Agricultural Council of California
REPRESENTING FARMER COOPERATIVES SINCE 1919

Kevin Kennedy
CA Air Resources Board
Office of Climate Change
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Mr. Kennedy:

On behalf of Agricultural Council of California, I appreciate the opportunity to comment on the cost containment and offsets proposals presented during the June 22 workshop. Agricultural Council of California (Ag Council) has represented agricultural cooperatives and farmer-owned businesses since 1919. Ag Council applauds CARB's attempt to address cost containment issues. Designing the right program for AB 32 implementation will be vital to this endeavor. Transparency, an adequate reserve function and an ample supply of affordable offsets will be vital to the program's success.

The EU's Emission Trading System (ETS) recognized the food processing industry as being especially vulnerable to leakage. California is no different as many of our commodities compete for market space in a global economy. As such, Ag Council supports unlimited, free allocation of allowances for agriculture and food processors. Without our food processors, many sectors of production agriculture would suffer.

Businesses in the domestic food production industry are price takers. With buyers such as Wal-Mart and Costco purchasing products in a global marketplace, our companies cannot pass increased costs to the consumer. When a food producer tries to increase costs to its buyer, the buyer will source its product from elsewhere. That market is then lost, often times to a foreign competitor. For example, the World Processing Tomato Council reports that Mediterranean Basin (Greece, Italy, Iran, Portugal, Spain, etc.) exceeds North America in processing tomato production. (Data attached.) Why would Wal-Mart continue to purchase processed tomato products from California that are more expensive than those produced in Iran?

This example underscores the need to carefully create a successful program that does not put our industry at a significant disadvantage in a global market. The processed tomato example is repeated throughout agriculture in commodities such as tree fruit, beef production, cotton and others.

Transparency in price discovery is vital to a successful program. This allows businesses to plan according to the market. Additionally, creating a reserve function that is home to unused allowances will assist as prices fluctuate throughout the market development period. This reserve fund could assist with implementation of a soft cap on pricing, while a hard cap could be created when the reserve function is no longer useful.

We encourage CARB to expand the use of offsets in the cap-and-trade program. Offsets could be an effective cost containment tool and could simultaneously spur investments in environmental projects around the world. The 4% limit for offsets in the compliance obligation, requirement for "additionality," and geographic limitations are unacceptable. These arbitrary limits could increase costs by limiting the avenues for private investment as part of the compliance efforts of many processors.

Additionally, CARB should consider creating a hard cap on price in the cap-and-trade program. The food industry will not be able to compete with other more lucrative industries in the cap-and-trade program due to high competition from foreign countries as outlined above.

Liability for offsets should be created between the buyer and seller of the offsets. Contractual agreements are routinely utilized in private industry to determine terms of sale, delivery and other obligations. The buyer should not be solely liable for offsets, but should be given the flexibility to determine liability issues with the seller of the offsets. The market can handle this naturally; therefore it should not be an issue for CARB.

The issue of "permanence" as related to liability, specifically, is a great concern to Ag Council members. No business can make appropriate business plans on an indefinite timetable—for hundreds of years from now. Therefore, it is unrealistic for CARB to force its hand when there is no way to determine the indefinite, environmental future of projects. What happens if an offset project burns down 100 years from the initial contract? If a project burns down due to foul play from an entity unrelated to the buyer of the offset – CARB's current reaction according to the discussion concepts at the workshop – would be that the buyer is totally liable for something completely out of its control. Taking on this type of potential liability could drastically increase costs for participants in a cap-and-trade market.

I appreciate your consideration of these comments. I look forward to working with CARB in implementation of AB 32 over the coming months. Should you have any questions, please call me at (916) 443-4887.

Sincerely,

Emily Rooney

Emily Rooney
President