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VIA EMAIL

Mary Nicols, Chair
California Air Resources Board
1001 "I" Street
Sacramento, CA 95814

Re: CAlifornians for Renewable Energy's (CARE's) Comments on Draft AB 32 Scoping Plan

Dear Board Members,

CAlifornians for Renewable Energy (CARE) appreciates the opportunity to comment on ARB's Draft Scoping Plan for implementation of AB 32. CARE's comments primarily fall into three areas: (1) the cap-and-trade system; (2) local government actions; and (3) use of revenues.

I. The Cap-and-Trade System

A. Distribution of allowances

A key question when designing a cap-and-trade system is how emissions allowances should be distributed. Entities emitting greenhouse gasses can be given allowances for free; alternatively, allowances can be auctioned in an open market (or a combination of the two is sometimes employed).

CARE believes that all allowances should be auctioned. CARE acknowledges that many covered entities are worried about already-high compliance costs being exacerbated by an auction of allowances. But free distribution has the effect of showering no-strings-attached money on polluters. Auction revenue recycling (ARR) can be used to help entities with their compliance obligations as a way to ease new costs related to the implementation of the cap-and-trade system.

In an ARR program, the allocations are auctioned and then the proceeds are distributed among all compliance entities. An ARR system can be modified to recycle only a portion of the revenues, or it can be modified to recycle only revenues within a particular sector.[1] ARR would

[1] The electricity sector serves as a good example. ARB noted in its discussion of use of revenues that the California Energy Commission and Public Utilities Commission propose that "significant portions" of revenue generated from the electricity sector be turned around and reinvested directly within that sector.

both send a price signal to covered entities by forcing them to pay for their allowances and would also provide them with funds to reduce their costs of compliance. The state should exercise control over how the money is spent, preventing the risk of windfall profits, seen in the recent implementation of carbon trading in the EU.[2] ARB should inform entities of permissible ways to spend the recycled revenues and insist on documentation. Those entities who do not comply should have the next compliance period's revenue reduced accordingly. Furthermore, the auction and ARR system should include a mechanism to allow public oversight of the utilities' dealings. Challenges to auctions, revenue distribution, or compliance activities could be heard first by the California Public Utilities Commission before bring escalated to the judiciary.

As ARB observed, allowances (and, equivalently, auction revenues) could be distributed either based on historic emissions or based on efficiency/output. An entirely emissions-based method of distributing revenues unnecessarily advantages inefficient entities and also does nothing to provide renewable energy with an economic boost. An entirely output-based method, however, could unfairly penalize entities that made long-term, inefficient supply arrangements many years ago, before passage of AB 32. A gradual transition from some combination of the two to an entirely-output based method of ARR would allow carbon-intensive entities to modernize their facilities and then reward low-emission electrical generation in the long-term.

Regardless of whether or not any allowances are auctioned, in terms of the electricity sector, hydro- and nuclear power should not be included in any output-based distribution. Funds for renewable energy are better spent on solar, wind, geothermal, and other forms of renewable energy that lack the problematic environmental consequences caused by dam and nuclear power plant operations.

B. Offsets

CARE agrees with ARB that a cap on the use of offsets is desirable to allow the co-benefits from reducing pollution to accrue in the state. All offsets should be rigorously certified to ensure that they are real, additional, verifiable, permanent, and enforceable. Instead of giving priority to offsets located in the Western Climate Initiative (WCI) region, as proposed by the WCI Partners, offsets could – at least initially – simply be limited to this region, making enforcement easier and perhaps giving an incentive for other states and provinces to join the

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[2] *See* The Economist, "Selling Hot Air," 09-09-06: "Giving the [EU trading system's] allowances away (rather than auctioning them) made the scheme easy for the power-generators and other polluters to swallow. But it also, in effect, handed them wads of cash: they simply passed the extra costs on to consumers and pocketed the money." The Economist estimates that the UK power sector alone made about a $1.5bn profit from the trading system in the first year. Even if ARR is implemented in California's system, the same result will occur if emitters are permitted to use recycled revenues for allowance purchases.

WCI. As California and other WCI members gain experience in responsibly monitoring offsets, global offsets could eventually be allowed.

CARE joins in the Environmental Justice Advisory Committee's skepticism of "forest-based carbon sequestration."[3] Reforestation projects should not be included in the offset program under any circumstances because there is no way to ensure that planted forests will not burn to the ground (releasing additional carbon that could swamp any reductions achieved, in addition to rendering the offset temporary) and because non-tropical forests may even *contribute* to global warming because they add to the albedo effect – trees are often a darker hue than the ground they sit upon.[4]

II. Local Government Actions

The shape of land use in California has a significant impact on the state's greenhouse gas emissions. Sprawling development leads residents to live farther and farther from their jobs, which increases vehicle miles traveled (VMT) per capita. Automobiles are responsible for about a third of the state's greenhouse gas emissions. Strong regulatory actions to promote transit-oriented, sustainable development would greatly reduce greenhouse gas emissions by allowing Californians to live nearer to their jobs and utilize more environmentally-friendly forms of transportation, helping the state to achieve its goals under AB 32. Unfortunately, the measures proposed by ARB in its Scoping Plan fall far short of what is needed. Although CEQA Guidelines for greenhouse gasses are a step in the right direction, as are regional targets for transportation-related emissions, a more potent and far-reaching set of decisive actions is needed before any substantial changes in land use patterns will occur in California.

The ARB must seize the opportunity presented by AB 32, create a long-term, innovative, and effective plan for reducing emissions through land-use regulation, and thereby change the shape of future development of California's housing stock such that greenhouse gases (and all other transportation-related pollutants) will be vastly reduced. Without such a plan, California risks a continuation of spotty and often ineffective local attention to and control of the fundamental land use development problems that have led to exponential increases in transportation related greenhouse gas emissions. Local communities tend to resist drastic change. For example, communities with a history of low-density development are often strongly opposed to new, more dense transit-oriented development. Without stronger state leadership, it will be difficult, if not impossible, for cities and counties to make all of the

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[3]http://www.arb.ca.gov/cc/ejac/ghg_eams_finalcommitteerec.pdf, at 6.

[4]"[R]eplacement of current vegetation by trees on a global basis would lead to a global annual mean warming of 1.6 C. . . . [M]ore research is necessary before forest carbon storage should be deployed as a mitigation strategy for global warming. . . . [H]igh latitude forests probably have a net warming effect on the Earth's climate." Study located at https://e-reports-ext.llnl.gov/pdf/324200.pdf (last accessed 07-28-08).

necessary changes to their general plans to begin to cut greenhouse gas emissions through land use, to deny proposals for financially beneficial, yet environmentally unfavorable sprawl, and to convince the local citizens of the need for relatively drastic, albeit critically important changes in the character and use of land in their communities.

A variety of actions could help the state effect positive land use changes. First, the state could provide developers with incentives to create sustainable developments. One way to do this would be to mandate an additional density bonus for mixed-use, transit-oriented development, making such developments more financially attractive by allowing developers to exceed local density limitations. Alternatively, the state could establish a cash incentive program for developers of communities that do not permit car ownership. These transit-only communities could provide car-sharing of electric or low-emission vehicles for their residents, but emphasize use of mass transit as the primary means of transportation. Developers of these green developments would receive direct incentives to compensate them for potentially lower pricing of the non-auto units. Second, the state could provide additional non-road transportation funding for communities that attract a prescribed amount of transit-oriented development. Communities without a variety of transit choices may be hesitant to plan around transportation options that may not materialize without additional funding. Third, the state could help to limit the conversion of agricultural lands to sprawl lands by giving state tax incentives – in addition to federal incentives already in existence – to encourage the creation of agricultural conservation easements. Fourth, the state could mandate urban growth boundaries (UGBs) for all metro areas in California to promote infill development and prevent metro areas from perpetually expanding and increasing greenhouse gas emissions. UGBs have been relatively successful in limiting sprawl and its attendant air quality problems at the local level throughout California.

In order to make a meaningful impact on development patterns in California, strict, unambiguous declarations from the state that there will be no more sprawl are much more likely to induce the new kinds of development necessary to reduce greenhouse gas emissions and VMT than the recommendations contained within ARB's Scoping Plan. CARE respectfully requests that the ARB create a concrete, forward-thinking plan that comprehensively addresses land use and its impacts on greenhouse gas emissions in California.

III. Use of Revenues

Implementing AB 32 will raise huge amounts of money. ARB has suggested a number of potential uses for this money, including administration costs, the purchase of allowances and consumer rebates or refunds, but has requested comment on the best use of such revenue.

Some commenters have stated that all revenues should be returned to consumers as a way to mitigate the impacts of price increases. CARE believes that only a relatively small portion of revenues should be returned, and only to low-income consumers, as poor Californians will be hardest-hit by the regressive effects of increases in energy prices. One of the premises behind regulating greenhouse gases (whether through a carbon fee or through a cap-and-trade system) is for the market to internalize the externalities of carbon emissions. Refunding all monies to consumers will destroy any incentive to conserve that higher prices create. Furthermore, a wholesale refund will not eliminate the costs that covered entities will face to comply with AB 32, it will simply force all such entities to spend their own money on compliance, causing consumer costs to increase higher than they would if the state spent the money to help capped sectors achieve their obligations under AB 32. If a consumer rebate program is implemented, it should focus on alleviating the effects of high energy costs on low-income households, while at the same time preserving market incentives to conserve energy.

CARE believes that most funds raised through the implementation of AB 32 should initially be used to directly help covered entities reduce their emissions. By helping large emitters reduce their carbon emissions, co-pollutants will be reduced, thus mitigating disproportionate air-quality impacts on low-income communities all-too-often located near major polluters. Some revenues should also initially be set aside for local government incentives directed toward changing land use patterns. It will be increasingly important to demonstrate to local governments that there exist clear and tangible benefits to more sustainable land use practices. As the state further develops its green economy and fewer investments are needed in new infrastructure, ARB could increasingly direct revenues to job training, environmental adaptation, and research and development. This will help keep California's economy strong and ensure a permanently-low emission future.

Very truly yours,

/s/

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Attorney for petitioners
CAlifornians for Renewable Energy