



November 24, 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 Administration**. We encourage you instead to select one of numerous other eminently qualified candidates with demonstrated commitment to climate and environmental justice.

CEJA is a statewide alliance of ten grassroots community-based organizations across California working together to advance environmental justice in state policy. Our member organizations work directly with low-income communities and communities of color in some of the most polluted and socioeconomically burdened areas of our state. Friends of the Earth is a national environmental organization with 2 million members and supporters, including in California.

Given President-Elect Biden's stated commitment to environmental justice, we would like to call to your attention Nichols' bleak track record in addressing environmental racism.

- Under Mary Nichols' leadership, she and the California Air Resources Board (CARB) 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 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 plan. EJAC members particularly have expressed frustrations with Nichols' contentious interactions with them, lack of understanding of the disproportionate burden of pollution on environmental justice communities, and her approach.
 - At times Nichols has had a condescending tone, dismissed solutions brought forward by community members who have been working on these issues for decades. The first EJAC process was so contentious under Nichols' watch that **many of the EJAC members resigned and turned around to sue the state for its**

disregard of environmental justice impacts from the misguided climate plan that 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 but staff mysteriously won't follow through, even when CARB board members have asked for these studies.

- 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 who were members of climate policy committees called for an independent review, but CARB denied them.**
- During 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 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. Mary 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 knowingly championed this strategy that perpetrated environmental racism.**
- Further, under 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 fence-line 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, 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 two years to Nichols and the CARB opposing California's development of international

offsets, but they ignored this swell of concern. In a November 2020 letter to Nichols, the environmental justice community called for the suspension of the offset program, especially since the major users of offsets operate in the neighborhoods hit hardest by COVID-19, given the residents' respiratory health already compromised by cumulative impacts.

- Under Nichols' leadership, the CARB has **failed to be responsive to the needs and petitions of environmental justice communities** in other numerous ways. For example, 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 US 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.
- In addition, black employees at the CARB recently [issued a letter](#) citing **systematic racist treatment of Black and other non-Black employees of color**—and by extension environmental justice communities-- by predominately White supremacist practices of the leadership of CARB.
- 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**. The AB 617 program was designed to alleviate pollution burdens in disproportionately impacted, disadvantaged communities across the state, and serve as a model for community-driven air quality improvement that could uplift solutions to the statewide level. Under Nichols' direction, disadvantaged communities have still yet to see significant, enforceable, and quantifiable emissions reductions. Despite the numerous concerns raised throughout the lifespan of this program by environmental justice communities, including those of agencies' disrespect for advocates and residents, lack of enforcement by CARB staff in overseeing air districts, and failure to address conflicts of interest and accessibility issues, Nichols has refused to use her authority to protect these communities. Despite explicit language in the statute granting CARB authority to enforce the law, staff is still unsure if they have that power. Under Nichols' leadership and contrary to the purpose of the program, any best practices and model policies from AB 617 community processes have not been uplifted to the state level, further denying widespread relief from emissions reductions many communities desperately need.

These examples of Mary Nichols neglecting environmental justice, communities of color, and climate programs that benefit frontline communities regrettably 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.

Environmental justice principles call for leadership by those who come from impacted communities. We respectfully urge your administration to choose an EPA Administrator who has a proven track record of working with low-income and communities of color in advancing environmental justice solutions.

Sincerely,

Gladys Limón
Executive Director
California Environmental Justice Alliance

Michelle Chan
Vice President of Programs
Friends of the Earth

Mari Rose Taruc
Former Co-chair (2 terms)
AB 32 Environmental Justice Advisory Committee