the civil rights of our communities, and we anticipate needing to do so again if CARB approves the proposed Scoping Plan as is. We do not want to obstruct California climate change leadership activities that avoid disparate impacts to California's minority community members who aspire to homeownership, and accordingly urge CARB to approve the following resolution when acting on the 2017 Scoping Plan:

"Resolved, in approving the 2017 Scoping Plan it is not the intent or mission of the California Air Resources Board to increase poverty, homelessness, or the housing crisis – or to discriminate against California minorities and working households. We therefore conditionally approve the Scoping Plan, subject to the following modifications:

1. All Scoping Plan recommendations and references to CEQA, VMT, Vibrant Communities and land use planning be removed, and replaced with a recommendation that the Office of Planning and Research complete a rulemaking process to clarify GHG compliance requirements under CEQA in the CEQA Guidelines (including but not limited to thresholds of significance).

2. The remainder of the Scoping Plan be adopted as proposed, provided that no new or amended regulations may be approved pursuant to the Scoping Plan until a revised environmental and fiscal analysis of the Scoping Plan is completed, and subject to additional public review and comment, that clearly describes the environmental and fiscal consequences of Scoping Plan implementation for current California households, that includes recommendations for increasing housing supplies and related transportation and other local infrastructure to help alleviate the current poverty, homeless and housing crisis, and that restores and improves opportunities for members of our hard working minority communities and other workforce Californians to become homeowners.

3. Legislative oversight hearings be convened and completed, with the enactment of further authorization legislation, prior to CARB's proposal or adoption any fees, restrictions, CEQA provisions, or any other action or recommendation associated with reductions in VMT, or associated with any increase in the involvement of any state agency in local agency land use and housing approval decisions beyond those expressly authorized by current law, or imposition of regulations, mandates or recommendations that extend beyond the target of reducing GHG emissions 40% by 2030 as expressly set forth in SB 32, or any such additional deadline and emission mandate expressly specified in any other law mandating GHG reductions in California.

In conclusion, we have won many hard fought civil rights battles in our careers, and we ultimately win – because the law is on our side, and what we seek is justice. We did not anticipate needing to engage in this battle again, in deep blue California, to protect California's minority community from environmentalists. We did battle with the environmentalists almost 20 years ago, and won, so we could access the financing and insurance needed to cleanup polluted properties in our neighborhoods and not just wealthy communities. We are ready to fight this next battle, which has caused much more severe hardship for millions of Californians in our communities, until we win, again.

We urge you to avoid this unnecessary fight, and take the right action by adopting the alternate resolution we have suggested above as you consider the proposed Scoping Plan

We would also welcome the opportunity to meet and confer about other potentially mutually acceptable paths forward.

Joe Coto, Chair

John Gamboa, Co-Chair

Jennifer Hernandez

Cruz Reynoso

Herman Gallegos

Hyepin Im

Jose Antonio Ramirez

Sunne Wright McPeak

Ortensia Lopez

Additional references:

Color of Law, Richard Rothstein (2017): Federal, state and local agency use of rulemaking, planning and practices to create and perpetuate racial segregation in housing and transportation projects, and in lending and funding practices

Drawdown, Paul Hawken (2017): Ranked list of effective strategies for reducing global GHG emissions

Right Type, Right Place, Terner Center/Berkeley Law (2017): mid-rise and high-rise buildings cost 3-5 times more per unit than single family/townhome/duplex/quadplex units (lower density units), and confirming that building necessary housing within existing communities with more affordable lower density units would require the demolition of tens if not hundreds of thousands of existing single family homes.

Summary Table of Impacts and Mitigation Measures for Regional Sustainable Communities Strategies that reduce GHG emissions from increasing density and intensity of development in urban cores, while causing significant new impacts:

> For SCAG region see http://rtpscs.scag.ca.gov/Pages/Final-2012-PEIR.aspx , with updates reviewing only changes from 2012 RTP/SCS at http://rtpscs.scag.ca.gov/Pages/2016-PEIR.aspx
>
> For MTC/ABAG region see http://www.planbayarea.org/previous-plan/final-supplementary-reports-and-additional-resources with updates reviewing only changes from 2013 RTP/SCS at http://www.planbayarea.org/2040-plan/environmental-impact-report
>
> For SANDAG region see http://www.sandag.org/index.asp?projectid=349&fuseaction=projects.detail

California Environmental Quality Act Lawsuits and California's Housing Crisis, Hastings Environmental Law Journal, Jennifer Hernandez (2017) http://www.uchastings.edu/news/articles/2017/12/introducing-hastings-environmental-law-journal.php : *see* all citations and text for increases in vehicle miles travelled notwithstanding billions invested in transit infrastructure (rail ridership up; bus ridership down), absence of VMT reduction outcomes in newer higher density urban housing and wealth/racial data, top target status of housing in CEQA lawsuits filed statewide, greenhouse gas emissions from outmigration of Californians to higher per capita GHG states, and prior CEQA litigation studies.