



**M E M O R A N D U M**

**TO:** California Air Resources Board

**FROM:** Modesto Irrigation District  
Redding Electric Utility  
Turlock Irrigation District

**SUBJECT:** Proposed Second 15-day Modifications to the Regulation for a California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms

**DATE:** September 27, 2011

**The Utilities**

Modesto Irrigation District (“MID”), Redding Electric Utility (“REU”), and Turlock Irrigation District (“TID”), collectively the “Utilities,” appreciate the opportunity to comment on the “Proposed Second 15-day Modifications to the Regulation for a California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms” released September 12, 2011 (“Revised Proposed Regulation” or “RPR”) developed by the California Air Resources Board (CARB).

MID, REU, and TID are local publicly owned electric utilities. MID and TID are irrigation districts located in the Central Valley, while REU is a municipal utility within the City of Redding. MID serves approximately 113,000 electric customers with a peak load of over 640 Megawatts (MW). REU serves 42,000 customers with a peak load of 253 MW. TID serves about 100,000 electric customers with a peak load of approximately 600 MW. The Utilities maintain similar resource mixes, including hydroelectric, eligible renewable resources and fossil fuel sources.

**Introduction**

The goal of the California Global Warming Solutions Act of 2006 (AB 32, Nuñez, Chapter 488, Statutes of 2006) is to reduce greenhouse gas (GHG) emissions in a cost-effective manner. CARB’s AB 32 Scoping Plan (adopted on December 12, 2008) lays out a comprehensive program to scale back the State’s GHG emissions to 1990 levels by 2020.

The Utilities support efforts to implement AB 32 in a manner that protects California’s economy and ratepayers. In our December 10, 2010 comments on the “Proposed Regulation Order For A California Cap On Greenhouse Gas Emissions And Market-Based Compliance Mechanisms” (PRO), the Utilities expressed our general satisfaction with the design of the cap-and-trade program as presented in the PRO, but identified a number of concerns and proposed revisions. In addition, the Utilities provided detailed comments on the first proposed 15-day changes that were released on July 25, 2011, again identifying certain areas of concern and offering suggested approaches to address them. Although the Utilities continue to have concern over these issues not addressed in the RPR, in accordance with the direction set forth in the Notice of Public Availability of the RPR, those

remaining concerns are not restated herein. We do, however, incorporate them by this reference and urge the CARB to reconsider.

## **Subarticle 2: Purpose and Definitions**

### **§95802 Definitions.**

*(225) “Qualified Export”*

The Utilities support the clarifying changes to this definition.

~~*(237) “Replacement electricity”*~~

As discussed further in Subarticle 7 below, the Utilities support the removal of this definition.

~~*(245 251) “Resource Shuffling”*~~

The Utilities support the removal of Subsections (A) and (B) from this definition. The Utilities agree that an intentional act to commit resource shuffling purely to game the cap-and-trade market and avoid an emissions obligation should be discouraged. However, there are numerous provisions in California statute that either prohibit the delivery of high emitting GHG resources (SB 1368) or encourage the delivery of zero emitting GHG resources (SBx1 2), leaving it unnecessary to include Subsections (A) and (B).

## **Subarticle 6: California Greenhouse Gas Allowance Budgets**

### **§95841.1. Voluntary Renewable Electricity.**

*(a) Program Requirements*

The Utilities continue to have concerns with the inclusion of a Voluntary Renewable Energy (VRE) set-aside program. As stated in our previous comments, the Utilities believe that a VRE market should only be considered after both the 33% Renewable Portfolio Standard (RPS) and the cap-and-trade programs are underway as the Utilities believe the VRE market will act in direct competition with the RPS market. The Utilities believe that delaying the start of the VRE market until 2014 is a start in the right direction; however, the Utilities suggest that additional stakeholder discussions be held in the interim to fully examine the impacts that this program will have on both the cap-and-trade and RPS markets.

## **Subarticle 7: Compliance Requirements for Covered Entities**

### **§95852. Emission Categories Used to Calculate Compliance Obligations.**

*(b)(1) Calculation of emissions for compliance obligation.*

The Utilities support the changes to this section which are needed to avoid confusion with the Mandatory Reporting Regulation (MRR).

~~*(3 4) RPS adjustment.*~~

The Utilities support the removal of the “Replacement Electricity” requirement. Although the Utilities are generally supportive of the new concept, “RPS Adjustment”, we have concern that it is difficult to follow and suggest removal of the RPS Adjustment altogether. Instead, the Utilities suggest that CARB consider simply applying an emission factor of zero for all imports related to RPS eligible generation.

In addition, the Utilities do not believe that Subsection (4) (E) is necessary. As set forth under Subarticle 12, CARB will undergo a separate and distinct rulemaking each time linkage to another jurisdiction is considered. Then, and only then, should changes to the RPS Adjustment be considered.

**§95857. Untimely Surrender of Compliance Instruments by a Covered Entity.**

(b) Calculation of the Untimely Surrender Obligation.

(4) Up to one-fourth of an entity’s compliance obligation for untimely surrender may be fulfilled with ARB offset credits or compliance instruments listed in sections 95821(b), (c), and (d);

(5) The quantitative usage limit provided in section 95854 will apply to the compliance instruments listed in section 95857(b)(4) for the compliance period for which the untimely surrender obligation applies; and

While the Utilities continue to believe that the 8% overall limit on the use of offsets provides sufficient protection to ensure real and permanent GHG reductions, we support and appreciate the above change which will allow one-fourth of an entity’s Untimely Surrender Obligation to be fulfilled with offset credits.

**§95858. Compliance Obligation for Under-Reporting in a Previous Compliance Period.**

(d) Any determination that an entity under-reported its emissions for a previous compliance period shall be made by the Executive Officer no later than eight years from the applicable verification deadline for the emissions data report which contained the under-reporting of emissions.

The Utilities support the inclusion of an eight-year statute of limitations on the determination of under-reporting.

**Subarticle 8: Disposition of Allowances**

**§95870. Disposition of Allowances.**

(c) Electrical Distribution Utility Sector Allocation.

The Utilities support the changes presented in this section which identify the dates that the electrical distribution utility allocation will occur; this presents additional certainty and can only help to decrease the complexity of the market.

**§95892. Allocation to Electrical Distribution Utilities for Protection of Electricity Ratepayers.**

(b) *Transfer to Utility Accounts*

- (2) Publicly Owned Electric Utilities or Electrical Cooperatives. When allocating to a publicly owned electric utility or an electrical cooperative, the Executive Officer will place allowances in either a limited use holding account or in a compliance account per the entity's preference. ~~At least 90 days prior~~ Prior to receiving a direct allocation of allowances, publicly owned electric utilities or ~~Electrical Cooperatives~~ will inform the Executive Officer of the share of their allowances that is to be placed:

The Utilities support removal of the 90-day requirement to provide the Executive Officer with the Utilities' preference as to the appropriate account designation for allocated allowances.

**§95910. Timing of Auction of California GHG Allowances.**

- (c)(1) Auction of Allowances from ~~the~~ Current ~~and Previous~~ Budget Years.

The Utilities support the clarifying changes to this section.

**§96014. Violations.**

- (b) A separate violation accrues every 45 days after the end of the Untimely Surrender Period for each required compliance instrument that has not been surrendered.

The Utilities support the above change.

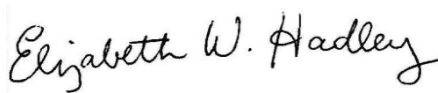
**Conclusion**

The Utilities appreciate the opportunity to comment on the RPR, and welcome the chance to discuss these concepts further.

Respectfully submitted,



Joy Warren  
MODESTO IRRIGATION  
DISTRICT



Elizabeth Hadley  
REDDING ELECTRIC UTILITY



Dan Severson  
TURLOCK IRRIGATION  
DISTRICT