<u>SB 535 (DE LEÓN) COALITION –</u>
<u>*Clean Air, Clean Energy and Revitalized Communities*</u>

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April 24, 2013

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

RE: Draft Cap-and-Trade Auction Proceeds Investment Plan: Fiscal Years 2013-14 through 2015-16

Dear Chair Nichols and Board Members:

The undersigned members of the SB 535 (de León) Coalition respectfully submit the following comments on the April 16, 2013 release of the ***Draft Cap-and-Trade Auction Proceeds Investment Plan: Fiscal Years 2013-14 through 2015-16*** (Investment Plan or Plan). As co-sponsors and supporters of SB 535 (de León), we are enthusiastic and eager to realize the opportunity for investments that can help provide clean air, clean energy and revitalized communities. We greatly appreciate the efforts of all agencies and departments to incorporate the public comments into the development of the draft cap-and-trade auction proceeds investment plan. We're pleased to see many of our comments reflected throughout the document.

Our comments are focused on recommendations that will strengthen the Plan's articulation of essential principles and priority program investments. We also point out those program areas recommended by our coalition that appear to have been omitted from the draft Investment Plan, including funding for transit operations through the State Transit Assistance (STA) Program.

I. IDENTIFICATION OF DISADVANTAGED COMMUNITIES

A fundamental aspect of SB 535 is ensuring the geographic definition of disadvantaged communities. In this regard, we commend the efforts by California Environmental Protection Agency (CalEPA) and Office of Environmental Health Hazards and Assessment (OEHHA) to utilize the CalEnviroScreen as a tool to inform the identification of disadvantaged communities for the purposes of investing auction proceeds to meet (and exceed) the requirements of SB 535 (de León). While there are aspects of the tool we'd like to see improved, we are encouraged by the commitments from the Agency to enhance the Tool's ability to identify communities at a more fine-grained level, such as census tracts rather than zip codes.

II. PRINCIPLES

We are pleased and supportive of the principles included in the Draft Investment Paper, particularly those included in the investment principles related to: ensuring all investments meet the purposes of AB 32, maximize investments in and benefits to disadvantaged communities wherever possible, investments should foster job creation; and the inclusion of implementing principles to: maximize transparency in program implementation, including ensuring information on program status and outcome is easily accessible to the public, state agencies should provide support to disadvantaged communities to ensure potential project recipients in these communities are able to access funds, among others. However, we would urge the inclusion of additional principles and guidance to ensure effective implementation.

We are very concerned by the approach mentioned in the Draft Investment Plan that defers responsibility for ensuring the SB 535 requirements are met by implementing agencies with limited guidance, direction and no clear consequence for failure to achieve the requirements. Therefore, we urge the Administration to:

- Require all implementing agencies to, at a minimum, meet the requirements of SB 535 (specifically requiring that at least 25 percent of the allocations benefit disadvantaged communities and at least 10 percent are for investments located in disadvantaged communities), while ensuring we far exceed the requirements by allocating investments in programs that "naturally lend themselves to having a greater benefit to disadvantaged communities."
- Require the implementing agencies to forecast <u>how</u> they will meet (and exceed) the requirements of SB 535 ***before*** investments are allocated for specific expenditures, instead of relying solely on an end of the year accounting which may demonstrate that agencies did not satisfy the requirements. This level of forecasting will best help ensure California is on a path to meet (and exceed) the requirements of SB 535 and provide members of disadvantaged

communities greater opportunity to engage in the process to help shape and ensure meaningful investments in these communities.

- Include specific guidance that requires implementing agencies to engage and get the input of disadvantaged communities in the implementation phase via a robust public process. One way this could be accomplished could be through the establishment of a local or regional advisory group composed of representatives from disadvantaged communities. Some resources could be made available to support such representatives and build their capacity to provide input. It is important that a mechanism like an advisory group meaningfully inform the implementing agency's decision-making process.
- Include specific guidance to implementing agencies about the need for investments in disadvantaged communities' high priority needs. Disadvantaged communities have needs that are distinct from those of the general public; for instance, they are subject to well-documented disparities in health outcomes. Disadvantaged communities benefit when their distinctive needs are met. ARB should ensure that projects deliver significant benefits by meeting priority needs well. Eventually, ARB should implement metrics to quantify the co-benefits to disadvantaged communities (e.g., improvements in housing, transit, job and public health outcomes) of GHG-reducing projects. Setting performance measures will make the process more transparent while also facilitating DOF reporting on the outcomes of these investments. (This is principle #2 in the Principles for Implementing SB 535 that our coalition endorsed and submitted to you during the prior public comment period.)
- Include specific guidance to implementing agencies to analyze and ensure that the benefits of SB 535 investments significantly outweigh the burdens that the projects may impose on disadvantaged communities. (This is principle #3 in the Principles for Implementing SB 535 that our coalition endorsed and submitted to you during the prior public comment period.) Investments of SB 535 funds must provide significant net benefits to disadvantaged communities. In other words, the benefits of the investment for the disadvantaged community must be weighed against its burdens. Historically, the harmful impacts of otherwise beneficial projects, such as transportation projects or job-creating development, have been disproportionately concentrated in disadvantaged communities. In determining net benefits, those harmful impacts must be taken into account. Some of those projects, for instance, may promote job-creating development or transit-oriented development in low-income communities in urban places, but may also heighten displacement pressures on residents in those communities if they do not expressly protect against the risk of displacement. In addition, projects that create benefits (e.g., jobs or housing) but do not provide a mechanism (e.g., local hire, affirmative marketing) for delivering a share of those benefits to low-income community members will exclude disadvantaged communities from their benefits. They will also miss the opportunity to reduce GHG emissions by locating jobs near housing – a central goal of SB 375. And, of course, projects that will increase environmental hazards in disadvantaged communities, whether in the form of increased truck or auto traffic or in the form of stationary emissions increases, are unlikely to create net benefits for these communities.

In line with our previous comments, we also urge the Administration to ensure accounting consistency and scientific integrity by assigning CARB the explicit role as the agency responsible for calculating the greenhouse gas emissions opportunities, based on peer-reviewed science. Specifically, we would like to see the explicit mention of CARB as the agency to calculate the greenhouse gas emissions (ghg) potential and actuals of all investments, rather than rely on each agency's own accounting. CARB should be required to use common metrics and science-based verification and be provided the appropriate resources to do so.

We commend the Administration for including some guidance about how to determine whether a project "benefits" disadvantaged communities via the proposed "majority rule" guidance. However, it is critical that any such guidance be subject to the proviso that a project must meet a disadvantaged community's high priority need in order to be considered a benefit. (See principle #2 in Principles for Implementing SB 535.)

III. PROGRAM PRIORITIES

As noted in our March 8, 2013 letter to CARB regarding the Draft Concept Paper, our coalition has made a strong effort to develop a list of near-term and long-term priorities to benefit disadvantaged communities, including multiple regional meetings, webinars and statewide conversations to solicit input, ideas and general consensus for developing the proposal.

SB 535 Coalition Near-term Priority Areas :
The near-term priority program areas we are championing can (1) have an immediate impact in these neighborhoods, (2) provide flexibility to accommodate the varying needs of communities across the state, (3) provide multiple additional co-benefits, and (4) are scalable depending on the level of funding. In no particular order, they are:

- **Community Greening** – e.g. CalFire Urban and Community Forestry Program
- **Energy Efficiency Programs** – e.g. Energy Savings Assistance Program, Weatherization Assistance Program (ESAP, WAP)
- **Renewable Energy** – e.g. Single and Multi-Family Affordable Solar Homes Programs (MASH and SASH)
- **Transit Operations** –e.g. State Transit Assistance (STA)
- **Affordable Transit Oriented Development** – e.g. Affordable TOD Housing Program

SB 535 Coalition Mid- to Long-term Priority Areas:
While not an exhaustive list, the mid- to long-term priority areas identified below represent program areas that may require further shaping, greater amounts of time and capital, further stakeholder processes and/or legislative authority as compared to those identified as near-term priorities. With added effort, we believe many of these program areas can be well-positioned for funding within the first three-year investment plan.

- **Low Carbon Passenger Transportation**: Expand transit service operations, affordability and transit mode connectivity, and develop active transportation (biking, walking, etc.) infrastructure in transportation hubs. Ensure local jobs are associated with these projects.
- **Low Carbon Freight Transportation**: Clean up and modernize the existing system of moving cargo in the state (including the ships, trucks, trains, planes and other equipment) by deploying zero and near-zero emissions tailpipe emissions technologies. Must require a multi-stakeholder effort that includes representation from members and organizations representing interests of disadvantaged communities, regional collaboration, private investment contributions, and incorporate local workforce needs with related provisions (such as local hire and training). Investments in this sector will not only help reduce carbon emissions, but help reduce a significant source of toxic, criteria and black carbon emissions particularly concentrated in most of the state's identified disadvantaged communities.
- **Strategic Planning for Sustainable Infrastructure**: connect affordable transit oriented developments with climate resilient infrastructure involving projects such as energy efficiency, renewable energy, food production, water catchment, cooling centers, etc. Done well, these projects would provide local green career pathways.
- **Energy Efficiency Coupled with Renewable Energy in Buildings**: Increase access and benefit for low income residents to these programs by providing expanded financing options such as: low-zero interests loans, on-bill repayment, rebates, feed-in-tariff, PACE program that incorporates strategies to address needs of disadvantaged communities. Pilot microgrid infrastructure located in disadvantaged communities. Pair workforce training programs and targeted hiring from disadvantaged communities for these energy projects.
- **Water Efficiency Programs**: Assess and address gaps in current water efficiency program areas to address needs of disadvantaged communities, including targeted programs for rural communities.
- **Continued Community Greening**: Expand community greening efforts beyond urban forestry to include local parks and community gardens. Done well, these community greening efforts will help reduce heat-island effects, reduce energy bills, incorporate local workforce needs, improve water efficiency and/or provide additional health co-benefits, while benefiting neighborhoods that are too often riddled with blight

In general, we are very pleased to see the Draft Investment Plan include many of the above priority areas, in many cases with specific mention of the program our coalition identified. In this regard, we are very appreciative of the public process that the Agencies underwent to solicit ideas and integrate the feedback they received.

However, in the comments that follow, we highlight those areas in which we would like to see improvements to the draft plan to ensure it fulfills the requirements and intents of AB 32, SB 535, and AB 1532

Need for an Explicit Mention of Transit Operations Including Buses, Vanpools and the State Transit Assistance Program (STA)

While in general we're very pleased to see many of the program priorities we identified for improvements in passenger transportation, we are concerned by the lack of an explicit mention of transit operations, including the State Transit Assistance (STA) Program, or buses and vanpools as important modes of transit for disadvantaged communities. A truly useful public transportation system needs a good bus system connected to the rail system, especially for low-income communities. Although bus service may be included in the term "transit", it is not mentioned explicitly in the Draft Investment Plan, whereas rail is mentioned numerous times. In addition, the current language on "expanded transit" is too often interpreted as a reference to transit capital expansion (including building light rail, subways, etc.), but not enhancing service levels (e.g., hours of operation, frequency, night service, keeping fares low, etc.). This is reinforced by the fact that the existing programs in Appendix B are transit capital and infrastructure programs and none of them deal with operating transit service or keeping fares low, except for the mention of "ridership programs". These omissions and ambiguity could lead to a misinterpretation of the plan by state, regional and local transportation officials as excluding transit operations, bus and vanpool service as eligible expenses for cap-and-trade auction revenues. **We understand this is a mere oversight, but we strongly encourage the Administration to explicitly include the mention of funding for transit operations, buses and vanpools, and specifically the State Transit Assistance Program**.

Need to Better Target Transportation Oriented Development to Ensure Greenhouse Gas Reductions and Benefits to Disadvantaged Communities

We're pleased to see the inclusion of Transit Oriented Housing Development Program in the Draft Plan. However, we strongly urge that the limited cap-and-trade auction revenues should be used to fund "unit development" of Transit Oriented Housing Development which will maximize the impact of the Program since "unit development" must be 100% affordable to low and very low income households. Unfortunately, the Draft Investment Plan does not adequately address the affordability of TOD Housing Program, beyond the current program requirements. As a result, the program is not targeted for low-income families exclusively. While infill and affordable housing are mentioned in the Plan, they are not linked to TOD. Residents in disadvantaged communities are most likely to be displaced by rising land values around areas of transit investment unless permanent affordable housing is included. The Draft Investment Plan's mention of Transportation Oriented Development should only count as a benefit to disadvantaged communities when investments exclusively fund homes that are affordable to very low or low-income households. Particularly since these are the residents with the highest propensity to walk, bike, and use public transportation when it is available to them.

Need to Expand Investments in Energy Efficiency Programs to Include Programs for Low to Middle-Income Households

We are very thrilled to see the inclusion of low-income energy efficiency programs, including the specific mention of the Energy Savings Assistance Program (ESAP) and Weatherization Assistance Program (WAP) mentioned in the Draft Investment Plan. Our Coalition supports investments in this area and in those specific programs. However, we also urge the inclusion of moderate-income energy efficiency programs as many homes that may be considered “moderate” have incomes that are just barely above the threshold for eligibility in the low-income programs, and can’t afford the outlay for Energy Upgrade California’s Advanced Flex packages. The Middle Income Direct Install (MIDI) Program is an effort to provide energy efficiency services for hard-to-reach low-income residents in multi-family and single-family homes. The program includes audit and installation services, such as comprehensive lighting, attic insulation, hot water pipe wrap, low flow showerheads and faucet aerators.

Need to Expand Financing Options to Serve Disadvantaged Communities

We appreciate the mention of financing programs to help disadvantaged communities, as it is a priority area we’ve included for the mid- to long-term. Unfortunately, the existing construct of energy efficiency financing programs such as the Property Assessed Clean Energy (PACE) and mortgage credit certificates have limited reach for disadvantaged communities as they rely on home ownership.   On the other hand, there are financing options that can be created to better serve these communities, including on-bill repayment (there is currently legislation and a pilot project being considered for this effort).

Broaden Community Greening for Mid- to Long-Term Investments

We are pleased to see community greening efforts, including urban forestry, included in the plan. Our coalition is very supportive of community greening for the myriad of benefits these projects can provide these communities, including reducing heat-island effect, improving water and energy efficiency, local jobs and youth development, and aesthetic benefits that improve quality of life. As mentioned in our earlier comments, we are extremely supportive of the CalFire Urban Forestry program as a near-term priority, particularly since Cal-Fire has in-house expertise, statewide infrastructure, and explicit language to address disadvantaged communities and greenhouse gas emissions. Unfortunately, we are disheartened to not see local parks and community gardens not mentioned in the plan and urge their inclusion for possible mid- and long-term investments.

IV. ACHIEVING ECONOMIC CO-BENEFITS

Ensure Workforce Development for Disadvantaged Communities

In order to meet the principle of ensuring and fostering job creation, our Coalition strongly urges a strong connection between all investments and their workforce development potential. We are particularly interested in ensuring that members of disadvantaged communities, who are living in areas of the state with some of the highest unemployment and under-employed rates, have expanded opportunities for the clean energy jobs provided by the auction revenue investments.   We would urge targeting disadvantaged communities with strategies such as targeted hire, local hire and other workforce provisions. Where possible, there should also be support for job training programs leading to certifications that are valuable in the market, and that lead to job placement in energy efficiency, renewable energy, green transportation and green construction, etc.

Need to Explicitly Include Small Businesses

Small businesses are sometimes the only economic engine in disadvantaged communities. They are an important constituency in the state and a major employer for many members of disadvantaged communities. In this regard, we want to note the lack of any explicit mention of small businesses in the Draft Investment Plan. We support our colleagues from Small Business California who request that small businesses are included in programs such as the energy efficiency. Our coalition also extends support for entrepreneurship among individuals from disadvantaged communities, and, where possible, we support programs that help them start green businesses and provide contracting provisions to support these businesses through the investments of the cap-and-trade auction revenues. Such strategies will help multiply the benefits to ensure economic revitalization of these communities.

V. USE OF REVENUES FOR DEBT-SERVICE AND OTHER GENERAL FUND OBLIGATIONS

As noted in our comments letter on the Draft Concept Paper, our Coalition urges the Administration to avoid using these revenues for any purpose that may subject the program to a greater degree of litigation risk as compared to other uses. Beyond the high legal risk which should be avoided, we are also concerned by the political risk that some uses, such as debt-service, pose to the program at a time when building public support and enthusiasm is at a critical moment. We urge the use of revenues for investments that add on-the-ground projects that can be seen and touched. Efforts to use the funds for General Fund obligations, including debt-service, deny these communities, and all Californians, such investments and would serve to diminish faith in the process and overall AB 32 program at a time when it is critical to build support.

Conclusion

Thank you for the thoughtfulness of the Draft Investment Plan and the particular inclusion of many of our comments. We share the above suggested improvements to the plan to ensure they help shape the revision to the Governor's Budget Proposal in May and future years' investments. We look forward to working with you, others in the Administration, the Legislature and stakeholders to ensure we exceed our requirements to invest in disadvantaged communities to provide clean air, clean energy and revitalized communities.

Sincerely,

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ATTACHMENTS:
[Principles for Implementing SB 535 (de León) to Benefit Disadvantaged Communities]

cc: Mr. Clifford Rechtschaffen, Senior Advisor, Office of Governor Edmund G. Brown, Jr.
Ms. Martha Guzman-Aceves, Deputy Legislative Affairs Secretary, Office of Governor Edmund g. Brown, Jr.
Mr. Matt Rodriquez, Secretary for Environmental Protection, California Environmental Protection Agency
Mr. Arsenio Mataka, Assistant Secretary for Environmental Justice and Tribal Affairs, California Environmental Protection agency
Mr. Richard Corey, Executive Officer, California Air Resources Board
Ms.Cynthia Marvin, Division Chief, California Air Resources Board