**MEMO**

September 27, 2011

TO: California Air Resources Board

FROM: Jim Wunderman, Andrew Michael

RE: AB 32 and Cap-and-Trade: Recent Developments and Implementation

The Bay Area Council supports implementation of the California Cap-and-Trade program—Alternative 2 of the Supplement to the AB32 Scoping Plan–—without further costly delays to the California economy and environment.

The Bay Area Council is proud to be the first business group to support and help negotiate California’s landmark effort to address global climate change dating back before the inception and signing of AB32 in 2006. Our business leader members understand what is at stake with climate change: increased energy demands, declining water supply, sea level rise encroaching on our coastlines and adverse environmental effects. We understand that these outcomes directly translate into negative consequences for California’s economic growth.

We applaud the California Air Resources Board’s (CARB’s) release and public discussions of additional environmental impact analysis on alternative emissions reduction strategies, in accordance with a court’s decision to implement the program on schedule. CARB’s unanimous vote to reaffirm the market-based emissions trading component of AB32 on August 24, 2011 demonstrated that the Board is sensitive to the business and environmental concerns arising from delaying this landmark legislation.

During the development of the AB32 Scoping Plan and the Environmental Impact Review (EIR) process, the Council was actively involved in championing the California cap-and-trade program—a market-friendly, efficient greenhouse gas (GHG) emissions reduction strategy that was adopted in the 2008 Scoping Plan. Implementation of the Cap and Trade market would immediately provide economic incentives for the most cost-efficient emissions reduction. California businesses would also gain access to a growing global market for emissions trading through the Western Climate Initiative (WCI).

A timeline of events (Box 1) illustrates past and recent challenges to implementation on AB32 and the specific cap-and-trade program. Although California has mandated the reduction of GHG emissions to 1990 levels by 2020, emissions cap requirements on 85% of GHG emissions attainable through cap-and-trade are currently delayed until 2013. We must press ahead to achieve these ambitious goals.

The current scenario analyses conducted by CARB indicate that cap-and-trade must be included as a central component of AB32 to reduce emissions in a technically feasible, cost-effective manner. Even more telling, cap-and-trade was shown among scenarios to be the emissions reduction strategy which would produce the highest likelihood of meeting the GHG reductions, crediting early action in adopting clean energy technology, and minimizing emissions leakage. Offsets, currently set at 8 percent of total emissions, are an essential part of the cost containment strategies. We agree that offsets are an important cost containment mechanism as long as offset projects are given the right amount of scrutiny to preserve the integrity of the cap-and-trade system. A report released by the Congressional Budget Office (2008)

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| **Box 1: AB32 Implementation Timeline** |
| Nov 2006 | AB 32 signed by Gov. Schwarzenegger |
| Jan 2007 | Advisory committee to engage Environmental Justice and Economy and Technology stakeholders formed. |
| Oct 2007 | Discrete Early Action measures established; all measures adopted by June 2009 |
| Dec 2007 | Mandatory reporting requirement and 2020 greenhouse gas (GHG) emissions established. |
| Dec 2008 | AB32 Scoping Plan outlining path to achieve the 2020 GHG target adopted. |
| Jan 2010 | Early measures took effect. |
| Nov 2010 | Prop 23—which would delay AB32 implementation—defeated at the ballot. |
| **Jan 1, 2012** | Major GHG emissions regulations take effect, but covered entities will not have an emissions obligation for one year.  |
| **Jan 1, 2013** | Emissions obligations take effect |
| **Cap-and-Trade Program Highlights** |
| Dec 2008 | 85% of the state’s GHG emissions placed under a firm cap achievable through market mechanisms in the adopted AB32 Scoping Plan. |
| Oct 2010 | Initial public notice on California Cap-and-Trade Program rulemaking, to be finalized within a year.  |
| May 2011 | Court order to halt to AB32 implementation holding that CARB failed failure to assess alternatives to cap-and-trade in 2008 Scoping Plan. |
| Jun 2011 | Appellate court allowed CARB to go forward with implementing its cap-and-trade program.CARB released additional environmental analyses on cap-and-trade and non-market-based alternatives.  |
| Aug 2011 | CARB voted unanimously to adopt the revised environmental analysis and affirmed the original decisions on adopting cap-and-trade. |
| **Oct 28, 2011** | Deadline to finalize cap-and-trade regulation |

emphasized that cap-and-trade combined with additional measures included in the current analysis (e.g., banking, reserve price and breakers) can be as

efficient as a carbon tax but with the added benefits of political feasibility, guaranteed emissions reductions and acceleration of innovation.

As seen in Box 1, the recent legal challenge to the cap-and-trade draft regulations were due to environmental justice concerns. A 2011 study by the University of California Berkeley Law School Center for Law, Energy and the Environment concludes that there is little evidence that potential emissions hotspots are systematically linked with disadvantaged population. Even then, CARB has paid careful attention to the stakeholders by including an adaptive management measure in cap-and-trade to monitor and avoid/minimize unintended environmental effects.

Delaying the implementation of the cap-and-trade component of AB32 would not only jeopardize California’s goals to tackle global climate change but would also introduce market uncertainty that undermines an engine to create innovation, investments and jobs in California.

* California is a birthplace for innovation, home of world-class bioscience and information technology. Our momentum to become the center of clean technology innovation would be lost if we backpedal on our commitment to become a clean-energy based economy.
* Investors, manufacturers and workers in California’s clean energy sector face fierce global competition. While other governments are throwing their full weight into developing their clean energy markets, California could be left behind due to regulatory uncertainty.
* California businesses have aligned their operational and growth strategy with measures outlined in the AB32 Scoping Plan. Changing course on AB32 directly harms businesses and places their investments in clean technology under unacceptable risks.
* Our partners in emissions trading are moving forward with developing their growing market and need a clear signal from California that would stabilize carbon pricing and avoid long-term negative effects of emissions market volatility. Getting to the ambitious 1990 levels by 2020 will be harder with every delay in these crucial, initial steps.

Some commentators predict that cap-and-trade may head back to court. Regardless, cap-and-trade regulations must be finalized by the time the Board meets in October 28, 2011. Although emissions obligations are not in effect until January 2013, major components of AB32 were to be implemented in January 1, 2012. The Bay Area Council supports pushing ahead on implementation of the re-approved AB32 Scoping Plan to get California on track in solving global climate change and keep investments, innovations and jobs in the clean energy sector within our state.