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December 8, 2008

Mary Nichols, Chair
CA Air Resources Board
1001 'I' St.
Sacramento, CA 95814

Dear Mary:

RE: Comments on the Proposed Scoping Plan

In this past year, CCEEB has been an active participant in the development of the Proposed Scoping Plan. We urge the Board to adopt this Plan at your December meeting, as required by AB 32. In addition to our previous comments concerning the critical elements of a cap and trade system, the need for a safety valve, the utilization of offsets, the application of CEQA, and the use of carbon fees, we urge the Board to consider the following set of critical issues as it continues to decide the path forward for the implementation of AB 32.

I. Cap and Trade

We commend your proposed decision to design a robust Cap and Trade program. As you proceed with your design we would like to once again emphasize the importance of minimizing costs, stimulating innovation and utilizing offsets. We urge you to not adopt command and control rules for these sources operating under an emissions cap. We acknowledge the issues raised by the environmental justice community and urge the Board to address these issues separately. By attempting to structure a cap and trade program to address both, the Board runs the risk of adopting a poorly structured cap and trade program without significant benefit to the EJ community, thus minimizing the effectiveness of dealing with both.

II. The economic analyses offered to date are insufficient

CCEEB believes that macroeconomic analysis is essential in the development of a scoping plan and assessment of the implementation of AB 32. Macroeconomic analysis is a powerful tool for evaluating the costs of various regulatory alternatives and should play an important role in the ultimate selection of the final

regulatory approach. While we appreciate the effort and utilization of BEAR and E-DRAM models, we are concerned that the macroeconomic impact analysis presented to date is not as robust and complete as was expected or needed for a plan of this scale.

Additionally, this type of analysis fails to take into account the large up-front costs involved in many of the regulatory requirements. Amortizing these costs over time and off-setting these costs by potential long term societal savings masks the fact that our businesses will need to make serious capital expenditures at the programs' outset – for which the money and/or credit may not be available. If the upfront costs are too high, the program will lead to severe leakage.

We encourage the Board to revisit the earlier work that was done by CRA/EPRI with the NRM-NEEM Model and incorporate its results in your deliberations. By dismissing these outputs, and not using them to assess the outcomes of the other models, ARB is missing an opportunity to get a broader picture of the impacts of a set of non-market-based policies.

At a minimum we urge the use of a range of values for model inputs instead of using the most optimistic assumptions of costs and long-term savings. CCEEB also strongly recommends adoption of the Scoping Plan be conditioned by requiring that further economic analyses be undertaken during 2009 and that appropriate modifications be made to the plan to reflect the results of such analyses.

III. The Scoping Plan needs Economic and Performance Indicators

The Scoping Plan needs to develop indicators to measure the program's impact on the economy as well as its impacts on GHG reductions. Indicators should include such items as statewide employment figures, the KW cost of electricity, the per gallon retail cost of gasoline, the market price of carbon, the availability of technology improvements, and the number of permits in the queue for project approvals to meet AB 32 compliance obligations, etc.. These indicators need to be reviewed on a regular basis (in any case, more frequently than the five-year period specified for overall Scoping Plan review) as a report card/audit/assessment tool to identify potential problems before they grow unmanageable.

Although Health and Safety Code Section 38599 gives the Governor the authority to intervene in the case of "extraordinary circumstances, catastrophic events, or threat of economic harm…" his authority is limited to 'adjusting deadlines'. It is CCEEB's contention that the development of an objective set of performance indicators and prompt review of the data generated from these indicators will prevent catastrophic economic harm to California's economy or any of its individual sectors subject to AB 32.

IV. Strategic plan and calendar necessary for timely and effective implementation

The Global Warming Solutions Act of 2006 will require a massive degree of planning and coordination. It is an overwhelming effort comprised of many 'moving parts' from a myriad of state agencies, departments, commissions and boards. Also in the mix are actions to be forthcoming from local, federal and regional governments. The proposed scoping plan enumerates everything from the creation of a cap and trade program, the establishment of a Low Carbon Fuel Standard, restrictions on High GWP gases, vehicle efficiency measures, methane and manure controls, state and local government emission reduction measures, high speed rail construction and a Renewable Portfolio Standard.

All of these efforts will take varying amounts of time and effort and as of now, the plan does not contain any time schedule or prioritization scenario for the various policies and regulatory measures. Nor does the plan contain any cumulative impact analyses that will be necessary to ensure that these separate efforts will not undercut the overall implementation of AB 32 by establishing divergent, counterproductive, duplicative and/or layering of costs upon the many sectors impacted by the separate implementing measures.

CARB needs to develop a "masterplan" that identifies all of the separate regulations, policies and activities required to be developed over the next two to three years and an estimated order and time schedule for their completion and enactment. It should also clearly demonstrate how this timeline interacts with the WCI process.

V. Facilitate permitting

As CARB considers the many individual rules necessary to implement this Scoping Plan (many within your jurisdiction and many without) we consider it of paramount importance that you also consider ways in which implementation and compliance with these rules can be facilitated and streamlined. Compliance with AB 32 and the Scoping Plan will necessitate the construction of thousands of individual projects affecting many economic sectors. Potentially entangling these projects in years of local debate and subjecting them to CEQA and other local and regionally based litigation will only serve to frustrate entities in the various sectors that are doing their best to comply with the emission reduction mandate of AB 32.

CCEEB thanks the Board and its staff for undertaking this massive effort, which is incredibly important to not only California, but also the nation and the world.
We wholeheartedly offer our assistance to you in this endeavor and are available in person or by phone. Bob Lucas and be reached at 916-444-7337 and Jerry Secundy at 415-512-7890.

Sincerely,

Robert W. Lucas
Climate Change Project Manager

Gerald D. Secundy
President

cc: Victoria Bradshaw, Cabinet Secretary, Office of the Governor
Warren Bouton, Deputy Cabinet Secretary, Office of the Governor
John Moffatt, Deputy Legislative Secretary, Office of the Governor
Cynthia Bryant, Director of the Office of Planning and Research, Office of the Governor
Linda Adams, Secretary, CA Environmental Protection Agency
Cindy Tuck, Undersecretary, CA Environmental Protection Agency
James Goldstene, Executive Officer, Air Resources Board
Tom Cackette, Chief Deputy Executive Officer, Air Resources Board
Chuck Shulock, Chief, Office of Climate Change, Air Resources Board
Michael Peevey, President and Members of the CA Public Utilities Commission
Paul Clanon, Executive Director, CA Public Utilities Commission
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