SIERRA
CLUB
CALIFORNIA

December 15, 2010

California Air Resources Board
1001 "I" Street
Sacramento, CA 95812

Re: Proposed Cap-and-Trade Regulation – Improvements Needed

Dear Board Members:

Sierra Club California was an early and active supporter of the California Global Warming Solutions Act of 2006 (AB 32), and we have participated frequently in its implementation process. Throughout the process, we have consistently taken the position that we could support a well-designed cap-and-auction system. We call on the Board to make a number of important improvements to the proposal; because these improvements are essential to protection of California's environment, we urge you to not adopt the rule without incorporating them.

You already have 6 more detailed comment letters in which we have joined with allied groups. This letter will summarize the most important improvements we believe are necessary.

1. Limit Offsets

Offsets should be limited to assure the integrity of the emission reductions and fulfill the letter and spirit of the law. Excessive reliance on offsets could open up loopholes that undermine the very purposes of California's AB 32 cap on emissions. Curbing global warming will require a fundamental transformation of our energy economy, a task that cannot be outsourced to other countries. Requiring California's largest polluters to reduce their ***own*** emissions will spur technological advances that can be exported to the rest of the world, bringing green jobs to the Golden State. If polluters are allowed to outsource their emission reductions to other sectors and jurisdictions, the clean-energy revolution will be delayed.

The staff proposal would allow polluters to offset almost half of the emission reductions required under this rule. That amount should be significantly reduced. (We supported the 10% limit in AB 1404, which was passed by the Legislature but vetoed by the Governor in 2009.)

In addition, the Board should close potential loopholes in the offset process by giving the Executive Officer explicit authority to deny any offset proposals that do not meet standards, and

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should ensure that the same offset project cannot be sold more than once through different registries.

2. Exclude Forest Clearcutting from the Offset Program

Forest clearcutting and the conversion of native forests to tree plantations pose great risk to the climate, while simultaneously degrading forest ecosystems, water quality, and wildlife habitat, and impairing the forest's resilience to the impacts of climate change. Forest projects eligible for offset credit should not include even-aged management, and should not become an incentive for the conversion of native forests to tree plantations. Furthermore, offset projects should account for changes in down and dead wood and soil carbon pools.

3. Prevent Unwarranted Giveaways of Pollution Allowances to Industry

The proposed level of allocation to the industrial sector is much higher than is needed to combat leakage. Your own Economic and Allocations Advisory Committee found that the need for free allowances to address leakage is small. The biggest recipients of these free allowances in the staff proposal are the oil extraction and refining industries, which actually have a low susceptibility to leakage. We ask you to re-classify petroleum extraction and refining as low-leakage risks, and to reduce their free allocations accordingly.

Furthermore, we support requiring the industrial sector to base product benchmarks on best practices and allowing benchmarks to be dynamic over time, so that the rule provides additional incentives for using best practices to reduce emissions.

4. Direct Investments to Clean Energy, Low-Income Consumers, and Community Benefits

We urge the Board to include provisions in the regulation to initiate a Community Benefits Fund from the outset of the Cap and Trade Program, funded by a minimum 4 percent of allowances from the industrial and electricity sectors. Funds should be used for programs or projects in the most impacted and disadvantaged communities identified by ARB for:

- Air pollution and climate change mitigation measures;
- Community public health programs;
- Green-collar employment opportunities in these communities.

In the utility sector, every recipient of allowances should be required to invest their full value on AB 32-related purposes, including cost-effective energy efficiency, renewable electricity, and rebates to low-income consumers. ARB should provide guidance on how utilities spend the allowance value to assure that funded programs are additional and cost-effective, and should require specific and uniform reporting by the utilities.

5. Close the Biomass/Biofuels Loopholes

Emissions from bioenergy, whether from combustion to generate electricity or from liquid transportation fuels, should be under the cap and should not be exempted from compliance obligations. As ARB has recognized in its Low Carbon Fuel Standard, biofuels vary widely in their life-cycle greenhouse gas emissions. The cap-and-trade rule should provide incentives for the lowest-carbon fuels, rather than blanketly exempting all bioenergy. The biomass exemption provides a perverse incentive to cut down forests, with all of their sequestered carbon, for energy purposes, which would actually make global warming worse.

6. Protect Public Health

In order to make sure that public health at the community level is safeguarded, ARB should require an ongoing review and update of the co-pollutant emissions assessment included in the Initial Statement of Reasons, and should continue to work with the Department of Public Health in ongoing review and evaluation of the impacts of the Cap-and-Trade program.

7. Establish a Voluntary Renewable Energy Set-Aside

We believe including a set-aside for California's growing voluntary renewable energy market will help to further stimulate innovation in renewable energy, thus promoting new businesses and job growth, as well as reducing pollution.

8. Emphasize Transparency and Enforcement

If California is going to establish a market in greenhouse gas emissions, strict transparency and enforcement requirements are absolutely essential. ARB must vigilantly use transparency and enforcement tools to make sure that the public interest is protected from the self-dealing, fraud, and windfall profits that have plagued other markets.

Respectfully Submitted,

Bill Magavern
Director

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