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May 21, 2009

Submitted electronically to the California Air Resources Board

From: The California Wastewater Climate Change Group

Subject: Preliminary Approach of Cap-and-Trade:
Compliance Offsets and Cap Setting

The California Wastewater Climate Change Group (CWCCG) is a statewide coalition of municipal wastewater treatment agencies which represent approximately 90% of the municipal wastewater treated in the state of California. This letter is in response to ARB staff's request for comments on preliminary thinking presented at two cap-and-trade (C&T) workshops on April 28, 2009 – "Criteria for Compliance Offsets in a Cap-and-Trade Program" and "Cap Setting and Data Review: Introductory Discussion". This letter also highlights the discussion between Kevin Kennedy, Lucille Van Ommering and the solid waste and wastewater sectors during a meeting on March 18, 2009, at which the inclusion of these sectors under a C&T system was discussed.

Compliance Offsets

ARB staff has preliminarily defined eligible compliance offsets as: "Direct emission reductions or removals that occur at the location where the reduction activity is implemented". Emission reductions that occur at a location other than where the reduction activity is implemented or indirect emissions would be ineligible as a compliance offset. CWCCG believes that the boundaries that surround offset development, especially location, should be established in an individual protocol for that project type. Greenhouse gas (GHG) emission reduction projects can provide the co-benefit of additional air emission reductions, which can be especially valuable in disadvantaged communities. While we recognize the merits of co-pollutant reductions and the location of such projects, co-benefits should remain a goal only and not a hard and fast criterion that influences the eligibility of compliance offsets based on location. CWCCG believes the proposed definition of an eligible compliance offset may unnecessarily limit the types of projects that could provide real, quantifiable and verifiable emission reductions in a C&T program.

One example of a project that can result in real, quantifiable and verifiable GHG emission reductions at a location other than the immediate project location is the digestion of manure and organic

wastes. The Climate Action Reserve (CAR) is currently developing a co-digestion offset protocol that provides guidance to account for and report GHG emission reductions associated with the installation of a biogas control system that digests manure and/or other organic waste streams. The types of digestion systems to be covered under this protocol are both individual digesters and a centrally located digester (e.g., at a municipal wastewater treatment plant). In the case of a centrally located digester, the resulting GHG reductions would not happen at the digester project location, but would occur where the manure or organic waste was previously being disposed (e.g., landfill, lagoon, pond, pit, etc.). Another example from our industry where location is important to the creation of offsets would be the composting of biosolids. The composting of this material, which is typically sent to land application, landfilled, or used as alternative daily cover at a landfill, could reduce GHG emissions from reduced hauling, and also further reduce GHG emissions associated with the use composted biosolids instead of fossil fuel based commercial fertilizers.

To make these types of offset projects viable, CWCCG asks that ARB not assess the eligibility of a compliance offset based on its location, but rather focus on the offset criteria of real, quantifiable, permanent, verifiable, enforceable and additional. In fact, CARB includes a slide (No. 7) that states that a compliance offset should have no geographical boundaries. CWCCG believes that the inclusion of co-digestion projects and other waste management type projects in a compliance offset system, without strictly limiting location, would be beneficial to the California C&T program and would also support WCI's priority for the investigation and development of waste management projects in a regional offset system¹.

Cap Setting

ARB staff currently proposes to regulate under a declining C&T program in-state electricity generation facilities (>25,000 MT CO₂e/yr), imported electricity, and large industrial facilities (>25,000 mt CO₂e/yr). Based on this proposal, some large municipal wastewater treatment facilities will be included in the cap. In our meeting with Kevin Kennedy and Lucille Van Ommering on March 18, 2009, the wastewater industry presented several reasons as to why municipal wastewater treatment plants should not be regulated under a cap, but rather under traditional regulations. These comments were also captured in letters addressed to ARB, California State Water Resources Control Board, and the California Department of Water Resources (see attachments), and summarized here.

- Continuously changing wastewater flows and changing diurnal and seasonal "strength" of wastewater equates to variable emissions that would be difficult to predictably reduce to successfully meet a declining cap.
- The wastewater industry is regulated by federal, state and regional authorities that ultimately establish the level of treatment to be provided, which both directly and indirectly affects the level of GHG emissions from wastewater treatment.
- Essential public services, such as municipal wastewater treatment, are at a fundamental competitive disadvantage in a C&T marketplace as they cannot move as fast as a private

¹ Design Recommendations for the WCI Regional Cap-and-Trade Program, September 23, 2008.

industry to purchase allowances/credits on the open market. Spending of public funds involves such things as competitive bidding processes.

While the Western Climate Initiative (WCI) has yet to propose specific recommendations on eligible offset projects and capped sectors, it has indicated that municipal wastewater treatment facilities will not be included as a source category in their mandatory reporting program². Municipal wastewater treatment facilities are also exempt from EPA's proposed mandatory reporting program. If inclusion in mandatory reporting is any indication of future inclusion as a capped sector in a C&T program, it does not seem that either WCI or EPA would regulate municipal wastewater treatment facilities under a declining C&T program. In comparison, municipal wastewater treatment facilities are not excluded from ARB's mandatory reporting regulation. As ARB strives to align their programs with WCI and EPA, CWCCG once again asks that ARB consider the exclusion of municipal wastewater treatment facilities from the C&T program.

The inclusion of municipal wastewater treatment facilities in the C&T program may also be influenced by the definition of "biomass" and treatment of "biogenic emissions". CWCCG understands that ARB is working towards the development of a concept paper to address biomass emissions and intends to hold a public workshop/workgroup to discuss this topic. CWCCG looks forward to participating in this process. As a preliminary thought, CWCCG believes that biogenic emissions resulting from the combustion of biomass (both biogas and waste-derived biomass) should not be accounted for when applying an emissions threshold for inclusion in a C&T program. Once again, CWCCG looks forward to reviewing the concept paper and participating in the public process.

In summary, CWCCG requests that ARB not assess the eligibility of a compliance offset based on its location, but rather focus on the offset criteria of real, quantifiable, permanent, verifiable, enforceable and additional. Also, as a follow up to our previous meeting and correspondence, CWCCG asks that ARB exclude municipal wastewater treatment facilities from regulation under a declining C&T program, thereby allowing our industry to focus on GHG emission reductions through offset projects and through compliance with traditional regulations.

We thank you for this opportunity to provide you with our thoughts on how to make the requirements of C&T under AB 32 the most successful with respect to the municipal wastewater treatment industry. If you have any questions or comments, please contact Kris Flaig (310-648-5489), Randy Schmidt (925-229-7333), or Vicki Fry (916-876-6113).

Sincerely,

California Wastewater Climate Change Group

² Essential Requirements of Mandatory Reporting, Final Draft, May 7, 2009 (§WCI.1.a.1)
<http://www.westernclimateinitiative.org/ewebeditpro/items/O104F21570.doc>

cc: Lucille Van Ommering
Kevin Kennedy

Attachments:

1. CWCCG letter to Lucille Van Ommering, Re: Wastewater Industry Participation in a “Cap and Trade” Program, March 11, 2009.
2. County of Sanitation Districts of Los Angeles County letter to Ms. Frances Spivy-Weber and Mr. Mark Cowin, Re: Essential Public Services in Cap and Trade Programs under the AB 32 Scoping Plan, September 22, 2008