

July 28, 2011

The Honorable Edmund G. Brown, Jr.  
Governor of California  
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Dear Governor Brown,

We are writing to request that you rescue the California Global Warming Solutions Act of 2006 (AB 32) from the uncritical trust in markets that characterized Arnold Schwarzenegger's approach to addressing climate change. Implementation plans for AB 32 have reached a critical juncture, and your intervention is now required to ensure the success of California's climate change program.

AB 32 created the opportunity for California to blaze a trail for the rest of the nation on comprehensive climate change action. The Scoping Plan created by the California Air Resources Board (ARB) to fulfill that promise is, in most respects, up to the task. There is, however, one key component of the program – ARB's recommendation that a cap-and-trade program be created and charged with producing roughly 20% of the greenhouse gas emissions reductions required by 2020 – that threatens to undermine an otherwise groundbreaking effort.

About the time of AB 32's passage in 2006, cap-and-trade reached its high point of support as a policy option to address climate change. New England's Regional Greenhouse Gas Initiative (RGGI) was in its formative stage, holding its first auction of emissions permits in 2008. The United Nations Clean Development Mechanism (CDM), which handles emissions offsets for developed countries under the Kyoto Protocol, was established in 2001 but saw limited use until Kyoto went into effect in 2005. The European Union Emissions Trading Scheme (EU ETS) began operation in 2005.

Although many of us warned of the inherent flaws of cap-and-trade and offsets, it is not surprising that AB 32 was passed with provisions that allowed the use of market mechanisms like cap-and-trade. Policy momentum seemed to favor cap-and-trade and there was scant evidence to suggest that our fears were warranted. The record of cap-and-trade schemes since then, however, has validated our concerns, as fraud, instability and ineffectiveness have plagued them. Offsets have proven not only to be fraud magnets, but have also generated human rights abuses and forced relocation of Indigenous Peoples. The death knell for cap-and-trade on a national level was sounded with the catastrophic failure of the Waxman-Markey approach to climate legislation to generate significant support in the Senate. Even the prospective carbon market brokers who have been circling the potential market in hopes of making a killing have begun to abandon their hopes that cap-and-trade has a bright future. In short, it is no longer possible to make the case that California can lead on climate action by creating a market

for greenhouse gas emissions permits. It is now clear that leadership does not point in the direction of cap-and-trade. Nevertheless, Arnold Schwarzenegger's passion for market mechanisms lingers in ARB's cap-and-trade recommendation. It is time to exorcise Scharzenegger's ghost.

AB 32 permits, but does not require the use of market mechanisms like cap-and-trade and offsets. While sometimes appropriate, market mechanisms only make sense when we do not care how our goals are achieved, and are therefore willing to allow regulated entities to search for the cheapest way to meet their targets. Cap-and-trade systems and offsets, which typically measure their reductions in terms of equivalent carbon dioxide (CO<sub>2</sub>e), are based on the assumption that it does not matter where and how CO<sub>2</sub>e reductions are achieved. One ton of CO<sub>2</sub>e is assumed to equal another whether it is encountered as an actual reduction achieved in an urban context in California or an offset credit purchased from a project developed in a rural area outside of the state or even outside of the country. In the case of greenhouse gas reductions, however, we should care very much where and how emissions are achieved.

The assumption that all CO<sub>2</sub>e is equal is simply incorrect. Different greenhouse gases have vastly different profiles in terms of the length of time they remain in the atmosphere. That has huge implications for their importance in terms of global warming potential. Likewise, the various forms of carbon have wildly different risk profiles. A ton of carbon stored in forests may be released due to fire or land development, and a ton of carbon geologically sequestered through industrial processes may escape due to earthquake damage or leakage. Those possibilities, therefore, present far more risk than a ton of carbon locked up in the mountains of West Virginia in the form of coal deposits.

Most importantly, we care about where GHG reductions are achieved for reasons of equity. As ARB noted in the response to a question from the Center on Race, Poverty and the Environment, "local pollutants tend to be 'bundled' with GHG (especially CO<sub>2</sub>) emissions, so that changes in the production methods that lead to reduced GHG emissions also lead to lower emissions of local pollutants". In addition to this 'bundling' of GHG emissions with local pollutants, recent studies point to the amplification effect of local CO<sub>2</sub> emissions on ozone and particulate matter, two of the primary drivers of the health impacts of air pollution. Professor Mark Z. Jacobson, of the Stanford Department of Civil Engineering, found that

...reducing locally-emitted CO<sub>2</sub> will reduce local air pollution mortality even if CO<sub>2</sub> in adjacent regions is not controlled. This result contradicts the basis for air pollution regulations worldwide, none of which considers controlling local CO<sub>2</sub> based on its local health impacts. It also suggests that implementation of a "cap-and-trade" policy should consider the location of CO<sub>2</sub> emissions, as the underlying assumption of the policy is incorrect.

("The Enhancement of local air pollution by urban CO<sub>2</sub> domes", Mark Z. Jacobson, Dept. of Civil Engineering, Stanford University)

Allowing heavy industrial polluters located near hotspots of toxic emissions, which are concentrated in communities of color and low-income communities, to buy or trade their way out of making local GHG reductions is unacceptable. Since the health impacts of air pollution are concentrated in those communities, abandoning the opportunity to maximize the co-benefits of GHG reductions that were noted by ARB and Dr. Jacobson amounts to a conscious decision to impose disproportionate health impacts upon low-income communities and communities of color.

AB 32 had something else entirely in mind. The legislation specifically directs ARB to avoid disproportionate impacts on communities of color and low-income communities and to ensure that GHG reduction activities complement existing air quality regulations and reduce toxic air contaminant emissions. To ensure that ARB took this direction seriously, the board was further directed to convene an environmental justice advisory committee “comprised of representatives from communities in the state with the most significant exposure to air pollution, including, but not limited to, communities with minority populations or low-income populations, or both.”

The Environmental Justice Advisory Committee (EJAC) convened by ARB has recommended against the establishment of a cap-and-trade program for many of the same reasons noted here. Unfortunately, ARB has chosen to disregard those recommendations. In a clear, but telling, indication of ARB’s working relationship with the Environmental Justice Advisory Committee, seven of the eleven members of EJAC are parties to the successful lawsuit against ARB challenging ARB’s cap-and-trade recommendation. It is impossible to regard this turn of events as anything other than an egregious failure of the Air Resources Board to meaningfully consult with EJAC, as was the clear intent of AB 32.

As Governor, you have the authority to direct the Air Resources Board to prioritize its analysis of cap-and-trade alternatives. In order to ensure that ARB does so, we would like to request that you direct ARB to take the following actions:

- Recognize the principle that all CO<sub>2</sub>e is not equal. The nature and location of emissions must be considered in the creation of a greenhouse gas reduction program.
- Prioritize CO<sub>2</sub> reductions in communities that are already heavily impacted by toxic air contaminants.
- Reconsider the recommendation to pursue a cap-and-trade program in light of the preceding principle and priority.
- Prior to reaching a decision on a reconsidered GHG reduction program, hold hearings to evaluate the recommendation in communities that are already heavily impacted by toxic air contaminants.

We hope we can count on you to intervene and keep California’s climate change leadership on track.

Thank you for your consideration.

Bay Localize (California)  
Biofuelwatch (U.S., International)  
Biomass Accountability Project (Massachusetts)  
The Borneo Project (California)  
Carbon Trade Watch (International)  
Center for Biological Diversity (California, U.S.)  
Center for Community, Democracy and Ecology (California)  
Citizens Climate Lobby (California)  
Citizens for Environmental Safeguards (New Mexico)  
Citizens for Sanity (Florida)  
COECOCEIBA – Friends of the Earth Costa Rica (Costa Rica)  
The Corner House (U.K.)  
CounterCorp (California)  
Environmental Justice League of Rhode Island (Rhode Island)  
FERN (International)  
Food First/Institute for Food and Development Policy (California)  
Friends of the Siberian Forests (Russia)  
Global Alliance for Incinerator Alternatives (GAIA) (California, U.S., International)  
Global Community Monitor (GCM) (California)  
Global Exchange (California)  
Global Justice Ecology Project (GJEP) (California, U.S., International)  
Grassroots International (Massachusetts)  
Green Delaware (Delaware)  
Greenfire Farm (Ohio)  
Indigenous Environmental Network (U.S., Canada)  
International Development Exchange (IDEX) (California)  
Labour, Health and Human Rights Development Centre (Nigeria)  
Maison de l'Enfant et de la Femme Pygmee (Central African Republic)  
Movement Generation Justice & Ecology Project (California)  
Neighbors Against the Burner (NAB) (Minnesota)  
New York Climate Action Group (New York)  
Richmond Progressive Alliance (California)  
Rising Tide North America (U.S., Canada, Mexico)  
Saving Our Air Resource (SOAR) (Wisconsin)  
smartMeme (California)  
Society for Threatened Peoples (International)  
SOLJUSPAX (Philippines)  
Timberwatch Coalition (South Africa)  
Turtle Island Restoration Network (California)  
World Development Movement (U.K.)  
World Temperate Rainforest Network (International)

cc: California Air Resources Board