



TURLOCK IRRIGATION DISTRICT

COMMENTS ON JANUARY 31, 2014 CAP-AND-TRADE DISCUSSION DRAFT

Turlock Irrigation District (“TID”) submits the following comments regarding the California Air Resources Board (“ARB”) January 31, 2014 *Discussion Draft of Potential Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms* (“January 31st Proposed Amendments”). In these comments, TID focuses on the following proposed amendments:

- (1) Section 95921(b): It remains unclear as to how the collection of additional allowance transfer information and new restrictions on allowance transfers aids the ARB in implementing and enforcing the Cap-and-Trade regulation; and
- (2) Section 95856(h)(2): Section regulated entities should have the flexibility to determine their own retirement order for the triennial compliance obligation.

DISCUSSION

1) The Collection Of Pricing And Contract Information In CITSS Is Beyond The Scope Of ARB’s Market Monitoring Responsibilities.

The ARB’s Discussion Draft would revise Section 95921(b) of the Cap-and-Trade regulation to require the submission of detailed information about an allowance transfer before the ARB will approve a transfer. The information requested includes, among other things, detailed transaction-specific information and copies of contracts. These new informational requirements go beyond the scope of information that was originally intended to be collected by the ARB.

The reporting and Cap-and-Trade programs should be designed to minimize the administrative burdens and transactional costs of regulated entities. The new informational requirements under Section 95921(b) would include: the type of transfer, dates for execution of the transfer agreement and settlement, price of the compliance instruments, and exchange information (among many other information requirements). In addition, the ARB regularly collects contracts for allowance transfers. The ARB has not specified why this information is needed or how the information furthers the ARB’s Market Monitoring responsibilities.

According to the ARB, “the market monitor will monitor allowance holding and transfer activity to detect design flaws in the market operating rules, standards, procedures or practices, or to detect structural problems in the market.”¹ The systematic collection of detailed transaction-specific information (in particular, copies of contracts) does not further the function of detecting

¹ See *Facts About Cap and Trade: Market Oversight and Enforcement*, available at: http://www.arb.ca.gov/cc/capandtrade/market_oversight.pdf

design flaws in the Cap-and-Trade market. The existing reporting requirements (e.g., reporting on transfer prices and ensuring that transfers do not violate the holding limitations) provide more than enough information for the ARB to detect design flaws. The ARB should not revise Section 95921(b) as proposed.

2) Regulated Entities Should Have The Flexibility To Determine The Order That Their Compliance Instruments Are To Be Retired.

The January 31st Proposed Amendments would remove previously proposed amendments to Section 95856 that would have provided that allowances would not actually be retired from the compliance account at the annual surrender obligation. It is unclear why the ARB no longer supports this change. TID supported the change because it provided flexibility in the use of offsets. Accordingly, in response to the ARB's comment on Page 128, TID believes there should not be an 8 percent offset usage limit applied to the annual surrender event.

Under Section 95856(h)(2), the ARB will retire allowances under the triennial compliance obligation based on a mandated and pre-determined retirement order. TID is concerned that a mandated retirement order for the triennial compliance obligation will tend to result in higher compliance costs for regulated entities. Regulated entities are in the best position to determine how to meet their compliance obligation in the most cost effective manner.

Moreover, the use and recognition of serial numbers in the existing CITSS software should allow for sufficient functionality to ensure that regulated entities do not violate any of the allowance usage restrictions, while at the same time, the use of serial numbers would preclude the need for a predetermined retirement order. At most, the ARB should allow regulated entities to choose a pre-determined retirement order. The ARB should not amend Section 95856 to specify a retirement order.

In sum, TID appreciates your consideration of our comments on the January 31st Proposed Amendments. As discussed above, TID is concerned with the collection of additional allowance transfer information. TID also believes that regulated entities should have greater flexibility in determining the retirement order of their compliance instruments.

If you have any questions about these comments, please do not hesitate to contact Ken Nold at knold@tid.org. We look forward to continuing to work with staff in this year's rulemaking.