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**August 11, 2008**

**To: CARB Board members and Staff**

**Re: Comments on Draft Scoping Plan and Appendices**

**Electronic submission at <http://www.arb.ca.gov/cc/scopingplan/spcomment.htm>**

The Planning and Conservation League (PCL) is pleased to have this opportunity to comment on the Draft Scoping Plan for AB 32, the Global Warming Solutions Act of 2006. Global warming poses a tremendous challenge for California's environment, economy, and public welfare. This challenge is also an opportunity for action. The California Legislature and the Governor formally recognized this opportunity with the enactment of AB 32, which requires the California Air Resources Board (CARB) to ensure that action is taken to dramatically reduce California's greenhouse gas emissions. The Draft Scoping Plan marks an important step in the implementation of AB 32.

PCL provides the following comments to assist CARB in strengthening its Draft Scoping Plan to achieve the promise and mandates of AB 32. While our comments focus on several distinct portions of the Draft Scoping Plan, this does not indicate that other portions of the Draft Scoping Plan do not warrant careful review and, in some cases, important revisions. PCL has also joined with other non-profit organizations on several comment letters, particularly concerning the protection of public health. We encourage CARB to consider the comments provided by other environmental and public health non-profit organizations on elements of the Draft Scoping Plan that are not addressed in the comments below. We may provide additional comments on portions of the Draft Scoping Plan before the October release of the Final Scoping Plan as time permits.

Our comments focus on four elements of the Draft Scoping Plan, namely the economy-wide price signal, the land use policy measures, the water management measures, and the Plan's protection and advancement of public health.

**The Draft Fails to Include a Commitment to Enforce the "Polluter Pays" Principle in its Economy-wide Price Signal for Greenhouse Gas Emissions**

Although the Draft proposes the creation of a market mechanism to generate an economy-wide price signal to reduce the emission of greenhouse gases, it does not commit to requiring polluters to pay for their emissions, instead stating that "allowances could be freely distributed to capped firms or auctioned in the trading market."

Providing financially valuable allowances to polluting firms sends the wrong economic signal, financially rewarding today's polluters and penalizing new and emerging firms that may want to join California's economy. In addition, providing these allowances for free removes a substantial source of revenue for climate-related societal benefits, including energy efficiency programs for low-income individuals, smart growth planning for local governments, public transit facilities, and protection of the state's wildlife and habitats from the increasing effects of global warming.

The Draft should be revised to require all polluters to pay for greenhouse gas emissions and

explicitly prohibit the granting of financially valuable allowances to polluting firms. This implementation of the “polluter pays principle” should be extended to include all sectors of the California economy, not just those currently proposed to be covered in the Draft’s market mechanism. CARB staff should also fully explore mechanisms other than the proposed Cap and Trade program to generate an economy-wide price signal based on the polluter pays principle, including carbon fees.

**The Draft Fails to Include a Robust Suite of Enforceable Policy Mechanisms to Reduce Greenhouse Emissions through Improved Land Use Patterns**

The Draft Scoping Plan fails to carve out an appropriately robust role for land use policy reform, severely underestimates the amount of effort needed to re-direct California’s growth patterns to reduce greenhouse gas emissions, and generally fails to provide clear recommendations on the policy mechanisms necessary to ensure that significant quantifiable emission reductions occur through better land use and transportation activities in California.

In the Draft Scoping Plan, land use planning decisions – a major factor in the level of emissions generated from light cars and trucks – has not been expected to undergo substantial changes. CARB’s suggested reduction target of 2 million metric tons of CO<sub>2</sub> equivalents (MMTCO<sub>2</sub>) is remarkably low, especially in light of previous estimates that emissions from this sector could be reduced by as much as 18 MMTCO<sub>2</sub> – nearly ten times the amount proposed in the Draft. This not only undervalues the importance of land use changes, it also places a disproportionate share of the greenhouse gas emission reduction burden required under AB 32 onto other sectors of California’s economy. CARB should designate changes in land use patterns as a central strategy to achieve the emission reductions required under AB 32 and establish a reduction target that reflects that heightened importance.

The Draft Scoping Plan’s emphasis on financial incentives, increased modeling, and partnerships to reform land use decision making underestimates the challenges California faces in this area, particularly the intense pressure placed upon local governments by developers and polluting industries to continue business-as-usual decision making. To fulfill the mandate of AB 32, the state’s approach to land use and transportation reform must be built upon a foundation of accountability achieved through robust enforcement mechanisms. Only with this foundation in place will efforts proposed in the Draft such as technical guidance and grant funding have their desired potency. We encourage CARB to revise the Draft Scoping Plan to characterize enforcement as the core of its proposed land use strategy and to outline specific measures that will be adopted to ensure success.

The Draft Scoping Plan does not provide sufficient detail about the policy tools it proposes to reduce greenhouse emissions from the land use sector. CARB should revise and expand its proposed policies, addressing, at a minimum, the following issues:

*A. Regional Blueprints*

CARB should ensure that a substantial amount of greenhouse gas emission reductions come from improving “regional blueprinting” and enforcement of environmentally-preferable regional blueprints across the state.

Currently, many MPOs/COGs are experimenting with the “blueprint” model. However each jurisdiction applies different methodology within their land-use planning and there are few penalties or incentives for

local compliance with a regional blueprint. CARB should establish ambitious enforceable statewide targets to be reached in regional blueprints, establish a standardized methodology for creating blueprints and determining compliance with greenhouse gas emission reduction targets, and ensure strong penalties for non-compliance.

While estimates vary, implementing regional blueprints in California's five major MPOs, Los Angeles, Monterey, San Diego, San Francisco and Sacramento, could substantially increase the proposed 2 MMTCO<sub>2</sub> reduction.

### *B. Indirect Source Rule*

The Draft Scoping Plan does not recommend Indirect Source Rules (ISRs) for inclusion in the Final Scoping Plan and identifies regional ISRs as potential tools under consideration.

ISRs provide a powerful, efficient tool to address the greenhouse gas emissions from the thousands of land use decisions that are made each year in California, and can achieve reductions much sooner than anticipated through the regional blueprint planning process. Many of the mitigation solutions included in ISR programs for traditional air pollutants could be included in an ISR targeting greenhouse gas emissions, including measures to reduce vehicle miles traveled (VMT), create safe, walkable communities, and reduce emissions from polluting equipment. In addition, establishing a state-level ISR would relieve administrative burdens and promote a level-playing field across all California communities.

The Draft Scoping Plan should be revised to include a comprehensive state-wide ISR modeled after the successful components of the 2005 San Joaquin Valley Air Pollution Control Board ISR.

### *C. Zoning and Growth Boundaries*

Zoning continues to present a formidable barrier for smarter growth patterns in many California communities. For example, many regions suffer from large imbalances in the locations of housing options and job opportunities. In some general plans the definitions of low, medium, and high density are drafted so broadly that they do not determine actual growth patterns. Areas without growth boundaries frequently annex adjacent agricultural land for development.

CARB should commit to addressing these zoning and growth boundary issues as part of its land use strategy, including regulations and financial policies that provide incentives for jurisdictions to protect natural and working landscapes and improve their jobs-housing balance.

### *D. CEQA*

The Draft Scoping Plan identifies the California Environmental Quality Act (CEQA) as a potential mechanism for mitigating greenhouse gas emissions from new development. However, it primarily focuses on efforts by the Schwarzenegger Administration to ensure that CEQA will "provide recognition" of projects that meet regional greenhouse gas goals.

The Draft Scoping Plan should be revised to recognize the legal mandate for CARB and other agencies to fulfill their responsibilities under CEQA as Lead, Responsible, and Trustee Agencies to ensure that

greenhouse gas emissions are first quantified and then avoided or mitigated where feasible. Publicly emphasizing the need for agencies to carry out and enforce this existing law could have a tremendous impact on thousands of development decisions that occur each year.

#### *E. Transit Funding*

The Draft Scoping Plan does not adequately address California's public transportation crisis. Without substantial increases in funding for transit systems of all kinds, communities across the state will be unable to provide effective transportation alternatives, particularly as California's population grows.

The Draft Scoping Plan should be revised to ensure that a portion of the revenue generated from the state's greenhouse gas emission reduction program provide sustained funding for transit.

#### *F. LAFCO Authority*

Local Agency Formation Commissions (LAFCOs) can play a key role in helping to enforce GHG targets. LAFCOs should be granted the authority to regulate sphere of influence expansion and annexation approvals contingent upon whether a particular jurisdiction has reached their state-specified regional greenhouse gas emission reduction target.

In addition, in order for LAFCOs to effectively monitor, report, and regulate local government sphere and annexation activity based on GHG or VMT goals, LAFCOs should have a standardized level of funding based on a quantifiable measure of jurisdictional activity – such as number of cities or projected growth statistics – in order to secure a sufficient level of qualified, independent staff.

#### *G. Pay-As-You-Drive Insurance*

The Draft Scoping Plan does not recommend Pay-As-You-Drive (PAYD) Insurance for inclusion the Final Scoping Plan but identifies it as a potential tool under consideration.

Implementing PAYD programs would reward those who drive less and utilize other means of transportation. While estimates vary, several experts predict a 10-20% reduction in miles traveled depending on insurance rates. A recent Brookings Institution report estimates that a 6.8 cent per mile insurance premium would reduce statewide mileage and fuel consumption by 8%. A recent study by the Environmental Defense Fund estimates that a voluntary program in California with 30% participation, 3.5 cents per mile premiums, and medium demand elasticity would reduce 55 million tons of CO<sub>2</sub> between 2009 and 2020. This would be equivalent to removing 10 million cars from California highways, saving 5.5 billion gallons of gasoline, and saving \$40 billion in car-related expenses. With 100% participation, payments of 7 cents per mile and high demand elasticity, the results are even greater; California could reduce emissions by 249 million metric tons of CO<sub>2</sub> between 2009 and 2020, the equivalent of removing 35 million cars off the road, saving 25 billions gallons of gasoline, and saving \$184 billion in car-related expenses.

The Brookings Institution report identifies three crucial steps for creating a successful PAYD program. States must pass legislation adopting and encouraging insurance firms to offer PAYD. Secondly, PAYD programs need an initial financial boost through national pilot programs or other sources. Lastly, issues of vehicle travel verification and consumer privacy must be addressed.

## *H. Public Education*

In order for CARB to ensure successful implementation of sustainable land-use and transportation strategies, it must devise a widespread public education and media campaign that increases public awareness of the connections between land-use patterns and carbon emission output levels. We suggest a program similar to the award winning and nationally recognized “Flex Your Power” campaign. CARB should also support education in schools on land use and global warming, in order to help Californians develop and embrace sustainable communities in the long-term.

### **The Draft Fails to Include Sufficient Measures to Reduce Greenhouse Emissions through Improved Water Management**

Although the Draft Scoping Plan’s proposed water measures include several important broad strategies to reduce the greenhouse gas emissions associated with the transportation, treatment, and use of water in California, the measures suffer from a general lack of specificity, do not capture the full range of activities necessary, and in certain instances raise concerns about their environmental justice impacts.

The use of water in California contributes significantly to the state’s greenhouse gas emission crisis. In “California’s Water-Energy Relationship” (2005), the California Energy Commission, concluded that the water sector is the largest user of electrical energy in the state, accounting for 19 percent of all electricity consumed in California, 30% of non-power plant–related natural gas use, and 88 million gallons of diesel burned every year.

Despite some laudable progress in water use efficiency, most of California’s efficiency potential remains untapped. Numerous analyses, including those presented in the "Investment Strategy for California Water" (2004), prepared by the Planning and Conservation League, the California Department of Water Resources’ "California Water Plan Update" (2005), the Pacific Institute’s "An Efficient Future" (2006), and the CALFED Bay-Delta Program "Water Use Efficiency Comprehensive Evaluation" (2006), show that California can accommodate substantial increases in population while reducing our overall water use through cost-effective, environmentally-beneficial water management strategies.

However, without a substantial change in state agency policy, these reductions will not be achieved. Instead, greenhouse gas emissions from the water sector will continue to rise and California’s communities and environment will be increasingly vulnerable to crisis and conflict resulting from the impacts of global warming on California's natural hydrology.

The Draft Scoping Plan does not indicate which policies will be implemented or modified to generate many of these needed policy changes. The lack of specific mechanisms to ensure increased urban water use efficiency, the lack of measures to increase agricultural water use efficiency, and the small reduction target from water use efficiency (1.4 MMTC02) are particularly troubling.

The Draft Scoping Plan should be revised to include specific enforceable measures to ensure increased water use efficiency in California. These measures should provide multiple benefits, effectively reducing greenhouse gas emissions, while meeting the other statutory obligations of AB 32, (particularly the requirements of Health and Safety Code Section 38570 regarding impacts on criteria and toxic air

pollutants), and accomplishing the traditional public health, public trust, and environmental goals of CARB and other state agencies. For example, CARB should consider a water-demand neutrality standard for new development as envisioned in AB 2153 (Krekorian), the Water Efficiency and Security Act of 2008, which would require new developments to fully mitigate their water demand through investment in water conservation, water recycling, clean-up of polluted groundwater, and other sustainable water management practices.

In addition, the Draft Scoping Plan's proposed water fee has potential regressive impacts on low-income and disadvantaged communities. By applying the fee at the level of the water connection, such a fee could disproportionately affect households with a high number of residents as well as low-income businesses and businesses with robust water use efficiency programs. Such a user fee should be tied to the amounts of water consumed and apply to both urban and agricultural water users. The fee's reliance on existing lifeline programs to protect low-income communities is also inadequate. Lifeline programs will need to be enhanced and apply statewide to avoid regressive effects of this policy.

### **The Draft Fails to Adequately Protect Public Health**

The Draft Scoping Plan currently lacks the necessary public health analyses and protections that are required under AB 32. Many of the communities that may suffer due to a poorly designed greenhouse gas emission reduction mechanism are the same communities that are increasingly experiencing the effects of global warming, including farmworkers in the Central Valley and low-income individuals in California's urban centers.

The Draft Scoping Plan should be revised to include a commitment to replace or modify any measure that may further exacerbate public health concerns, ensure protection for already over-impacted communities, and detail how CARB plans to accomplish the more detailed screenings that are required for each proposed regulation and market mechanism, including cumulative impacts screenings, before the measure is implemented.

Thank you for this opportunity to comment on the AB 32 Draft Scoping Plan. Through careful attention to the issues described above, CARB can create a greenhouse gas emission reduction program that is a model for governments around the world. We look forward to working with CARB, other state and local agencies, and the Legislature to fulfill the promise of AB 32 and protect California's future.

Sincerely,



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