

December 2, 2020

*Re: EPA Administrator Appointment*

To the Biden-Harris Transition Team:

We write to respectfully express our **concerns with the candidacy of Mary Nichols for Administrator of the Environmental Protection Agency.**

Given President-Elect Biden's stated commitment to environmental justice, we would like to call to your attention Ms. Nichols' bleak track record in addressing environmental racism. We encourage you to instead seek other candidates with demonstrated commitment to climate and environmental justice.

- Mary Nichols and the California Air Resources Board (CARB), under her leadership, have **repeatedly disregarded the recommendations of the environmental justice bodies** established to uphold the integrity of California's environmental policies, especially as to how they harm or benefit low-income communities of color in the most polluted areas of the state.
  - The Environmental Justice Advisory Committee (EJAC) has convened since 2007 to guide the state's climate Scoping Plan, which implements California's Global Warming Solutions Act of 2006. The **EJAC's key recommendations were consistently disregarded** and thus omitted from the final climate Scoping Plan.
  - EJAC members have expressed frustrations with Ms. Nichols' contentious interactions with them, lack of understanding of the disproportionate burden of pollution on environmental justice communities, and her overall approach. She has repeatedly dismissed proposed solutions brought forward by community members who have worked on the underlying issues for many years, while at times displaying condescension.
  - The first EJAC process was so contentious under Ms. Nichols' watch that **many of the EJAC members resigned, some of whom then turned around to sue the state for its disregard of environmental justice impacts** from the misguided climate plan that Ms. Nichols was pushing. The last two EJAC bodies called for the reconvening of the Adaptive Management Plan process that would study and address the localized impacts of industrial emissions increases, including co-pollutants, under the climate program. However, staff have not followed through, even when CARB Board members asked for these studies.
  - Similarly, in 2018, the Independent Emissions Market Advisory Committee (IEMAC), California's official cap and trade oversight committee, warned that domestic forest carbon offsets, which represent the vast majority of offsets used in California, were deeply problematic and ineffective to meet California's climate targets. The **IEMAC and state legislators called for an independent review, but CARB denied them.** A [recent paper](#) from the Center for Environmental Public Policy at the University of California at Berkeley bolsters IEMAC's position.
- During Ms. Nichols' tenure as Chair of CARB, she has staunchly pursued and defended carbon trading, while **minimizing state policies that required direct emission reductions and other climate policy implementing programs that benefit environmental justice communities.** As warned by environmental justice advocates, cap and trade has [increased pollution hotspots for](#)

[communities of color](#) in California, exacerbating pollution health and safety harms. The cap and trade program and other market mechanisms—which commodify the source of the climate crisis that most severely threatens global communities of color and low-income people—account for a modest reduction of greenhouse gas emissions and has not been successful in meeting California’s climate goals. Further, these modest cumulative reductions have not occurred uniformly. In fact, for over half of the regulated facilities in the state, localized emissions of greenhouse gases and toxic co-pollutants have actually gone up. Unsurprisingly, the increased pollution tends to be in communities with a 34 percent higher proportion of people of color, and 23 percent higher proportion of people living in poverty. Ms. Nichols and the CARB, in initially designing the carbon trading system, were fully aware of the disproportionate impacts that cap and trade would have on the health of low-income communities of color. Yet, **they championed this strategy that perpetrated environmental racism.**

- Further, under Ms. Nichols’ leadership, the CARB has designed its cap and trade program to include a significant share of carbon offsets. This **further exacerbates pollution hotspots** because offsets allow industries to continue to pollute fenceline communities by purchasing reductions out of state or from industries not currently regulated by the program. Carbon offsets have enabled California polluters, especially large oil refineries and dirty power plant operators, to emit an additional 200 million tons of greenhouse gases—again, disproportionately burdening communities of color with toxic co-pollutants. Even though many of these offsets are of dubious integrity, Ms. Nichols was also a proponent of expanding California’s program to allow for international offsets, which are even riskier. Dozens of environmental justice, Indigenous, environmental, forest and scientific groups and thousands of their members submitted letters over the last several years to Ms. Nichols and the CARB opposing California’s development of international offsets, but they ignored this swell of concern. In a November 2020 letter to Ms. Nichols, the environmental justice community called for the suspension of the offset program, especially since major users of offsets operate in the neighborhoods hit hardest by COVID-19, given residents’ respiratory health already compromised by cumulative impacts.
- Under Ms. Nichols’ leadership, the CARB has **failed to be responsive to the needs and petitions of environmental justice communities** in other numerous ways. For example, Ms. Nichols has failed to move CARB to exercise its powers over the state’s various air quality management districts. California has several air districts that do not meet Federal Air Quality Standards. California communities in the San Joaquin Valley and South Coast Air Basins are regularly in the top 10 most polluted cities in the Country. CARB continues to approve State Implementation Plans for these two districts, although the U.S. EPA disapproves portions of the plans. Communities hit hardest by air pollution depend on the air districts to fulfill their mandates on attainment of federal clean air standards, and yet CARB has not acted within its powers to press the air districts to act with full rigor.
- Ms. Nichols’ failure to address the needs of environmental justice communities is also exemplified by her **failure to adequately oversee implementation of the AB 617 Community Air Protection Program.** AB 617 requires the development of community emission reduction plans for communities across the state overburdened with some of the deadliest air pollution in the country. The primary goal of AB 617 is to reduce emissions beyond what is already otherwise required by law. Throughout the lifespan of the program, CEJA and other advocates have requested that CARB require concrete, quantifiable, and enforceable emission reduction

measures in order to meet the law’s promise. Instead, AB 617’s implementation has largely been centered on form rather than substance, and after three years, communities are mostly left with aspirational and vague reduction measures that do not go beyond what is already required. Despite a tremendous injection of state funds, under Ms. Nichols’ leadership the Community Air Protection Program has thus far denied the widespread relief from emissions communities desperately need.

- Finally, a few months ago CARB Black employees issued a grievance [letter](#) calling out systemic racism at CARB and outlining examples of discriminatory treatment against Black and other employees of color, including being subjected to disparaging remarks about environmental justice advocates. Cultural competence and racial equity values of any governmental agency leader are of utmost importance in setting organizational standards, expectations and practices.

These are some examples of how Mary Nichols has disregarded environmental justice, communities of color, and climate programs that benefit frontline communities. They regretfully show that **she is not fit to lead an EPA that values environmental justice**. Her inability to work well with environmental justice groups and leaders in California indicates that she is not the right person to oversee and implement climate and environmental programs for the country.

We respectfully urge your administration to seek and nominate a candidate for EPA Administrator with a proven track record of working with low-income and communities of color in advancing environmental justice solutions.

Sincerely,

Drew Hudson	Founder	198 methods
Kamita Gray	Chief Administrator	2Bridge Community Development Exchange
Mary Kay Benson	Steering Council Manager	350 Butte County
Daniel Chandler	Steering Committee	350 Humboldt
Nicole Kemeny	President	350 Silicon Valley
Karen Bearden	Coordinator	350 Triangle
Sherry Pollack	Vice President	350 Hawaii
Dineen O'Rourke	Campaign Manager	350 PDX
Miya Yoshitani	Executive Director	Asian Pacific Environmental Network
Tom Frantz*	President	Association of Irrigated Residents
Andrea Leon-Grossmann	Climate Action Director	AZUL
Ellen E Barfield	Co-Founder & Coordinator	Baltimore chapter, Veterans For Peace
Roger Straw	Founder	Benicia Independent
Katherine Black	Steering Committee Chair	Benicians for a Safe & Healthy Community
Gary Hughes	California Policy Monitor	Biofuelwatch
Marj Plumb	Interim Executive Director	Breast Cancer Action
Jane Williams*	Executive Director	California Communities Against Toxics
RL Miller	Chair	California Democratic Party, environmental caucus
Gladys Limon	Executive Director	California Environmental Justice Alliance

Thomas Joseph	Co-Director	California Kitchen
Marie Venner	Co Chair	Call To Action CO
Mari Rose Taruc*	Co-Chair (former)	AB 32 Environmental Justice Advisory Committee
Penny Newman*	Member (former)	AB 32 Environmental Justice Advisory Committee
Marie Venner	Co-Chair	Catholic Network US
Nikki Reisch	Director, Climate & Energy	Center for International Environmental Law
Dan Ress	Staff Attorney	Center on Race, Poverty & the Environment
RL Miller	President	Climate Hawks Vote
Anthony Rogers-Wright	Policy Coordinator	Climate Justice Alliance
Alan Levine	Director	Coast Action Group
Felipe Aguirre	Coordinator	Comite Pro Uno
Greg Karras	Principal	Community Energy reSource
Sriram Madhusoodanan	U.S. Climate Director	Corporate Accountability
Nancy Rieser	Co-Founder	Crockett Rodeo United to Defend the Environment
Mary Crowe	Coordinator	E. C. O. Eastern Cherokee Organization
Mary Gutierrez	Director	Earth Action, Inc
Kellie Berns	Program Director	Earth Guardians
Lisa Montelongo	Member	Eastern Cherokee Organization
Leah Redwood	Action Coordinator	Extinction Rebellion SF Bay Area
Mitch Jones	Policy Director	Food & Water Watch
Michelle Chan	VP Programs	Friends of the Earth
Denise Patel	US Program Director	Global Alliance for Incinerator Alternatives
Theresa Church	Assistant Director	Global Justice Ecology Project
Bradley Angel	Executive Director	Greenaction for Health and Environmental Justice
Sara Shor	Organizing Director	GreenFaith
Caroline Henderson	Senior Climate Campaigner	Greenpeace USA
Isabella Zizi	Guidance Member	Idle No More SF Bay
Tom BK Goldtooth	Executive Director	Indigenous Environmental Network
Basav Sen	Climate Policy Director	Institute for Policy Studies Climate Policy Program
Maria Lopez	Deputy Director	Ironbound Community Corporation
Rachel Fazio	Associate Director	John Muir Project of Earth Island Institute
Kevin Hamilton	Co-Founder	Medical Advocates for Healthy Air
Sandy Naranjo	CA Organizing Manager	Mothers Out Front California
Pennie Opal Plant	Co-Founder	Movement Rights
Steven Norris	Vice-President	NC Alliance to Protect People and the Places We Live
Gail Evans	Attorney	New Mexico Environmental Law Center
Timothy Judson	Executive Director	Nuclear Information and Resource Service
Rebecca Apostol	U.S. Program Director	Oil Change US
Alexis Baden-Mayer	Political Director	Organic Consumers Association
Laura Haight	U.S. Policy Director	Partnership for Policy Integrity
Martha Arguello*	Executive Director	Physicians for Social Responsibility - Los Angeles
Antonio Díaz	Organizational Director	PODER
Natalia Soler	Community Organizer	Poder Latinx
Alan Minsky	Executive Director	Progressive Democrats of America

Ginger Cassidy	Executive Director	Rainforest Action Network
Cheryl Barnds	Co-Chair	Rapid Shift Network
Donna Chavis	Founder	RedTailed Hawk Collective
David Braun	Director	Rootskeeper
Lou-Anne Makes-Marks	Director	Sacred America
Jack Eidt	Co-Founder	SoCal 350 Climate Action
Renee Millard-Chacon	Youth program coordinator	Spirit of the Sun
Shoshana Wechsler	Coordinator	Sunflower Alliance
Robin Schneider	Executive Director	Texas Campaign for the Environment
Laura Berry	Director of Research & Policy	The Climate Mobilization
Salote Soqo	Senior Partnership Officer	Unitarian Universalist Service Committee
Queen Zakia Shabazz	Founder/ Executive Director	Parents Against Lead & Other Environmental Hazards

\* Former members of California Air Resources Board AB 32 Environmental Justice Advisory Committee