MARIN MUNICIPAL WATER DISTRICT

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December 9, 2008

Ms. Mary Nichols
Chair, California Air Resources Board
1001 I Street
P. O. Box 2815
Sacramento, CA 95812

Subject: Comments on Proposed AB 32 Scoping Plan and Appendices

Dear Ms. Nichols:

On behalf of the Marin Municipal Water District (MMWD), I would like to thank you and your staff for the opportunity to provide comments on the recently released Proposed Scoping Plan and Appendices for the implementation of AB 32.

MMWD was one of the few water districts in California that supported AB 32 and worked hard to get the legislation passed and signed. A changing climate is one of the most serious threats facing our state and the world, and we applaud the ARB's proposals to reduce greenhouse gas emissions. MMWD has adopted its own emissions reduction target of 15% below 1990 levels by 2020, and we are working with public and private entities in Marin County and the Bay Area to implement this goal. We are providing vanpools for our employees, installing solar photovoltaic panels, collaborating with our sister agencies in Marin County to purchase 100% renewable electrical power through a Community Choice Aggregation program, spending over $100 million in the next 20 years to promote water conservation and taking a host of other actions. We appreciate the ARB's support of these and other activities by water agencies to reduce greenhouse gas emissions.

We have the following specific comments to offer on the Proposed Scoping Plan:

Additional Renewable Energy Opportunity

MMWD concurs with suggestion in the AB 32 Proposed Scoping Plan that water agencies are in a unique position to offer additional opportunities for reducing greenhouse gas emissions associated with electricity use in California. In particular, the strategic deployment of renewable power facilities on water agency properties could provide significant early reductions in greenhouse gas emissions, along with other benefits such as improving the reliability of the state's energy supplies during peak use periods and reducing the load on the state's transmission lines.

However, increasing the number of renewable energy projects within the water sector will depend on addressing current administrative and legislative obstacles that prevent these projects from going forward. For example, expansion of renewable net metering and feed-in tariff programs (such as proposed by AB 2466 and AB 1969) would create important incentives for distributed generation projects to be developed and implemented. In addition, we believe consideration should be given to making in-conduit hydropower an eligible technology for the self-generation incentive program. Finally, we suggest that large hydropower generation (more than 30 MW) should be recognized as a renewable energy source.

MMWD looks forward to helping the California Air Resources Board (ARB) to develop the tools necessary to facilitate the aggressive near-term development of renewable energy projects.

Public Goods Charge

MMWD opposes the public goods charge as described in the AB 32 Proposed Scoping Plan. There are numerous flaws with this proposal, and even more reasons not to institute it. First, we believe that ARB has made a fundamental error in attempting to "transplant" the public goods charge, as instituted in the investor-owned utility (IOU) sector, into public water agency sector. In the regulated energy sector, only the Public Utilities Commission (PUC) has the authority to set rates, and the public goods charge authorized by the PUC is the only mechanism that IOU's have to offset revenue losses due to conservation programs. Further, the funds are collected by the local utility and expended by that same utility on specified programs within its own service territory.

By contrast, the Scoping Plan contemplates requiring water agencies to collect a fee and then transmit these funds to the State for expenditures by State agencies, private entities, and other organizations besides the water agency from which they are collected. Effectively, the proposal imposes a general State tax on water use, and consequently would require a two-thirds vote by the Legislature (or the voters).

MMWD does not believe that a public goods charge is warranted; especially given the already significant investments that water agencies are making in conservation programs which provide both water supply and greenhouse gas reduction benefits. In fact, a public goods charge may well be counterproductive by reducing the ability of water agencies to invest in energy efficiency and water conservation programs. In addition, the re-distributive component of the proposal (however well intended) would perversely punish those agencies that have already made significant investments in water conservation and other stewardship efforts. We believe that water agencies are best suited to identify ways to use locally-generated tax dollars to implement local projects that will most effectively contribute to the reduction of greenhouse gases associated with the water sector.

Finally, there are significant legal obstacles to the implementation of the public goods charge proposal. The broad range of expenses identified in the Scoping Plan for the use of this tax are not all legally authorized uses of water agency ratepayer funds under the California Water Code and Proposition 218. Further, the proposal identifies the Department of Water Resources as the entity that would be responsible for implementing this tax; however, the Department has no current authority or organizational structure in place to be able to collect the funds.

Thank you for the opportunity to comment on the proposed Scoping Plan. We look forward to working closely with ARB and other state agencies on the development of renewable energy opportunities within the water sector. We believe a Water Agency Renewable Energy Initiative within the next two to three years could result in significant early achievement of AB 32 greenhouse gas reduction and the State's Renewable Portfolio Standard goals while providing other important benefits to California.

Sincerely,

Paul Helliker

Paul Helliker
General Manager