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California Air Resources Board  
Clerk of the Board, Air Resources Board  
1001 I Street, Sacramento, California 95814  
Submitted electronically to: <http://www.arb.ca.gov/lispub/comm/bclist.php>

**RE: California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms**

To Whom It May Concern:

The Association of California Water Agencies (“ACWA”) appreciates this opportunity to comment on the proposed regulations, released by the California Air Resources Board’s (“ARB”) regarding a California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms. ACWA is the largest coalition of public water agencies in the country, and collectively our nearly 450 members are responsible for 90% of the water delivered to cities, farms and businesses in California.

ACWA recognizes that climate change is a serious challenge facing our state. It will have a dramatic impact on all of California’s resources, but one of the most significant impacts will likely be on the State’s water resources. Water agencies will need to respond to this challenge by developing adaptation along with mitigation strategies. Many water agencies have already taken action to measure and reduce greenhouse gas emissions associated with their operations, including initiating baseline assessments of their greenhouse gas emissions, joining the California Climate Action Registry, installing renewable energy facilities, promoting water conservation measures, implementing water recycling projects, developing groundwater and other water supply shifting options and deploying cleaner fleets and fuels.

We appreciate the hard work on the part of the ARB staff in developing the Cap and Trade Regulation given the limited amount of time provided.

ACWA’s comments are as follows:

- ACWA’s public water and wastewater agency members can play a unique role in providing distributed renewable energy throughout the state.

- ACWA supports modifications to the language in § 95852.2 that clarify the exclusion of biomass emissions for consistency among the Federal reporting rule and the Cap & Trade regulation.
- We suggest that following adoption of this regulation, the ARB direct staff to continue to work with local government stakeholders including the public water agencies regarding full exemption from the regulation.

Additional detail on these comments is provided below.

### **Water Agencies' Renewable Energy Opportunity**

Water agencies are in a unique position to offer additional opportunities for reducing greenhouse gas emissions associated with electricity use in California. In particular, the strategic deployment of renewable energy projects on water agency properties could provide significant early reductions in greenhouse gas emissions, along with other benefits such as improving the reliability of the state's energy supplies during peak use periods and reducing the load on the state's transmission lines.

However, increasing the number of renewable energy projects within the water sector will depend on addressing current administrative and legislative obstacles that prevent these projects from going forward. In addition, we believe consideration should be given to making in-conduit hydropower an eligible technology for the self-generation incentive program. Finally, we suggest that large hydropower generation (more than 30 MW) should be recognized as a renewable energy source.

### **ACWA supports the modifications to the language in § 95852.2 that clarify staff's intent with respect to biomass sources without a compliance obligation.**

Following the release of the draft regulation for adoption, many of ACWA's member agencies in the wastewater community had a productive dialogue with staff related to the language on emissions without a compliance obligation. There was concern that the language proposed in the draft was confusing and not consistent with staff's intent to exclude emissions of biogas, including digester gas from wastewater treatment, from compliance obligations. ARB staff has recommended the following changes to that section, which ACWA supports.

- (a) Combustion emissions from biomass-derived fuels (~~except biogas from digesters~~) from the following sources:
  - ...
- (e) Biomethane ***and biogas*** from the following sources:
  - (1) All animal and other organic waste; or
  - (2) Landfills ~~gas~~ and wastewater ***treatment***.
- (f) Fugitive and process emissions from:
  - (1) CO<sub>2</sub> emissions from geothermal generating units;
  - (2) CO<sub>2</sub> and CH<sub>4</sub> emissions from geothermal facilities;

- (3) CO<sub>2</sub> emissions from hydrogen fuel cells;
- (4) At petroleum refineries: asphalt blowing operations, equipment leaks, storage tanks, and loading operations;
- (5) At the facility types listed in section 95101(e) of the Mandatory Reporting Regulation, Petroleum and Natural Gas Systems: leak detection and leaker emission factors, and stationary fugitive and “stationary vented” sources on offshore oil platforms; or
- (6) Methane from landfills.
- (7) Methane and N<sub>2</sub>O from municipal wastewater treatment plants.

**ACWA suggests that following adoption of this regulation, the ARB direct staff to continue to work with local government stakeholders particularly water and wastewater agencies regarding full exemption from the regulation.**

ACWA believes that local government agencies such as public water agencies and wastewater treatment facilities should be exempted from compliance obligations under the cap and trade program. While wastewater facilities currently fall under the compliance threshold due to the exclusion of biomass emissions (assuming the changes recommended above are made), we are concerned that changes to plant operations, calculation methodologies, covered sectors under EPA’s mandatory reporting rule (which ARB is aligning with in its mandatory reporting rule), thresholds, or other unforeseen conditions have the potential to bring wastewater treatment agencies into the cap in the future. Rather than waiting for these changes to occur, we request that staff continue to work with us to consider solutions including an exemption.

In addition to reliable water supply, wastewater treatment is a necessary service, and emissions associated with wastewater would happen whether or not our facilities are present. As public agencies, water agencies have very specific procurement rules and lengthy budgeting processes, and we cannot adapt to market conditions sufficiently to ensure compliance at a reasonable cost in a market-based system. Finally, we cannot pass compliance costs on to customers due to the public processes associated with our rate-setting. For these reasons, ACWA believes an exemption from compliance obligations is appropriate and we would like to continue to work with staff toward this end.

Thank you for your consideration. Please feel free to contact ACWA Energy and Climate Change Specialist, Scott Hernandez, at (916) 441-4545 or [scotth@acwa.com](mailto:scotth@acwa.com).



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