Testimony to the Senate Committee on Environment and Natural Resources
2016 Oregon Senate Bill 1574
Healthy Climate Bill
February 1, 2016

Dear Chair Edwards, Vice Chair Olsen, and Senate Committee on Environment and Natural Resources members,

I am writing on behalf of Green For All. A national organization working to build an inclusive green economy strong enough to lift people out of poverty. We make sure people of color have a place and a voice in the climate movement and that our neighborhoods are strong, resilient, and healthy. That as the clean energy economy grows; it brings jobs and opportunity to our communities.

I am writing to both commend your leadership in tackling climate change problems and to encourage you to consider solutions that prioritize the most vulnerable communities in your state.

Disadvantaged communities are on the front lines of climate change. Thus, it is important that climate policies avoid harm and provide benefits to these communities. The regressive nature of carbon pricing requires inclusive design, programs to mitigate cost increases and environmental burdens, and reinvestment to reduce disparities. By building on lessons learned in nationally, Oregon can craft climate solutions that reduce GHG emissions and target investment to disadvantaged communities.

While swings in the climate affect us all, the effects of climate change and pollution disproportionately impact low-income communities. Severe weather and storms hit communities of color first and worst. [1] Residents of these communities already have poorer access to health care[2] and healthy foods. [3] At the same time, they pay more for basic necessities and have less access to well-paying jobs. [4] As a result, low-income communities and communities of color are less able to bear the burdens of a changing climate.

African Americans living in Los Angeles are twice as likely to die in a heat wave as other residents, because they lack access to cars, shade, and air conditioning. Higher temperatures are making it more difficult and dangerous for the millions of Latinos who work outdoors in the construction and agricultural trades. Bad air days exacerbated by climate pollution force kids and the elderly to stay indoors or risk asthma or other respiratory illnesses that not only put them at risk but impact families economically both in medical bills and work days missed as a result. Fighting and preparing for climate change offers a great opportunity to stabilize communities on the front lines. If legislation does not prioritize equity, the

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[1] RACHEL MORELLO-FROSCH ET AL., THE CLIMATE GAP: INEQUALITIES IN HOW CLIMATE CHANGE HURTS AMERICANS AND HOW TO CLOSE THE GAP 5 (2009), available at http://dorn sife.usc.edu/assets/sites/242/docs/The_Climate_Gap_Full_Report_FINAL.pdf, archived at http://perma.cc/7JJ-LAAV.

[2] CATHY SCHOEN ET AL., HEALTH CARE IN THE TWO AMERICAS: FINDINGS FROM THE SCORECARD ON STATE HEALTH SYSTEM PERFORMANCE FOR LOW-INCOME POPULATIONS, 2013 (2013), available at http://www.commonwealthfund.org/Publications/Fund-Reports/2013/Sep/Low-Income-Scorecard.aspx?page=all, archived at http://perma.cc/JMS8-DVCK (finding that low-income people were more likely to be uninsured or underinsured than those with higher incomes).

[3] Joanna Lin, Nearly 1 Million Californians Living in “Food Deserts,” CAL. WATCH (May 5, 2011), http://californiawatch.org/dailyreport/nearly-1-million-californians-living- food-deserts-10122, archived at http://perma.cc/XG2H-9TEG.

[4] U.S. CENSUS BUREAU, NET WORTH AND ASSET OWNERSHIP OF HOUSEHOLDS: 2011 tbl.1 (2013), available at http://www.census.gov/people/wealth, archived at http://perma.cc/KL6Q- VRJR. The U.S. Census data show that for every dollar that white families have, the median Asian family has about eighty-one cents, the median Latino family has about seven cents, and the median black family has about six cents. See id. (calculating the ratios based on each group’s “Net Worth”).

legislation will have lost support from the very communities required to continue the advancement of environmental policies.

From out experience in developing policy nationally, the following are some lessons that we have culled:

<u>Lesson: A strong screening tool is needed to target investment to disadvantaged communities (rural and urban).</u>

Two years after passage of SB 535 (de Leon) and a series of public workshops, California EPA released a list of disadvantaged communities for the purpose of SB 535[5]. CalEnviroScreen has been lauded for its comprehensive approach to identifying disadvantaged communities, and thresholds for reinvestment. Oregon and Region 10 EPA have similar data for a cumulative impacts analysis.

The statute gave CalEPA some criteria for identifying disadvantaged communities:

(1) areas disproportionately affected by pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation;
(2) areas with a concentration of people who are of low income and suffer from high unemployment rates, low levels of homeownership, high rent burden, or low levels of educational attainment.

<u>Lesson: Equity in the Process and Mechanism</u>

- *Environmental Justice Advisory Committee*. AB 32 mandated an Environmental Justice Advisory Committee ("EJAC") to help implement AB 32. EJAC was envisioned to have unprecedented access to and interaction with the California Air Resources Board ("ARB") staff and influence in the implementation phase of California's landmark global warming law. EJAC was also envisioned to have a long-standing role at ARB. Oregon has an existing, albeit under-resourced Environmental Justice Task Force.
- *Require incorporation of feedback.* Members of EJAC felt input was not incorporated into the final scoping plan, including an insistence that ARB exercise due diligence in analyzing potential market-based mechanisms, gleaning lessons and pitfalls from other models, and determining how such lessons could be applied to California to avoid disproportionate impacts on disadvantaged communities.
- *Conduct Analysis required by law.* When it became apparent ARB failed to conduct the analysis required by law under California Environmental Quality Act ("CEQA"), EJAC members and EJ advocates filed suit—AND WON. ARB was required to "design any market-based compliance mechanism to prevent any increase in the emissions of toxic air contaminants or criteria air pollutants" and "consider the potential for direct, indirect, and cumulative emission impacts from [market-based compliance mechanisms], including localized impacts in communities that are already impacted by air pollution[6]."
- *Stakeholder Engagement.* Legislation required ARB host public forums and invite public participation, and incorporate prioritized programs into the Plan. The creation of the cap-and-trade program itself included a multiyear stakeholder process, as did reinvestment priorities (with support of UCLA Luskin School of Public Affairs).

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[5] "Greenhouse Gas-Reduction Investments to Benefit Disadvantaged Communities," California Environmental Protection Agency, www.calepa.ca.gov/EnvJustice/GHGInvest/.
[6] Health and Safety Code, Division 25.5 California Global Warming Solutions Act of 2006, located at https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=25.5.&title=&part=5.&chapter=&article=

<u>Lesson: Investment of funds should take place via an inclusive, agency level decision-making process, and consistent metrics should be applied to determine the success of investment.</u>

- *Annual Legislative Approval leads to potential abuse*. California's Plan does not guarantee funding for the programs it prioritizes. The monies are to be appropriated through the State budget, which is developed by the Governor, enacted by the Legislature, and administered by the State's agencies each year. 2013-2014, the Governor "borrowed" $500 million, ignoring the investment plan. The funds have yet to be repaid. This demonstrates political potential for funds to be abused, or held up. Moreover, required annual legislative approval/distribution each year creates uncertainty about which programs will be funded and for how many years. Recently, $1.2 billion was "held hostage" by the legislature, meaning many agencies were unable to continue funding projects. Each of these examples feeds into a dominant anti-government, anti-tax narrative: government is taking money and not doing anything with it.
- *State Agency Distribution is cumbersome, inconsistent and unpredictable.* With inconsistent distribution metrics, reallocation each year creates uncertainty about which programs will be funded and for how many years. Agencies have varying definitions of "benefits" for purposes of SB 535, and thus what is distributed is unpredictable. Agencies may use different metrics to track and assess impacts, and at worse may not track investments at all. "Accountability, uniformity, and transparency in data tracking are important to making sure that these funds are spent well and that they are directed to programs that truly serve disadvantaged communities**. The accessibility and presentation of this data will also be important in garnering public support for a GHG reduction plan and cap-and- trade program.** For these reasons, implementation needs a consistent metric to determine the success of investments."
- *Explicit role for community members to guide and shape the allocation of revenue.* Those who work or live in communities know best community needs. These members must guide investment. Implementation should include an explicit role for community members and other stakeholders to guide and shape the allocation of revenue. Those who work or live in the community know best what the community needs, and a community review panel would help provide this influence.

<u>Lesson: First, Do No Harm.</u>

- *Develop mandates and track metrics to prevent harm.* AB 32 required ARB to make sure that "activities undertaken would not disproportionately harm low-income communities and would consider overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health." However the legislation did not provide mandates or metrics to prevent disproportionate harm to disadvantaged communities.
- *Minimize free allowances*. The final CA program allowed for many free allowances to regulated industries—more than anticipated and needed to reduce GHG emissions.
- *Prevent Offsets and Reduce Co-pollutants*: California industries could also avoid cleaning up on-site emissions by purchasing offset credits. These compromises, however, have meant that individual communities living near polluting facilities are jeopardized by continued and potentially increased exposure to pollutants. **While Oregon has fewer stationary sources of pollution than California, market linkage means communities in California could be subject to higher concentrations of pollution, if polluters find offsets more financially efficient.** Offset programs may also create perverse schemes in other countries leading to increased GHG emissions and concentrated pollution.

- A pollution-trading program in Los Angeles, the Regional Clean Air Incentives Market ("RECLAIM"), led to increased pollution concentration in poorer areas while letting industries bypass emission-reduction obligations[7].
- California limited offsets to 8%, in order to achieve at least 50% emissions reduction within the state. Beyond 8% offsets, the State cannot guarantee even 50% emissions reduction within the State.

- *Mitigate other impacts of cap and trade programs* by substantiating cumulative impacts (a la Cumulative Impacts Analysis), requiring minimum pollution reductions, prohibiting large polluters from trading in disadvantaged communities, doubling fines for noncompliance in disadvantaged communities, community benefit agreements and other mechanisms.
- *Address Regressive Nature of Carbon Price*. A carbon pricing program is regressive. California stakeholders have identified other mechanisms for addressing regressivity. Combine reinvestment with direct dividends, to target low-income households (200% or less of Federal Poverty level. Use Regional Medium Family Income where feasible). Use a variety of mechanisms, including expansion of:
  - Freeze on energy rate increase and utility rebates
  - Earned Income Tax Credit
  - Supplemental Food Stamps/ Temporary Assistance for Needy Families (TANF)
  - Property tax exemptions for elderly
  - Low Income Home Energy Assistance Program (LIHEAP)
  - Direct cash rebate

<u>Lesson: Second, Provide Benefit & Redress Disparities.</u>

- SB 535 included explicit priorities for reinvestment
- *Reinvest to achieve equity*. 25% is a start for reinvestment, but California has found this insufficient to counter the decades of pollution and underinvestment in low-income communities and communities of color. Merely matching percent investment to percent impacted communities is NOT EQUITABLE[8][9][10].
- *Ensure benefit for and benefit in are not double-counted.* California recognizes "benefit for a disadvantaged communities" can be interpreted too broadly and therefore have little impact on these targeted communities (ex. wetlands five miles from DACs). California is now revising its program toward aggregating at least 35% of reinvestment to disadvantaged communities, with 25% of funds allocated within the boundaries of disadvantaged communities.
- *Ensure affordable housing is covered under reinvestment.* California has dedicated 20% of GHG revenue to affordable housing and sustainable communities programs (SB 375). Affordable housing, particularly near high opportunity areas, has demonstrated one of the most efficient ways to reduce GHG emissions.
- *Prevent Displacement.* California, Washington and Oregon have seen public investments, particularly green infrastructure and public transit lead to gentrification and displacement. Climate change is also increasing migration to the Pacific Northwest, thus placing additional strain on existing housing stock and prices. Ensure coordination with state and local jurisdictions to prevent harm. For example, ensure affordable housing along transit oriented development.

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[7] Troung, V.
[8] Truong, V.
[9] Alvaro Sanchez, "California's Climate Investments: 10 Case Studies Reducing Poverty & Pollution," Greenlining Institute. (2015).
[10] "A Guide to Greenhouse Gas Reduction Fund Program Designs, Expenditures and Benefits," UCLA Luskin School of Public Affairs. (2015).

Lesson: Follow Equitable Principles

(1) Making the process inclusive, transparent, and accountable. Responsible climate agencies and Finance Division should ensure transparency, accountability, and the robust participation of disadvantaged communities in the process of developing and implementing an investment plan.
(2) Investing in high-priority needs. The benefits of GHG programs and cap and trade investments should specifically address high-priority needs of disadvantaged communities. DEQ or responsible agencies should develop metrics to quantify and track the co-benefits to disadvantaged communities (e.g. improvements in housing, transit, job, and public-health outcomes).
(3) Ensuring that the benefits of the investments outweigh the burdens. The benefits of SB 535 investments in disadvantaged communities must significantly outweigh the burdens that the projects may impose on those communities[11].

Lesson: Prioritize Investments Based on Identified Priorities[12]

Allocation of resources should meet multiple co-benefits and should be designed to respond directly to priorities and disparities in historically underserved communities.

Co-benefits of programs include:

(1) Direct investments toward the most underserved/impacted communities and households in the state;
(2) Maximize economic, environmental, and public health benefits to the state;
(3) Foster job creation by promoting in-state greenhouse gas emissions reduction projects carried out by Oregon workers and businesses;
(4) Complement efforts to improve air quality;
(5) Provide opportunities for businesses, public agencies, nonprofits, and other community institutions to participate in and benefit from statewide efforts to reduce greenhouse gas emissions; and
(6) Lessen the impacts and effects of climate change on the state's communities, economy, and environment.

Co-Benefits for underserved communities may fall into the following categories:

(1) Public health/co-pollution benefits
    - Reduce health harms (e.g., asthma) suffered disproportionately by low-income residents/communities due to co-pollutants
    - Reduce health harms (e.g., obesity) suffered disproportionately by low-income residents/communities due to the built environment (e.g., by providing active transportation opportunities, parks)
    - Increase community safety (e.g. sidewalks and high traffic corridors)
(2) Economic benefits: Increased family income and assets
    - Increase family income (e.g., targeted hiring for living wage jobs)
    - Increase job readiness and career opportunities (e.g., workforce development programs, on-the-job training)
    - Revitalize local economies (e.g., increased utilization of local businesses)
(3) Economic benefits: Reduced family costs
    - Rent savings (e.g., affordable housing)

[11] Truong, V.
[12] SB 535 Principles: http://cpehn.org/sites/default/files/vfcproposeddcbprinciples.pdf

- Transportation cost savings (e.g., free or reduced cost transit passes)
    - Energy cost savings (e.g., weatherization, solar, etc.)

(4) Mobility and Access to Opportunity
- Improve transit service levels on systems/routes that have high ridership of low-income riders
- Bring jobs and housing closer together (e.g., affordable housing in transit oriented development, and in healthy, high-opportunity neighborhoods)

(5) Sustainable Community Infrastructure
- Improvements that will benefit low-income residents without increasing the risk that they will be displaced.

(6) Community Identified Priority Needs
- An investment will meet an unmet need that has been identified as a high priority in an inclusive process led by disadvantaged community residents and groups.

Improvements for SB 1574, Oregon's Healthy Climate Bill

- Environmental justice solutions for cap and trade (i.e. minimum pollution reductions)
- Representation of disadvantaged communities on Rules and Grant Committees
- Dedicated revenue for disadvantaged communities, based on cumulative impacts methodology with census tracts or blocks as unity of analysis. Include a community investment bank to help ensure inclusive and accountable design and direct benefits.
- Limiting offsets to under 8% (or lower) to prioritize carbon reducing projects and job creation in-state
- Revenue should be invested to programs with maximum co-benefits (i.e. affordable housing, weatherization job training and contracting with disadvantaged communities) with input from Oregonians.

Other considerations:
"Conceptual Framework to Lessen the Impacts on Communities When Shaping Market-Based Mechanisms to Reduce GHGs" by: Shankar Prasad & Tim Carmichael

1. **<u>Substantiate the cumulative impacts:</u>** Document the cumulative impacts in EJ communities (eg: CalEnviroScreen)
2. **<u>Prevent big polluters in EJ areas from trading:</u>** Preclude all sources in heavily impacted areas from participating in any trading system.
    a. This ensures incremental reduction in emissions resulting in incremental benefits and co-benefits to the most vulnerable.
3. **<u>Require higher requirements for these facilities if reduction not possible</u> (e.g. double the fees, create a community benefits agreement, meet initial reduction targets before allowing more purchases of allowances or offsets)**
    a. If a facility cannot reduce emissions in the beginning (e.g. b/c of economic or technological reasons), allow temporary participation in an emissions trading system but require it to meet additional criteria such as:
        i. require facilities in highly impacted communities to <u>contribute twice the amount of fee toward a community benefits fund</u>;
        ii. work with the impacted community(s), the city, the resident, and the local air district to <u>develop a community benefits agreement</u> that can be implemented and enforced; and

iii. meet a certain level of actual reductions before being allowed to continue to purchase (after the first time) emission credits or offsets. **NOTE: Add a fine if they do not meet the targets.

4. **Community Benefits Fund:** A funding stream can be created and earmarked for community benefits to help address existing disproportional impacts, mitigate localized impacts, improve energy efficiency, or provide for rebates or adaptation for climate change impacts.
   a. This fund would receive an initial allocation of revenues generated from the auction of allowances, carbon tax, or fees as recommended by ETAC (Economic and Technology Advancement Advisory Committee).
   b. Fee charged to a facility participating in any trading or offset program would be dependent on its location. The latter can act both as a deterrent to emitting GHGs and co-pollutants and an incentive to invest in control measures for reducing emissions
5. **Invest in accelerating transformation to green economy in EJ areas:** The community benefits fund created by a market mechanism must not be viewed as cash vouchers for individuals in a specified geographic area ((not dividends – why not??)), but rather as a resource for taking action w/n the area to reduce exposures or risks related to climate change or air pollution.
   a. **Community Participation:** While statewide parameters must be established, a public process should ensure that the community plays an active role in determining how the fund will be used and what type of projects will be funded.
6. Incorporating such a concept in the design phase of any market-based mechanism acknowledges that the risk of emission trading could result in cumulative incremental increases in exposure burden in DAC accepts the responsibility to prevent or minimize the impact at a community level, and treats communities as partners in a market-based approach to reduce GHGs.

If you should have any questions, please contact me at vien@greenforall.org.

Signed,

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