State of California California Natural Resources Agency

Memorandum

Date: August 11, 2011

To: Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95814

(Submitted electronically via ARB on-line comment registry)

From: Veronica Hicks, Chief, DWR Power & Risk Office
Department of Water Resources

Subject: Comments on the Proposed Regulation for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms

The Department of Water Resources

The Department of Water Resources (DWR) has broad responsibilities for water management and planning for California, as well as for the operation of the State Water Project (SWP). DWR is a member of the Governor's Climate Action Team, has achieved Climate Action Leader status from The California Climate Action Registry, and is actively assisting the California Air Resources Board (CARB) in implementing the Assembly Bill 32 (AB 32) Scoping Plan. DWR's projects to reduce greenhouse gases include:

- Modifying SWP operations to reduce greenhouse gas emissions to *1990* levels well before 2020.
- Replacing DWR's imported coal energy contract with cleaner resources in 2013 and thereby reducing SWP annual emissions by 1 million tonnes.
- Developing a Renewable Portfolio Plan to increase renewable energy in the SWP power portfolio.
- Initiating projects to place solar installations on property owned by DWR and to contract for wind and solar energy.
- Installing energy efficiency upgrades on hydroelectric pumps and generators, thereby reducing the equivalent of 44,000 tonnes of CO_2 emissions in 2010.
- Adopting state-of-the-art best management practices in business and construction activities.

Comments on the Proposed Regulation

DWR recognizes the staff of CARB for its efforts to draft regulations implementing the market-based compliance mechanisms under AB 32. In particular, DWR appreciates staff's time and attention to the unique circumstances and challenging issues DWR will experience under Cap & Trade. Additional work, though, is needed to find a satisfactory solution to these unresolved issues.

In this regard, DWR seeks to clarify CARB's unusual treatment of DWR under Cap & Trade. Thus, in addition to the topics raised in DWR's December 15, 2010, letter on this subject, DWR respectfully asks the following questions, which CARB should address prior to adopting the regulation.

1. Why are all electricity-sector emissions allowances, including those attributable to DWR's power use in support of SWP, allocated *only* to investor-owned utilities (IOU's) and publicly owned utilities (POU's)?

2. What are the potential benefits and dis-benefits to consumers referenced in Appendix A as justification for not allocating allowances to DWR, and on what basis did CARB make these findings?

3. What are the potential benefits and dis-benefits to program integrity referenced in Appendix A as justification for not allocating allowances to DWR, and on what basis did CARB make these findings?

4. What standard did CARB use to make the determination that "it is not appropriate to include" DWR in the allocation to the electricity sector (Appendix A)?

5. How does CARB define the "transactional relationship" referenced in Appendix A?

6. Why does Appendix A conclude that DWR does not maintain a direct relationship with the end-use consumer, when DWR *is* the end-use consumer of electricity used by the SWP?

7. Why does CARB state that if DWR used the allowance value, a deterioration of the emissions price signal would result? What is the factual basis for this determination?

8. Why does CARB state that if DWR received allowances, it would result in lost value for water users?

9. How does CARB calculate and measure the projected "lost value" to water users if DWR were allocated allowances attributable to the SWP pump-load?

10. Why did CARB reject DWR's proposal for using allowance value for purposes in furtherance of AB 32 goals (such as renewable energy, energy efficiency and water use efficiency), similar to the electricity distributors' programs currently under development at the California Public Utilities Commission?

11. What is the basis for the conclusion that the allocation of allowances, attributable to DWR's electricity use, to the IOU's and POU's will result in cost relief to users of the water that DWR delivers?

12. Did CARB conduct any analysis on the impact of the regulation on different classes of water users (e.g. urban, agricultural, and environmental)?

13. Did CARB consider whether water users' electricity-bill rebates will compensate those users for the increased water rates? If so, what are the factual basis and standards used to make the determination that water users would be adequately compensated?

14. What is the basis for CARB's conclusion, in Appendix A, that DWR is not well positioned to provide water users with direct compensation?

15. Did CARB conduct an analysis identifying the economic and environmental impacts of this regulation, specifically based on impacts to water uses? More specifically, did CARB analyze the impacts on agricultural water users, who may have a disproportionately high level of water use compared to their electricity use?

16. Did CARB consider the economic and environmental impacts such as land use changes and crop-shifting that could result from this regulation's possibly larger impact on agriculture, particularly in light of the assertion by federal power providers that they are not obligated to comply with this regulation, and the resulting incentives which would encourage additional water use on lands entitled to receive federal water deliveries?

17. Did CARB determine that the proposed regulation's treatment of DWR and its water customers is equitable as required by AB 32? If so, what is the basis for that determination?

18. Did CARB determine that the proposed regulation's treatment of DWR and its water customers will achieve reductions in greenhouse gas emissions that are real, permanent and quantifiable, as required by AB 32? If so, what is the basis for that determination?

19. Did CARB determine that the proposed regulation's treatment of DWR and its water customers is a cost-effective method for achieving greenhouse gas emissions reduction, as required by AB 32? If so, what is the basis for that determination?

20. What is the reason CARB did not implement the allowance set-aside for water suppliers as envisioned in the Scoping Plan?

21. What is the basis for an allocation of allowances to the Western Area Power Administration?