June 19, 2008

Ms. Mary Nichols
Chair
California Air Resources Board
1001 I street
Sacramento, CA 95814

RE: Comments on Scoping Plan Development

Dear. Chair Nichols:

The California Construction & Industrial Materials Association (CalCIMA) represents over 100 mine operators and ready mix concrete suppliers, with over 800 facilities in California. We appreciate the opportunity to provide comments to the Board as you and your staff work developing strategies for inclusion within the Scoping Plan. As an association we have been active with Climate Action Team subgroups dealing with both Cement/Concrete issues as well as on the LUSCAT. As an industry, we recognize the profound challenge that stands before us as we move towards implementing AB 32. Due to the complexity of the policy issue confronting us these comments focus on broader concepts to be included within the scoping plan as well as general concerns rather than specific detailed comments on specific sectors within it.

While the exact program design that will be used by the California Air Resources Board (CARB) remains unclear, CalCIMA and its members strongly encourage the Board in developing the scoping plan to create flexibility in how emissions reduction targets may be met and provide as many avenues as possible for industry to achieve real verifiable reductions in emissions. As we look at the goals and possible reductions needed we cannot say for certain how our members will achieve actual reductions that may be adopted for them and in many cases we see a great need for technological innovation to help us achieve reductions. Our general principles in regards to the scoping plan are as follows;

- It should maintain flexibility in how emissions reduction targets may be met
- Provide as many avenues as possible to achieve real reductions
- Develop a fair and rational method for determining how credit is apportioned for actions resulting in reductions
- Identify checkpoints to review basis for strategy or regulation and allow for modification as conditions change or new information arises
- Provide coordination and research support for issues that involve multiple sectors
- Incentivize the process as much as possible
- Base decisions on sound quantitative science, cost-effectiveness and technologic feasibility

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In looking at a potential Cap and Trade System Design, our members have come to the conclusion that both banking and borrowing are desired components of such a system. Banking credits encourages and rewards early actions by reducing costs in future years, while borrowing can incentivize higher cost actions where the emission reduction payback is not immediately justified for larger initial capital expenditures.

Specifically, with regard to the Cement/Concrete discussions that have been occurring as part of the Climate Action Team and due to the process emissions of cement manufacture, we support an intensity factor in regards to cement and concrete. Furthermore, any action on concrete in regards to our ready mix concrete members needs to be based on a performance goal rather than a mandated specification for concrete. Our ready mix concrete members have very little control over the requested specification of the material we deliver to jobsites. Often the engineers that represent the builder/constructor, both public and private, specify the concrete mix we are to deliver based on the structural performance they desire. We have attached copies of our recent comments to the CAT subgroup on concrete issues for your reference.

Under any system CARB adopts, it is critical to have a multi-year compliance schedule. A longer period of five years would be beneficial. Our members are resource suppliers whose activity is driven by the construction business cycle. In years of high infrastructure or residential development there is a larger need for raw materials used to build our society. Likewise, in down years the demand shrinks as does production and therefore emissions. A multi-year compliance schedule enables us to help ease these boom and bust cycles. As an industry we do not generate the demand for our products, rather we fill the needs of the economy based on approved construction and infrastructure projects. The emissions attributable to our industry will fluctuate with the construction economy. A single year compliance schedule would therefore, have the potential to encourage leakage to adjacent jurisdictions in boom years while a multi-year schedule would help level any mandates adopted to the fluctuations of the normal business cycle.

As an association, we are also concerned by the number of local and regional California activities we see beginning to occur in the absence of CARB's final plan. While we understand the intentions of these jurisdictions are perhaps in-line with the overall goal of AB 32, we feel it is incumbent to point out that they may well be harmful to its end objectives. At various meetings on local planning issues, we have heard of plans such as those of the County of Sacramento to develop a policy on zero net growth for transportation emissions including the possibility of mandates to purchase offsets. Since CARB has not adopted an acceptable verifiable offset or decided if they will be allowed in a California, we are very disturbed by such discussions.

At this point it is unclear as to whether CARB is going to regulate transportation emissions directly or not, making it uncertain if such activities may be harmful to any system CARB might develop. Likewise, local governments or other jurisdictions adopt differing policies in the interim of CARB's policy adoption; run the risk of creating market incentives for leakage of emissions within the state. Such policies could even increase emissions should they move projects outside their boundaries to less restrictive jurisdictions causing an increase in emissions such as those associated with transportation. The challenge of global climate change is not local and while local governments and jurisdictions will no doubt have a role in implementing actions to reduce those emissions, they should occur in the overall context of the policies the legislature and Governor chartered the Board with adopting, to help ensure a cost effective flexible implementation of the mandate. As a result, we strongly encourage the Board to discourage such limited jurisdictional actions until final statewide policy is adopted, so that the entire economy of California is harnessed to address this issue in a cohesive fashion rather than in a piecemeal approach that seems likely to further complicate an already complex process.

In the Land Use Climate Action Team (LUSCAT), CalCIMA submitted comments requesting the state develop programs and policies that provide economic assistance for local jurisdictions to identify construction aggregate mineral resources within general plans and blueprint documents. We have attached our comments; therefore not detail the specific proposals in this transmittal. However, we are concerned that not only were our proposals not included, no discussion of identifying these important natural resources was placed within the LUSCAT submittal. We understand there is currently a heavy focus on reducing VMT from citizens through this group, but do not believe that should distract us from also identifying other natural resources such as minerals in local government planning activities. At the least, providing guidance to local jurisdictions should include a discussion of the current requirements under PRC § 2759, 2761, 2762 and 2763 in the same manner other natural resource identification and protection programs are discussed. The distance we transport our materials by heavy-duty truck to jobsites is dependent on where suitable mineral deposits are available. Balancing the competing resource needs today rather than at a future date will help ensure a comprehensive plan that addresses and balances all of societies needs.

Finally, we encourage the Board to recognize the extremely challenging economic times we are currently facing. The decline in economic activity across the state and nation represents a great challenge for all of us. In light of the economy and particularly should it continue into the initial implementation timeline of the rules, which are to be adopted as a result of the scoping plan, the Board should issue guidance to the governor on exercising the authority granted under 38599. (a) of the Health & Safety code. Our industry is not only facing the mandates of AB 32, in addition to the significant requirements under the recently adopted Off-Road Diesel rules and we likely face additional economic mandates under the On-Road Diesel rules scheduled for adoption later this year. These rules targeting criteria pollutants will cause our members to spend hundreds of millions of dollars during the same anticipated compliance period as the AB 32 mandates. According to the CARB analysis these costs are particularly heavy in the early years of the program and will continue to have a negative impact on our economy as a whole.

We appreciate your consideration of our comments. We have attached copies of comments we submitted to both the LUSCAT and Cement CAT for your reference.

Respectfully,

Gary W. Hambly
President/CEO